

the eastern, northern and western boundaries of that Section, thence westerly along the northern boundary of part Pastoral Run 21 to the south-eastern corner of Section 5, thence generally north-easterly, westerly and south-westerly along the eastern, northern and western boundaries of that Section, thence generally in a south-westerly, north-westerly and northerly direction along the northern and eastern boundaries of part Pastoral Run 21 to the most southern corner of part Pastoral Run 20, Block XIII, Kuripapango Survey District, thence north-easterly along the eastern boundary of part Pastoral Run 20 to a point where it meets Burns Road, thence generally northerly along that road to a point on the southern boundary of Section 1, Block IX, Kuripapango Survey District located approximately 750 metres east of the south-western corner of the said Section 1, thence generally north-west along the exotic plantation boundary to a point on the northern boundary of Section 1, Block IX, Kuripapango Survey District located approximately 550 metres south-east of the most northern corner of that Section, thence north-westerly along the northern boundary of Section 1, Block IX, Kuripapango Survey District to a point where it meets the Ngaruroro River thence generally northerly along the true right bank of the Ngaruroro River to its northernmost point being the northern boundary of part Pastoral Run 23, thence generally south-west along the northern boundary of that Pastoral Run to the easternmost corner of part Owhaoko C Block in Block XII, Taumata Survey District, Wellington Land District, thence north-westerly along the eastern boundary of part Owhaoko C Block to the point of commencement.

NOTE

No commercial hunting is allowed in the recreational hunting area, except for the taking of opossums under Forest Service permit, or on the direction of the Conservator of Forests.

Dated at Wellington this 17th day of January 1986.

A. KIRKLAND, Director-General of Forests.

(F.S. 90/0/B/3/8)

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Decision No. 19/85

BRO 99/85

Before the Broadcasting Tribunal

IN THE MATTER of the Broadcasting Act 1976, and in the matter of an application by UNITED BROADCASTERS LTD. for a short term broadcasting authorisation for a commercial FM-VHF station in Wellington:

Chairman: B. H. Slane.

Members: A. E. Wilson and R. Boyd-Bell.

REASONS FOR DECISION

AN application was made by Capital City Radio Ltd. and United Broadcasters Ltd. to operate a commercial FM Broadcasting station transmitting from Mt Kaukau, Wellington for a period from 30 November 1985 to 1 February 1986.

The Tribunal expressed a preliminary view that the Act did not provide for joint applicants. Without accepting the validity of that view and without making any legal submission to the contrary, the applicant Capital City Radio Ltd. withdrew leaving United Broadcasters Ltd. as sole applicant.

The proposal was that the station would broadcast a stereo FM entertainment and information programme directed to the 20 to 34 age group in Wellington.

In support of the application the applicant said there was no other service proposed for the same age group. It would support the Wellington Summer City programme. There would be 16 hours of local origination Monday to Friday and 14 hours on Saturday and Sunday (later extended to 18 and 16 respectively) while at other times the station would relay the AM programme of Radio Windy in FM stereo. The music content in the locally originated programme would consist of contemporary top 40 music and gold and would be less strident than the current 2ZM-AM programming.

The applicant submitted the economic effect on the three Wellington commercial stations would be minimal. Radio Windy was virtually fully sold for the period and advice from agency media buyers suggested a buoyant situation for Radio New Zealand stations.

A major promotion available only to FM stations in Wellington was being prepared by an advertising agency. Radio Windy anticipated some loss of audience and revenue as a result of the project, but suggested any minimal negative economic effect on the existing ZB and ZM services would be more than compensated for by overriding benefits in the public interest. The applicant estimated an advertising revenue of \$80,000 in December and \$50,000 in January. This was based on an average of 5 minutes advertising per hour in December and 3 minutes in January at an average 30 second spot rate of \$20.

The transmitter would be co-sited with the television facility at Mt Kaukau but the service would be a low powered one using a transmitter to produce a maximum effective radiated power of only 125 watts. (This can be compared with the proposed 2ZM transmission from Mt Kaukau of 50 000 watts.)

The BCNZ opposed the application as:

"thwarting the course of natural justice by use of misinformation and false logic."

The Corporation drew attention to its own application which it described as:

"... an attempt to achieve the spirit of the Tribunal decision which allowed 2ZM a warrant to transfer to FM, and which decision is now the subject of appeal. This application, if authorised, will adversely affect the revenue of 2ZM and 2ZB but the 2ZM-FM short term broadcasting authorisation will not affect other existing operators as it is simulcast operation of 2ZM"

The Corporation opposition was based on the following main points:

- (1) The proposed station was of low power and would not achieve wide coverage.
- (2) If it served the 20 to 34 age group during periods of local origination then it would be serving a different age group when rebroadcasting Radio Windy's programme which was targeted at 25 to 44.
- Also the target demographics of both 2ZB and 2ZM all significantly overlapped the 20 to 34 demographic.
- (3) No previous short term application has sought extensive linking or simulcasting.
- (4) The application could be seen as a device to give the opportunity to experiment with the FM medium in spite of being unsuccessful applicants for a permanent FM warrant.
- (5) The station was set up in direct competition with 2ZM. It would erode 2ZM's ratings.
- (6) If the High Court appeal was in 2ZM's favour the granting of a short term authorisation to this applicant would lessen the initial impact of the introduction of FM to Wellington.
- (7) The application does not have the backing of the Summer City promoters as claimed. The Summer City holiday activities are promoted by the Wellington City Council which did not favour any single radio station. An additional station was not needed for that purpose.
- (8) If the estimated \$130,000 revenue was taken out of the Wellington market, as budgeted, it would have a substantial effect on 2ZM's commercial performance in that period. Some budget held back for the launching of FM may be diverted.

The major ratings impact would be on 2ZM and the applicant shows a misunderstanding of 2ZM's current format. Radio Windy has an opportunity to change from AM to FM on a permanent basis but has not applied to do so.

- (9) The Corporation said that 2ZB's inventory for November was 67 percent sold and 2ZM's 57 percent. December details were not on hand but both stations had considerable time available. January was a low income month for both 2ZB and 2ZM.

In response the applicant made the following points:

Statements about transmission were supplied by the BCNZ which has subsequently amended its coverage description.

Only during the short period of simulcasting which is largely insignificant in audience terms (midnight to 6 a.m.) the station would be targeted at Windy's primary target audience of 25 to 39.

The Tribunal had indicated in its warrant decision that it would have been more sympathetic to some simulcasting from midnight to dawn when listenership is very low, as a cost saving measure.

The Corporation itself was putting forward a proposal for a short term authorisation for a station which would be totally simulcasting.

The service was supported by the Wellington City Council.

There were no ratings surveys conducted during the period. The fact that some clients were holding back portions of their advertising budgets supported the applicant's view that there was uncommitted expenditure available for the station. No other Wellington station was able to offer preferred advertising spots prior to Christmas.

The applicant still considered the most of the audience would be drawn from Radio Windy and that the format would be different from 2ZM-AM. The Corporation appeared unable to provide details of availability of advertising inventory on its stations in December, but the applicant could do so from media buyers.

Radio Windy was prepared to reduce its commercial content during the period of simulcast if required by the Tribunal.

The applicant submitted that the application had no bearing on the 2ZM conversion to FM which was under appeal.