

The stations do not have to compete on a full basis with existing commercial and non-commercial transmitters intended to cover metropolitan areas and do not carry the obligations that warrant holders have to face of providing continuous service, high management standards and a continuity of approach.

In return they have to accept that the economic arguments that would otherwise be raised in opposition to their obtaining permanent warrants do not carry the same weight with the Tribunal when raised against their applications for short-term broadcasting authorisations. This applies so long as the station is genuinely aiming at the student audience, is not providing a comparable signal strength and therefore is not in a fully competitive position vis-a-vis warranted stations, and the programmes are genuinely complementary. While the Tribunal accepts there will be members of the audience who are not students, the tone and extent of the broadcasts must be such as clearly to identify with the student audience and the programmes genuinely complementary.

In a previous decision (No. 3/81) we said:

"It also needs to be said that the Tribunal does not regard such stations as general broadcasting stations providing a service to a young audience. Every application has to be treated on its merits and the student association applications are invariably put forward to provide a service to students. Any wider purpose invites the examination of the application on a commercial basis akin to a warrant application. It would have to be decided the extent to which the station should be in competition with those holding existing warrants which carry continuous transmission responsibilities and obligations to provide a number of other services to the community."

The applicant misunderstands the position in thinking that the Tribunal requires, and technical considerations require, major co-siting and an increase in power.

The Tribunal has regard to Government policy arising from the recommendations of the Tribunal in its 1981 report on FM broadcasting stated in the ministerial notice dated 28 October 1981:

"(5) (h) Subject to paragraph (1) of this clause, FM transmitters should be co-sited, where practicable, with television transmitters;

(l) Low-powered transmitters need not be co-sited with television transmitters;

(m) The location of transmitters not co-sited shall be chosen with regard to achieving compatibility with other services and efficient use of FM broadcasting frequencies."

(The use of the frequency at low power in a low site is an efficient use of frequencies as the further use can be permitted nearer than would be the case if the transmission were from a high site).

The Tribunal has regard for this policy but is not, of course, bound by it.

There is no policy that the low powered low sited station for community purposes is an initial stage.

While the increase in power to 750 watts erp at this stage is not quite as great as might be required for a commercial station, in the particular circumstances we cannot be sure that we will not be faced with a request for an increase in order to provide a better signal strength, nor that 100 watts erp would be quite inadequate.

The Tribunal has also to be consistent in its approach to student stations and is conscious of the attempts that are sometimes made by individual student stations to push the barriers out a little further. The situation cited in the case of the Victoria University of Wellington student station is somewhat different from Otago. The Victoria University is itself on a high site in the city and therefore the broadcast commenced from a high point. In the case of both Auckland and Wellington the somewhat higher sites recently approved for 100 watts erp have not provided a full coverage of the metropolitan area and yet that is what is in effect sought by the Otago University Students' Association.

The Tribunal starts from the point that such stations, except for very brief short-term broadcasting authorisations, should not be high powered or from a high site. In certain circumstances in order to achieve better immediate coverage some changes of site from the University itself have been permitted. Generally however the applicants have to accept either retaining the character of a student station based round the campus and broadcasting to that area, or to consider applying for a warrant and competing with others who might also seek to establish a warranted station and may be able to provide a continuous or almost continuous service.

In December 1986 the Tribunal notified the applicant that it was concerned about the proposal to broadcast from Mount Cargill because the proposal was not in accordance with the policy previously established by the Tribunal and which applied to other student broadcasts.

The Tribunal would be prepared to consider a modest erp from Mount Cargill or, if the Post Office considered it possible, a slightly higher power from the site previously used on the Hocken building.

In response on 8 January 1987 the applicant said that the desire to cover the student audience was only one reason for the increase in signal coverage. The applicant cited a desire to conform with the Post Office requirements in RB20.

It claimed to be following other student radio stations in raising the level of its transmitter.

The applicant said it was vital to move its transmitter to Mount Cargill and was happy to broadcast there with only 100 watts base power. (That would prove to be 250 watts erp, not 100 watts erp as for the Hocken site.) "However due to Dunedin's difficult terrain, and our stated desire to try to better fulfil the requirements FM stations are given, we feel it would be appropriate to be granted permission to broadcast from Mount Cargill with 300 watts base power."

The references to base power are misleading. The Tribunal's interest is in the maximum effective radiated power (erp) of the signal and the comparison that needs to be made is with the Hocken building's present 100 watts erp, with the preferred maximum erp of 750 watts from Mount Cargill and a maximum erp of 250 watts which is the lowest that would be acceptable to the applicant. These details were supplied on 27 January when further coverage information was sought by the Tribunal.

It was therefore clear that 100 watts maximum erp from Mount Cargill was not a satisfactory alternative as far as the applicant was concerned.

In all the circumstances the Tribunal considered it appropriate to continue with the previous power and site approval for 1987.

That level of maximum effective radiated power is generally approved for student stations. The Tribunal considers that the coverage sought is a significant element of the difference between a short-term authorisation for a continuous broadcast over a lengthy period each year and a fully warranted station.

The issues canvassed in this decision have been discussed with student radio administrators in the past, and references have been made to them in both correspondence and decisions of the Tribunal. We recognise that student management of stations has a fairly rapid turnover and so we have gone to some lengths to explain on this occasion, for reference of future broadcasters, the restrictions they should expect for a somewhat favoured position in the use of the spectrum.

Finally, it is appropriate to record, in case there is any such misunderstanding in anyone's mind, that the granting of a short-term authorisation, even for extended periods, does not form the basis for an application for a warrant. The Tribunal has made it clear time and again that short-term broadcasting authorisations do not in themselves provide a territorial claim or a priority over other applicants.

The Tribunal will look to the programming, and the power and coverage ambitions of the station to identify whether the station is intended to comply with the general needs of a student station, or whether there is an attempt to obtain the benefit of a warrant without having to apply for one.

Generally the fact that an applicant is not able to cover the whole of the metropolitan area is not considered an appropriate reason for moving to both high power and a high site.

Signed for the Tribunal.

B. H. SLANE, Chairman.

Decision No. 12/87

BRO 129/86

*Before the Broadcasting Tribunal*

IN the matter of the Broadcasting Act 1976, and in the matter of an application by ONSHORE SERVICES NZ LIMITED, for a television short-term broadcasting authorisation for Auckland:

*Chairman:* B. H. Slane.

*Members:* Ann E. Wilson and Robert Boyd-Bell.

DECISION

Dated the 31st day of March 1987

THE applicant has sought a short-term authorisation for a period of 6 months to operate a 24-hour television station for Auckland in the second half of 1987.

The applicant is also an applicant for a television broadcasting warrant for Auckland.

The Tribunal has given preliminary consideration to this matter because it felt it important to decide as a matter of principle whether or not the application should be dealt with in the normal way.