

any other service. This adversely affects the capital and operating costs of future services. We were not so concerned about this aspect in view of the fact that there were specific commercial objectives for this applicant's service and quite proper reasons for not radiating the signal so much towards Tauranga for instance. The same objectives may not apply to other services, particularly because coverage from Te Aroha and elsewhere could influence the desired aerial pattern for broadcasts from Mount Edgecumbe.

The Tribunal however is concerned from a conservation point of view that excessive power is not demanded by warrant holders for commercial reasons. The implications of this are not only to cause expense for other operators in the area but also to limit the efficient use of frequencies.

It appeared from Mr Vernall's evidence that the applicant was attempting to use increased signal strength to meet the coverage deficiencies caused by the topography. His evidence was that the problems arising from the topography, such as multipath signals, would not be solved by increased power as the interfering mechanisms would increase by a like proportion.

He therefore considered that there was no point in increasing the power to try to cover the difficult areas in Whakatane or for instance Ohope Beach. He considered that Ohope Beach could only be covered with a quality signal by the use of a translator. The beach areas generally could suffer in any event from problems such as "back scatter" and other severe impairments could not be overcome by power increases.

The problems that the station was attempting to deal with were problems relating to the quality of signal reception and not of power. The magnitude of signal would not guarantee a high quality service, he said.

The correct policy for VHF-FM coverage, for mobile listeners as with other listeners, is to provide a local low powered translator where necessary. Motorists will have to re-tune from one frequency to another as they pass through the district. This is one of the disadvantages of VHF transmissions compared with medium frequency transmissions.

Procedural Path

The application had been filed on 5 March 1985. The hearing took place on 25 June 1985. Thereafter Mr Gracie's affidavit was to be filed and, if he was not required for cross-examination, final submissions would be filed 10 days thereafter.

By leave no final submissions were filed by the applicant until 16 December 1986.

However, the technical objections were not adequately dealt with. The Tribunal received submissions from the BCNZ and the New Zealand Radio Frequency Service (formerly New Zealand Post Office), the latter indicating further information was required from the applicant. In June 1987 the applicant's counsel lodged further submissions but requested the matter be not placed before the Tribunal until the Corporation made new submissions. On 24 July the Corporation did so, reiterating its position regarding the power sought by the applicant. On 28 September 1987 counsel for the applicant requested that the matter be placed before the Tribunal.

It was still not clear that outstanding technical details had been resolved. As at 21 July 1987 the New Zealand Radio Frequency Service had still not been prepared to certify the application citing power and polarisation as precluding that step which is required before the grant of a warrant. The applicant's counsel subsequently urged the Tribunal to give a decision as the matter of certification had, he said, been delayed by the absence of Mr I. R. Hutchings of the NZRFS in Geneva.

On 8 January 1988 the Tribunal was informed by the New Zealand Radio Frequency Service that the Service had still to receive a concise statement by the applicant as to the

polarisation proposed. The Service considered the antenna horizontal radiation pattern satisfactory, but a letter from Mr Mortlock on 21 August 1987 had created further doubt about the polarisation intended. Although a copy of the Service's letter of 8 January 1988 was sent to Mr Mortlock, the Tribunal has not been informed of a resolution of the matter.

As to power, the Service maintained that the proposed 5 kW transmitter power was more than was required to meet the applicant's objectives and that a power of 1 kW giving maximum e.r.p. of not more than 10 kW would be satisfactory.

It appeared to us that the application was still not in an appropriate form to be granted. On the other hand we could indicate the median coverage to be achieved in accordance with Mr Vernall's evidence and we have now accepted that this is the best course to follow.

We therefore indicate that, if the application is amended to accord with the technical requirements of the NZRFS and thus gains certification, the Tribunal will grant the application on the following conditions:

1. That the applicant surrender the AM warrant for 1XX within 180 days after the commencement of FM broadcasting.
2. For the period of 180 days both stations may broadcast the same programmes.
3. The present conditions of Radio Whakatane's warrant relating to networking will apply.
4. The applicant is authorised to establish low powered relay stations required to improve signal strengths within the coverage area as may be authorised by the New Zealand Radio Frequency Service. Such relay stations shall be notified to the Tribunal for endorsement on the warrant.
5. There will be no limit on advertising content. (The Broadcasting Rules provide a maximum of 18 minutes per hour.)
6. The maximum effective radiated power in any direction shall be not more than is necessary to provide 66 dB uV/m median measurement of signal strength in Whakatane, Opotiki, Murupara and Te Puke and 54 dB uV/m for Te Kaha.
7. The Tribunal will require to approve the final proposed pattern and in this respect determines that there shall not be excessive signal (more than is necessary to provide a service to Te Puke) in the direction of Tauranga.

8. Polarisation will have to be approved by the Tribunal.

9. The warrant will lapse if not taken up within 18 months of the date of final decision or any further extended period approved by the Tribunal.

10. The news media ownership condition will apply in the form now inserted by the Tribunal in warrants in substitution for the present condition.

11. Otherwise the conditions which applied to the 1XX warrant as appropriate will be applied to this warrant.

Leave is given to the applicant and the other parties to make submissions on the definition of the coverage area.

Delays

We note the extraordinary time taken to give a decision on the conversion of Whakatane's AM station to FM. There were 3 principal reasons for this:

1. The applicant's decision to apply to broadcast from Mount Manawahe which was dealt with in the first decision of the Tribunal.

2. The time taken to conclude satisfactory arrangements to use Mount Edgecumbe.

3. The applicant's determination to press for excessive power, contrary to the clear weight of technical evidence, and its inability to resolve comparatively straightforward technical matters quickly.

The applicant's inflexible and often confrontation approach to