



LAND & DEEDS OFFICE

22 NOV 1984

GISSORNE

SUPPLEMENT

TO THE

NEW ZEALAND GAZETTE

OF

THURSDAY, 15 NOVEMBER 1984

Published by Authority

WELLINGTON: THURSDAY, 15 NOVEMBER 1984

Third Direction to Broadcasting Tribunal in Connection With Private Television Broadcasting

To the Broadcasting Tribunal

PURSUANT to section 68 (1) of the Broadcasting Act 1976, I, Jonathan Lucas Hunt, the Minister of Broadcasting,—

(1) Give you notice that the Government has considered your report on Regional Private Television, which you made to the Minister of Broadcasting in March 1984; and

(2) Give you notice that it is part of the general policy of the New Zealand Government in relation to broadcasting—

- (a) That regional private television be developed in New Zealand without delay; and
- (b) That there be 4 regions based on the major centres of population, namely,—
 - (i) Region 1, comprising the Auckland and Northland areas;
 - (ii) Region 2, comprising the Waikato and Bay of Plenty areas;
 - (iii) Region 3, comprising the Wellington, Manawatu, Hawke's Bay, and Wairarapa areas;
 - (iv) Region 4, comprising the Canterbury, Otago, and Southland areas; and
- (c) That, notwithstanding anything in paragraph (b) of this clause,—
 - (i) The boundaries and names of the 4 regions shall be determined from time to time by you; and
 - (ii) The initial determination of the boundaries and names of the regions shall be determined by you after you have considered applications for television warrants to service the 4 regions; and
- (d) That in each of the 4 regions there should be effective coverage by private television stations; and
- (e) That the holders of the warrants in respect of the private television stations in the 4 regions be encouraged to form a network so that, to the extent consistent with the

maintenance by each such private television station of its regional identity, programmes may be broadcast on private television stations linked for the purpose; and

- (f) That any application for a television warrant may be made on the basis of the use of the VHF band (where practicable) or of the UHF band or of both; and
- (g) That, contrary to recommendation 4.17 in your report, the Broadcasting Regulations 1977 are not to be amended to prevent all persons who have a shareholding interest in one television warrant from having more than 30 percent shareholding or voting power in any other warrant holder; and
- (h) That, in accordance with recommendation 4.19 in your report, the Broadcasting Regulations 1977 are to be amended to limit overseas shareholding (directly or indirectly) in any company holding a private television warrant to not more than 5 percent of the share capital and voting power; and
- (i) That, in accordance with recommendations 8.22 and 8.23 in your report, the Broadcasting Regulations 1977 are to be amended so that the total number of shares held in a company that holds a television warrant or a television programme warrant by any one or more of the following companies, namely,—
 - (i) Any company that publishes a newspaper;
 - (ii) Any company that holds a sound-radio warrant or a sound-radio programme warrant;
 - (iii) Any company that is a subsidiary or a holding company of any company specified in subparagraph (i) or subparagraph (ii) of this paragraph,—
 - may not exceed 30 percent of the shares in that company and may not carry the right to exercise or control the exercise of more than 30 percent of the total voting power that can be exercised at any general meeting of that company; and
- (j) That every applicant for a television warrant in respect of a region shall indicate in the application—
 - (i) The manner in which the applicant intends to service the region or the part of the region to which the application relates; and

- (ii) Where the application relates to the whole of a region, the period within which the applicant intends to provide coverage for 90 percent of the population of the region; and
- (k) That where the holder of a television warrant in respect of a region does not intend to service any part of the region within the period of 3 years beginning with the date of the issue of the warrant—
- (i) That holder shall not be deemed to have any rights in respect of that part of the region; and
- (ii) That holder shall, if any other person obtains a television warrant in respect of that part of the region and if that person so requests, be obliged to make available to that person, on reasonable terms, for broadcasting to that part of the region, programmes that the holder is broadcasting to the part of the region serviced by the holder; and
- (l) That a company, independent of—
- (i) The Corporation; and
- (ii) The holders of television warrants in respect of the private television stations in the 4 regions; and
- (iii) Companies that publish newspapers; and
- (iv) Companies that hold sound-radio warrants or sound-radio programme warrants,—
- (hereinafter called the independent news company), be authorised, by a television programme warrant, to broadcast, in each of the 4 regions, a news programme, covering national news, international news, and current affairs; and
- (m) That, where the total number of shares held in a company by one or more of the following companies, namely,—
- (i) Any company that publishes a newspaper.
- (ii) Any company that holds a sound-radio warrant or a sound-radio programme warrant,—
- carries the right to exercise or control the exercise of more than 30 percent of the voting power at any general meeting of the company, that company shall not be independent for the purposes of paragraph (l) of this clause; and
- (n) That, where a majority of the directors of a company also hold one or more of the following offices, namely,—
- (i) Office as a director of a company that publishes a newspaper.
- (ii) Office as a director of a company that is a holding company of a company that publishes a newspaper.
- (iii) Office as a director of a company that is a subsidiary of a company that publishes a newspaper,—
- that company shall not be independent for the purposes of paragraph (l) of this clause unless that majority exists with the consent of you, the Tribunal; and
- (o) That, where any person who holds office as a director of a company also holds one or more of the following offices, namely,—
- (i) Office as a director of a company that publishes a newspaper or a company that holds a sound-radio warrant or a sound-radio programme warrant.
- (ii) Office as a director of a company that is the holding company of a company that publishes a newspaper or of a company that holds a sound-radio warrant or a sound-radio programme warrant.
- (iii) Office as a director of a company that is a subsidiary of a company that publishes a newspaper or of a company that holds a sound-radio warrant or a sound-radio programme warrant,—
- that company shall not be independent for the purposes of paragraph (l) of this clause unless that person holds office with the consent of you, the Tribunal; and
- (p) That, subject to paragraphs (m), (n), and (t) of this clause, not only persons who hold warrants but also other persons may hold shares in the independent news company; and
- (q) That, where broadcasts from private television stations are made by means of the teletext system, the national and international news content of those broadcasts shall be supplied by the independent news company; and
- (r) That the independent news company be independent of any joint body established, by the holders of warrants in respect of private television stations, for the purpose of purchasing programmes or arranging common scheduling of broadcasts; and
- (s) That conditions of warrants in respect of private television stations shall ensure,—
- (i) By requiring each warrant holder to have the same shareholding in the independent news company; or
- (ii) By requiring each warrant holder to have a shareholding determined by the application of an appropriate formula based on the size of the station's audience or on the amount of the station's advertising revenue; or
- (iii) By such other requirement as you, the Tribunal, consider appropriate,—
- that the independent news company is not dominated by the warrant holders in respect of television stations in any one of the 4 regions; and
- (t) That, notwithstanding anything in paragraph (s) of this clause, where the total number of shares held in any company by warrant holders in respect of private television stations in any one of the 4 regions carry the right to exercise or control the exercise of more than 30 percent of the total voting power that can be exercised at any general meeting of the company by all persons who hold shares in the company and who are holders of warrants in respect of private television stations, that company shall not be independent for the purposes of paragraph (l) of this clause; and
- (u) That, in accordance with recommendation 5.20 in your report, but subject to paragraph (w) of this clause, the Post Office or the Broadcasting Corporation of New Zealand or both provide, on a commercially competitive basis, the programme distribution systems of private television stations both within regions and between regions; and
- (v) That, notwithstanding recommendation 5.21 in your report, warrant holders in respect of private television stations be not permitted to establish their own programme distribution systems within regions or between regions; and
- (w) That, where off-air pickup is used for programme distribution by the holder of a warrant in respect of a private television station, that off-air pickup may be provided by the holder of the warrant; and
- (3) Give you notice that included within the recommendations, in respect of which the Government still has to formulate its general policy, is recommendation 3.22 in your report; and
- (4) In pursuance of the general policy of the Government, as outlined in clause (2), direct that you shall—
- (a) Call simultaneously without delay (from persons other than the Corporation) for applications for television warrants for—
- (i) A television station or stations, with or without relay stations, to service Region 1, comprising the Auckland and Northland areas:
- (ii) A television station or stations, with or without relay stations, to service Region 2, comprising the Waikato and Bay of Plenty areas:
- (iii) A television station or stations, with or without relay stations, to service Region 3, comprising the Wellington, Manawatu, Hawke's Bay, and Wairarapa areas:
- (iv) A television station or stations, with or without relay stations, to service Region 4, comprising the Canterbury, Otago, and Southland areas; and
- (b) In calling for those applications, indicate that—
- (i) The Poverty Bay area may be included in either Region 2 or Region 3:
- (ii) The Taranaki area may be included in either Region 2 or Region 3:
- (iii) The Nelson area and the Blenheim area may be included in either Region 3 or Region 4:
- (iv) The area on the West Coast of the South Island may be included in either Region 3 or Region 4; and
- (c) In calling for those applications, require each applicant to indicate in its application—
- (i) The manner in which the applicant intends to service the region or the part of the region to which the application relates; and
- (ii) Where the application relates to the whole of a region, the period within which the applicant intends to provide coverage for 90 percent of the population of the region; and
- (iii) The applicant's proposals with regard to the networking of the private television stations in the 4 regions; and
- (d) Give the applicants for the television warrants not less than 110 days to file their applications and supporting schedules; and
- (e) Allow the usual period of 60 days for pre-hearing procedures; and
- (f) Hear all the applications in one series of sittings; and
- (g) Where the Corporation is using a translator on a VHF band for the broadcasting of programmes of Television New Zealand and the use of that VHF band for the purposes of broadcasts from a regional television station would require the Corporation to cease using the VHF band for that translator, not grant an application for a warrant in respect of that regional television station unless the applicant first undertakes to meet—
- (i) The costs of reinstating that translator so that it will, on the UHF band, provide coverage of the same standard as that previously enjoyed (which costs shall include the cost of the installation of any receiving equipment which is required to receive broadcasts from the translator); and
- (ii) Such part, as you, the Tribunal considers just, of the cost of any transmitting equipment which is required for the purposes of the translator and which will enable the translator to provide coverage of the same standard as that previously enjoyed; and

(h) Make it a condition of each television warrant granted in respect of a television station that services a region or part of a region and which is granted to a person (other than the Corporation) that the holder of the warrant make adequate provision for the broadcasting from that television station by an independent news company (acting under the authority of a television programme warrant) of a news programme covering national news, international news, and current affairs; and

(5) In pursuance of that policy, direct that you shall, in carrying out the direction contained in clause (4), note that—

(a) It is envisaged that where, as part of network linking and transmission services, it is necessary to co-site equipment of a holder of a warrant in respect of a private television

station with equipment of the Broadcasting Corporation of New Zealand and difficulties arise between the holder of the warrant and the Corporation in establishing a mutually acceptable co-siting agreement, the difficulties should be settled by arbitration; and

(b) I am prepared to give my permission, under section 70 (3) of the Broadcasting Act 1976, to the issue of the television warrants and the television programme warrants required to implement that policy.

Dated this 15th day of November 1984.

JONATHAN HUNT, Minister of Broadcasting.

