



Broadcasting and Related Telecommunications in New Zealand

Report of the
Royal Commission of Inquiry

September 1986



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**THE ROYAL COMMISSION ON BROADCASTING AND
RELATED TELECOMMUNICATIONS IN NEW ZEALAND**

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Judge Michael John Albert Brown

Laurence Alfred Cameron, CBE

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Letter of Transmittal

To His Excellency The Most Reverend Sir Paul Alfred Reeves, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Grand Cross of the Royal Victorian Order, Principal Companion of the Queen's Service Order, Governor-General and Commander-in-Chief in and over New Zealand.

MAY IT PLEASE YOUR EXCELLENCY

Your Excellency's predecessor by Warrant dated 4 February 1985 appointed us the undersigned Robert McDonald Chapman, Michael John Albert Brown, Laurence Alfred Cameron, and Elizabeth Ann Nelson, to report under the terms of reference stated in that Warrant.

We were originally requested to present our report by 30 June 1986, but this date was extended by Your Excellency to 30 September, 1986.

We now humbly submit our report for Your Excellency's consideration.

We have the honour to be

Your Excellency's most obedient servants,

R. McD. CHAPMAN, Chairman

M.J.A. BROWN, Member

L.A. CAMERON, Member

E.A. NELSON, Member

Dated at Auckland this 30th day of September 1986.

*Royal Commission on Broadcasting and
Related Telecommunications*

ELIZABETH THE SECOND by the Grace of God Queen of New Zealand and
Other Realms and Territories, Head of the Commonwealth,
under of the Faith:

Do Our Trusty and Well-beloved ROBERT McDONALD CHAPMAN, of
Auckland, University Professor, MICHAEL JOHN ALBERT BROWN, of
Auckland, District Court Judge, LAURENCE ALFRED CAMERON, of
Wellington, Company Director, and ELIZABETH ANN NELSON, of Auckland,
Company Director:

LETTING:

KNOW YE that We, reposing trust and confidence in your integrity,
wisdom, and ability, do hereby nominate, constitute, and appoint
the said Robert McDonald Chapman, Michael John Albert Brown,
Laurence Alfred Cameron, and Elizabeth Ann Nelson to be a
Commission to inquire into the institutions, operations, financing, and
control of New Zealand broadcasting and related telecommunications
to report on what changes are necessary or desirable to use in an
economically efficient manner those advances in technology which fit
New Zealand's circumstances and resources, to widen the choice, and
improve the quality, of programmes, to secure independence, depth,
impartiality in news and current affairs programmes, and to reflect
New Zealand's cultural and social variety so that the structure and
resources of broadcasting may be better organised to serve all New
Zealanders:

And, in particular, to inquire into and report on:

The opportunities presented to New Zealand by technological
change for new options for the transmission of broadcasting services;
the economic aspects of these opportunities, and whether the
exploitation of those opportunities calls for the establishment of a
Department of Communications; with particular reference to—

-) The benefits and costs of cable services for bringing radio,
television, and information services into and out of the home:
-) The benefits and costs of direct broadcasting satellite services
and of reception facilities for such services:
-) The consequences for broadcasting of the rapid spread of video
cassette recording:
-) The rate of technological change and the manner in which the
rate of technological change affects the pattern of investment
decisions:
-) The respective roles of the Post Office and warrant holders in the
provision of transmission services:
-) The cases for and against a Department of Communications:

2. The constitution, operation, programming, financing, and control of the Broadcasting Corporation of New Zealand; with particular reference to—

- (a) The independence of the Corporation and its continuing role as the provider of a broadening range of programmes which inform, educate, and entertain:
- (b) The Corporation's structural and financial efficiency, its resources, its profitability, and its capacity to compete without loss of programme quality:
- (c) The means by which a broadcast receiving-station licence fee should be reviewed and fixed at an appropriate level:
- (d) The purchasing by the Corporation of overseas programmes, including, the success achieved, the difficulties encountered, and the opportunities to tap services infrequently or never used:
- (e) The sources, scope, staffing, and intended development of the Corporation's news and current affairs programmes, including—
 - (i) The extent to which and the manner in which officers and employees appointed under section 38 of the Broadcasting Act 1976 are used; and
 - (ii) The extent to which and the manner in which persons who enter into contracts under section 34 of the Broadcasting Act 1976 (including persons commissioned to provide comment) are used, and the terms and conditions of the contracts entered into with those persons:
- (f) The benefits, the relative costs, and the staffing implications of extending in-house production of drama, nature, science, religious, and cultural programmes, light entertainment programmes, quiz and game shows, and sports programmes:
- (g) The extent to which the Corporation draws on the products of independent television production companies and the New Zealand film industry and the conditions, benefits, and costs of doing so:
- (h) The manner in which and the extent to which the Corporation commissions individual writers and artists, and the manner in which and the extent to which the Corporation, in commissioning individual artists and writers, co-operates with the Queen Elizabeth the Second Arts Council, the New Zealand Film Commission, the National Film Unit, and relevant voluntary bodies:
- (i) The cases for and against fixing a quota for programmes to be produced in New Zealand, the appropriate level of any quota, and the desirability of using the Australian points system or a modification of it in applying a quota:
- (j) How the development of the *New Zealand Listener* may be assured so that it continues both as an independent journal of

news and opinion published by the Corporation and as a journal that gives the background to, and lists, all programmes broadcast by holders of warrants:

(k) The adequacy of the present arrangements for funding and touring the New Zealand Symphony Orchestra:

3. The corporate structures, ownership, financing, profitability and links with other news media companies of the holders of warrants in respect of private broadcasting stations and the aims, operations, programming, station structure, and staffing of private broadcasting stations: with particular reference to—

(a) The matters referred to in paragraphs (b), (d), (e), (f), (g), (h), and (i) of clause 2 of this warrant, which paragraphs shall apply as if every reference in those paragraphs to the Corporation were a reference to a private broadcaster and with such other modifications as are necessary; and

(b) The cases for and against imposing an excess profit levy on the holders of warrants in respect of private television stations for the purpose of providing funds for the development of non-commercial public broadcasting services:

4. The resources and functions of the Broadcasting Tribunal and its role in relation to the Broadcasting Corporation of New Zealand, the holders of warrants in respect of private broadcasting stations, and the Complaints Committee; with particular reference to—

(a) Whether the present monitoring of the performance of the holders of warrants is adequate for the Tribunal's purposes:

(b) Whether the present complaints system and its governing legislation require simplification and reform:

(c) Whether the Broadcasting Corporation of New Zealand has sufficient independence under the Broadcasting Act 1976 and whether, in particular, the Broadcasting Tribunal should continue to have power to determine applications for warrants by the Corporation:

5. The adequacy of section 34A of the Broadcasting Act 1976 as it relates to the purchasing of overseas television programmes, and whether alternative or additional procedures are required:

6. The reflection in broadcasting of the multicultural nature of New Zealand society, the recognition of regional, sectional, and minority interests in the design of programmes, and the provision of opportunities for access broadcasting; with particular reference to—

(a) The extent to which programmes build on and explore—

(i) Maori culture and language, and the history and current interests and concerns of Maoris; and

(ii) The past and present of the Pacific Islands and the cultures and current concerns of Pacific Islanders; and

(iii) The cultural links and interests of New Zealanders with continental European or Asian backgrounds:

- (b) The recruitment and training of staff fluent in the relevant languages:
- (c) The recruitment and training of the other staff needed to produce and broadcast programmes of interest to each cultural group, including those required for technical positions as well as those required for production and programme positions:
- (d) The role of a Maori and Pacific Islands commercial radio station not only as a broadcasting station but also as a production centre for programmes to be broadcast from other broadcasting stations:
- (e) New Zealand's shortwave radio and overseas programme services and their requirements for effective transmission capacity, staff, and funding:
- (f) The opportunities for development of a wide range of programmes for rural, regional, and urban interests and for specialised audiences:
- (g) The extent to which various forms of access broadcasting are being presented and could usefully be extended:

7. The desirability of developing a more direct and specific association between television as a medium and education as a lifelong process so that television would offer, at suitable times, both local and overseas educational programmes to link with pre-school, school, tertiary, extra-mural, continuing education, vocational and retraining courses; with particular reference to—

- (a) The needs of educational institutions and Government departments for programmes in some or all of the areas listed:
- (b) Whether sufficient use is made of appropriations under section 23 of the Broadcasting Act 1976 to fund the employment of Corporation production staff and the provision of facilities for the editing and preparation of educational programmes, and whether the Corporation and private broadcasters should draw a proportion of New Zealand programmes from educational institutions and private production companies:
- (c) Whether specified hours of the week, outside of peak viewing periods, should be reserved as non-commercial and educational community service hours:
- (d) Whether, with a view to further improving the quality of programmes for children, additional or different requirements should apply to the Broadcasting Corporation of New Zealand and private broadcasters, and whether advertising should be permitted during such programmes:

8. The desirable limits on radio and television advertising, the efficacy of standards and rules, and the question of television and violence; with particular reference to—

- (a) Whether the number of advertising minutes per hour at various times of the day on television should be revised:

- (b) Whether the amount of commercial radio advertising is acceptable to the public or whether it requires reduction:
- (c) The non-commercial character of the National Programme and Concert Programme radio services:
- (d) The need for rules in relation to the sponsorship of programmes:
- (e) Whether certain kinds of programmes should be free of advertisements, and whether continuous action in televised ceremonies and sport should be free of interruption until a natural break occurs:
- (f) The adequacy of internal monitoring by the Broadcasting Corporation of New Zealand and private broadcasters in relation to programming and advertising standards:
- (g) The need for advisory committees in relation to public and private broadcasting, and, in particular, the manner in which such committees should be constituted and funded:
- (h) Whether firm recommendations can follow from established knowledge about the relationship between television and violence:

9. Any associated matters that may be thought by you to be relevant to the general objects of the inquiry:

And We hereby appoint you the said ROBERT McDONALD CHAPMAN to be the Chairman of the said Commission:

And for the better enabling you to carry these presents into effect you are hereby authorised and empowered to make and conduct any inquiry or investigation under these presents in such manner and at such time and place as you think expedient, with power to adjourn from time to time and place to place as you think fit, and so that these presents shall continue in force and any such inquiry may at any time and place be resumed although not regularly adjourned from time to time or from place to place:

And you are hereby strictly charged and directed that you shall not at any time publish or otherwise disclose, save to His Excellency the Governor-General, in pursuance of these presents or by His Excellency's direction, the contents of any report so made or to be made by you, or any evidence or information obtained by you in the exercise of the powers hereby conferred on you, except such evidence or information as is received in the course of a sitting open to the public:

And it is hereby declared that the powers hereby conferred shall be exercisable notwithstanding the absence at any time of any one or any two of the members hereby appointed so long as the Chairman or a member deputed by the Chairman to act in his stead, and one other member, are present and concur in the exercise of the powers.

And We do further ordain that you have liberty to report your proceedings and findings under this Our Commission from time to time if you shall judge it expedient to do so:

And, using all due diligence, you are required to report to His Excellency the Governor-General in writing under your hands, not later than the 30th day of June 1986, your findings and opinions on the matters aforesaid, together with such recommendations as you think fit to make in respect thereof:

And, lastly, it is hereby declared that these presents are issued under the authority of the Letters Patent of Her Majesty Queen Elizabeth the Second constituting the office of Governor-General of New Zealand, dated the 28th day of October 1983, and under the authority of and subject to the provisions of the Commissions of Inquiry Act 1908, and with the advice and consent of the Executive Council of New Zealand.

In witness whereof We have caused this Our Commission to be issued and the Seal of New Zealand to be hereunto affixed at Wellington this 4th day of February 1985.

Witness The Honourable Sir David Stuart Beattie, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Grand Cross of the Royal Victorian Order, Principal Companion of the Queen's Service Order, one of Her Majesty's Counsel learned in the law, Governor-General and Commander-in-Chief in and over New Zealand.

DAVID BEATTIE, Governor-General.

By His Excellency's Command—

DAVID LANGE, Prime Minister.

Approved in Council—

P. G. MILLEN, Clerk of the Executive Council.

*Extending the Time Within Which the Royal Commission on
Broadcasting and Related Telecommunications May Report*

ELIZABETH THE SECOND, by the Grace of God, Queen of New Zealand and Her Other Realms and Territories, Head of the Commonwealth, Defender of the Faith:

To Our Trusty and Well-beloved ROBERT McDONALD CHAPMAN, of Auckland, University Professor, MICHAEL JOHN ALBERT BROWN, of Auckland, District Court Judge, LAURENCE ALFRED CAMERON, of Wellington, Company Director, and ELIZABETH ANN NELSON, of Auckland, Company Director:

GREETING:

WHEREAS by Our Warrant dated the 4th day of February 1985 We nominated, constituted, and appointed you, the said Robert McDonald Chapman, Michael John Albert Brown, Laurence Alfred Cameron, and Elizabeth Ann Nelson to be a Commission to inquire into and report upon the institutions, operations, financing, and control of New Zealand broadcasting and related telecommunications:

And whereas by Our said Warrant you were required to report to His Excellency the Governor-General, not later than the 30th day of June 1986, your findings and opinions on the matters aforesaid, together with such recommendations as you think fit to make in respect thereof:

And whereas it is expedient that the time for so reporting should be extended as hereinafter provided:

Now, therefore, We do hereby extend until the 30th day of September 1986, the time within which you are so required to report, without prejudice to the continuation of the liberty conferred on you by Our said Warrant to report your proceedings and findings from time to time if you should judge it expedient to do so:

And We do hereby confirm Our said Warrant and the Commission thereby constituted save as modified by these presents:

And, lastly, it is hereby declared that these presents are issued under the authority of the Letters Patent of Her Majesty Queen Elizabeth the Second constituting the office of Governor-General of New Zealand, dated the 28th day of October 1983, and under the authority of and subject to the provisions of the Commissions of Inquiry Act 1908, and with the advice and the consent of the Executive Council of New Zealand.

In witness whereof We have caused this our Commission to be issued and the Seal of New Zealand to be hereunto affixed at Wellington this 24th day of March 1986.

Witness The Most Reverend Sir Paul Alfred Reeves, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Grand Cross of the Royal Victorian Order, Principal

Companion of the Queen's Service Order, Governor-General and
Commander-in-Chief in and over New Zealand.

PAUL REEVES, Governor-General.

By His Excellency's Command—

GEOFFREY PALMER, Deputy Prime Minister.

Approved in Council—

P.G. MILLEN,
Clerk of the Executive Council.

INTRODUCTION

1. The underlying theme of this Commission has been to examine broadcasting as a system and, within it, to explore the situation and performance of public service broadcasting in the public interest. We have found it in transition from one era of leadership to another and turning to face an intensely competitive future.

2. Yet there was much left over from the agendas of the past. Maori broadcasting, the scope of New Zealand production, broadly educational programming, the impact of satellites on what remained of Radio New Zealand International, these were all old questions with a fresh development or a new insistence in the voices of those who asked them.

3. As the Commission progressed it became clearer that our terms of reference and the directions taken by our search were not unconnected with rising Corporation activity and innovation in the structural, financial and planning fields. This is one of the positive aspects of public inquiry.

4. At the same time, Corporation activity meant altered situations and changing evidence. Government policy and administration were radically restructuring the institutional basis of communications generally. Such developments took place throughout the term of our sitting over nine months and continued throughout our consideration of findings over six. By March 1986 a completely fresh team was directing the BCNZ and their picture of the present and the near future presented a marked contrast to that when we opened.

5. There are two major ways in which a Commission may act. It can launch the process of major change particularly where a situational problem has become rigid or intractable. Or it may make many and connected recommendations for the repair and better conduct of a situation which is under strain and faces change for other reasons to which it requires to adapt quickly on the basis of familiar institutions.

6. It is hoped that as a Commission our recommendations will be recognised as of the second kind. Broadcasting as a whole will be transformed initially by the recurrent period of strain which broadcasting experiences when each fresh channel is introduced. Before the effects of this have had time to settle, the earliest of the technical developments and their financial and social consequences which can now be foreseen over the next twenty years will be upon us. The pace at which each stage is traversed cannot be predicted but that they will be taken cannot be doubted.

7. Accordingly, the Commission trusts that this *Report* will be of assistance to those who must make progress, sense and order out of technical, economic and social change.

The Conduct of the Inquiry

PUBLIC NOTIFICATION

8. The Warrant appointing the Royal Commission was published in the *New Zealand Gazette* No. 21 of 7 February 1985. An advertisement

setting out in full the Commission's terms of reference and inviting submissions appeared in metropolitan and selected provincial newspapers on various dates early in April 1985. It was also inserted in the *New Zealand Listener* of 25 April 1985.

9. In the advertisement we expressed our wish to hear as wide a cross section of New Zealand public opinion as possible. We asked that submissions be made in writing by 30 June 1985 and indicated that a preliminary procedural hearing would be held in Auckland on 22 July 1985. Provision would be made for those who wished to speak to their submissions to do so at public hearings, probably in the four main centres and at other venues to be determined in the light of submissions received. We also indicated our readiness to meet with Maori people on a marae, should this be their preference.

10. It soon became evident to us that if we were to adhere rigidly to our deadline for the receipt of submissions, we would be denying ourselves a good deal of valuable material. Developments in the field of broadcasting took place at a rapid and at times bewildering pace during the life of the Royal Commission and are still continuing. It seemed to us important that we should continue for as long as practically possible to receive submissions which were based on up to date factual material and which embodied views that had not been overtaken by events. We were also conscious that our proceedings were running in tandem with hearings before the Broadcasting Tribunal of applications for warrants to operate the third television channel. Those hearings understandably had first call on the energies of many of New Zealand's most experienced broadcasters who had opinions on many of the matters in our warrant which they wished to put to us, and which we wanted to hear. For both these reasons, we were as generous as our timetable allowed us to be in accepting submissions which were received after the expiry of our announced deadline. We also took steps to ensure that we were apprised as they happened of significant factual developments in areas covered by our wide-ranging terms of reference.

PUBLIC HEARINGS

11. In the event, we received 282 submissions. 117 organisations and individuals indicated that they wished to speak to their submissions at a public hearing. By far the bulk of those wishing to be heard resided in or around Auckland and Wellington, and most of our hearings were accordingly held in those two cities. We also sat for two days in Christchurch and one in Hamilton. A significant number of written submissions was received from Dunedin, Invercargill and the southernmost part of the South Island in general, but very few asked to be heard in support of them: too few, in our view, to warrant our holding public hearings in those areas. We regretted having to deprive ourselves in this way of the opportunity to visit the southern half of the South Island, but we were impressed with the strength of feeling demonstrated by those, like Mr F. C. Pidgeon of Invercargill and the

individuals and representatives of civic and community groups in Westland, who travelled to Christchurch to appear at our hearings there.

12. We also sat for a day at the marae at Te Aute College at Pukehou in Hawke's Bay, and for two days at Hoani Waititi marae at Henderson in West Auckland. We are most grateful to the Headmaster of Te Aute College, Mr Awi Riddell, and to the staff and pupils of the college for their generous hospitality. Our warm thanks are similarly due to Dr Peter Sharples and his colleagues at Hoani Waititi marae, and to the Maori Broadcasters Association whose suggestion it was that we should sit there. It was particularly pleasing that at both venues we received submissions not only from the Maori people but also from other individuals and organisations.

PROCEDURE AT HEARINGS

13. In all, we sat for 71 days between 1 August 1985 and 4 March 1986. A complete list of submissions received appears in Appendix 1. Oral evidence was sound-recorded and transcribed. The transcript totalled 9765 pages. Copies of submissions, briefs of evidence and the transcript were available at our offices in Auckland throughout our proceedings, and at Wellington and Christchurch during our sittings there.

14. In general, we followed the procedures adopted by the Royal Commission on the State Services in New Zealand in 1962. Evidence was heard on oath or affirmation. We made clear at our preliminary procedural hearing our view that our terms of reference were so wide that it was impracticable to cite parties. But provision was made for those who believed that they were entitled to participate in our proceedings under Section 4A of the Commissions of Inquiry Act 1908 to apply for leave to do so. This was invariably granted.

COUNSEL

15. Counsel were appointed to assist the Commission. They were present throughout the hearings and were available to any witnesses who required their assistance. A number of the organisations which made submissions were also represented by Counsel. We would like to express our appreciation of the courtesy and co-operation we received from all who appeared before us.

VISITS

16. From time to time, as part of our inquiries, we asked the Broadcasting Corporation of New Zealand and the New Zealand Post Office to arrange for individual members of the Commission to visit parts of their organisations to acquaint themselves at first hand with aspects of their operations. At various times, members visited the Television New Zealand Headquarters at Avalon, and radio stations, television studios and other divisions of the Corporation in Auckland and Dunedin. Some of us also visited Post Office Headquarters and transmission facilities in Wellington, and the satellite station at Warkworth, along with

other Post Office Departments in Auckland. We were always hospitably received, and our discussions with our hosts were invariably informative. The readiness of both organisations to make busy senior executives available to brief us during our visits, and to give evidence, sometimes at length, during our public hearings is much appreciated.

OVERSEAS VISIT

17. We did not confine our inquiries to New Zealand. At the time the Commission was appointed, the Chairman was spending some months in Australia as a Visiting Fellow of the Australian National University in Canberra. He took advantage of his time there to make a study of Australian broadcasting in the course of which visits were paid to the Australian Broadcasting Corporation, the Broadcasting Tribunal, and to television and radio studios and facilities in Sydney and Melbourne.

18. In May 1985 we travelled to Japan, the United States, Canada and the United Kingdom, with the aim of studying at first hand developments overseas in the major areas identified in our terms of reference. In Japan we concentrated on developments in the technology of broadcasting. In the United States we looked particularly at news and current affairs broadcasting, sources of programme material, and at satellite and cable television. In Canada we studied the institutional arrangements for public service broadcasting, and looked at the arrangements there for broadcasting to the Eskimo population in their native tongues. We were also interested in studying the Canadian experience of French language broadcasting, and visited Montreal for this purpose. We spent most time in the United Kingdom, where we looked at both major elements in the structure of broadcasting there, the British Broadcasting Corporation and Independent Television. We also had valuable discussions with the Independent Broadcasting Authority, and with Lord Briggs, Provost of Worcester College, Oxford, and spent a day in Cardiff where the focus of our interest was Welsh language broadcasting. We thank all those who received us in each of the countries we visited for the generosity with which they put their knowledge and experience at our disposal.

19. These visits brought home to us that many of the issues and problems currently facing broadcasting in New Zealand had already been confronted elsewhere, and we found it invaluable, as our deliberations proceeded, to be able to draw upon the knowledge of others' experience which we gained abroad. The time available to us was limited, but we nevertheless covered a good deal of ground. That we were able to achieve as much as we did is very largely due to the help we received in arranging our programme from officers of the Ministry of Foreign Affairs at our posts in the countries we visited. We are most grateful to them for all they did.

EVIDENCE

20. On the whole, we were favourably impressed with the submissions we received. Many of them showed evidence that much

care and thought had gone into their preparation. The submissions of the major parties who appeared before us were argued and documented in detail, as were many of those from other organisations and individuals. We received some submissions too, which were clearly intended to be helpful, but which were not strictly germane to our terms of reference. We have also to note that we were frankly disappointed that certain of our terms of reference did not attract more submissions of substance and quality. We have indicated in the body of our *Report* instances where we felt we would have been assisted by more, or more explicit, expressions of views and of arguments in support of them.

CHAPTER 1

Term of Reference 1

"1. The opportunities presented to New Zealand by technological change for new options for the transmission of broadcasting services and the economic aspects of these opportunities, and whether the exploitation of those opportunities calls for the establishment of a Department of Communications:"

1. The introduction to the first term of reference for this Commission asks us to report on the "opportunities presented to New Zealand for new options for transmission of broadcasting services and the economic aspects of these opportunities". There are such new modes of transmission in various stages of development overseas and within this country. Before reporting on them, however, they require to be placed in the context of answers to two prior questions. The first is whether New Zealand broadcasting has up to the present properly utilised the existing transmission opportunities. The second is whether existing, available and economically-preferable transmission opportunities have been exhausted.

2. Evidence before us has shown that the most economically efficient form of television transmission in a long, narrow and mountainous country was and still is to employ terrestrial broadcasting on the Very High Frequency band. Since 1960 this has been and still is being utilised to the full. The BCNZ engineers, with the advice, debate and consent of the regulatory engineers of the Post Office, set out to provide nearly universal coverage on VHF for two television services. To achieve it has required 48 high and medium-powered transmitters and 596 low power and translator installations including some private installations.

3. For the future, an agreement between the BCNZ and the Post Office conserved Channel 10 of VHF for a potential third service. There was also a further possible Channel 11 on VHF kept in reserve for governmental decision as to its use. Should there be need for a third service to be largely received on the VHF receivers which the great majority of households already owned, then broadcasting that third service would take up both the VHF channels which remained and call for replanning of the current scheme of VHF channel and frequency allocation. What is more, the third service would need further frequencies to provide at a minimum for the operation of translators into marginally-served or unserved areas.

4. When a third service was called for by Direction to the Broadcasting Tribunal from the Minister of Broadcasting this consequential need for frequencies outside the VHF band could be planned for because in New Zealand the Ultra High Frequency band (from 470 MHz to 960 MHz) was as yet untapped for broadcasting television. The applicants for warrants were instructed to put forward plans for providing coverage for 90 percent of potential viewers in any given region and to state their timetable for doing so. At the same time

the Post Office, with the help of BCNZ engineers and information from private firms, sought an optimum path between a total reallocation which would unduly disturb existing networks and viewers and a channel plan using so many VHF frequencies that the third service would suffer seriously because of the cost to a mass of potential viewers of equipping themselves to receive it. By June 1985 a "Post Office Progress Report" could be issued showing three closely parallel alternatives avoiding both extremes but each alternative having some drawbacks as well as advantages and all calling for further refinement.

5. Planning for the third service has inevitably brought New Zealand broadcasters and viewers to the edge and over the edge of the Very High Frequency band and to some degree faced them with the corporate costs of transmitting and the private costs of receiving in the Ultra High Frequency range. Only the most skilled and economical usage of VHF in New Zealand and meeting a wide range of interests within two programme services has managed to defer UHF for some viewers at least until this point. More populous and larger countries like the United States and the United Kingdom have long ago been driven by commercial competitiveness or finding frequency room for more services to exploit the UHF range of frequencies. The proven transmission technology has been available for decades.

6. Terrestrial broadcasting of television on UHF remains on present costs a cheaper option for New Zealand than either direct broadcasting from a satellite or cable reticulation. Nevertheless, it does have a price and penalties compared to VHF. Even for VHF reception of a third service on the last two channels there will be costs for that quarter of all set owners whose tuning system or fixed resistor needs minor modification or who need an aerial fitted or realigned.

7. Because only 3.1 percent of the sets made over the years by five leading New Zealand manufacturers are equipped for UHF reception, the greater part of those who must pick up a translator on UHF to receive the third service "will require a different antenna (in most cases in addition to their VHF antenna) and a receiver equipped with a UHF tuner or an external adaptor. Conversion of an existing receiver for UHF reception, including antenna, is estimated to cost \$150 to \$200 including labour."¹ Those figures are in price-frozen, pre-devaluation dollars from a Communications Advisory Council report on *Cable Television in New Zealand* published in November 1983. By the time a third service has its primary transmissions established on VHF and is addressing reception problems on its margins through UHF, those estimates may have risen greatly. But they will confront only a small minority of viewers.

8. Only when a fourth service is called for will intending viewers and broadcasters have to face the prices and penalties of adding nationwide UHF capacity to the existing VHF system. In 1983 the Post Office estimated that, if the whole UHF band were to be made over to television, it could supply enough frequencies to give national coverage to five further programme services. There are other needs which the

UHF band must provide for such as land mobile communications. Therefore not all the UHF band is likely to be spent on television.

9. With the principal use and those exceptions in view, however, the evidence of the Assistant Director-General of the BCNZ, Mr Dorrington, suggested that two allocations should be made and held for broadcasting services. The first would run from 510 MHz to 582 MHz and the second from 622 MHz to 862 MHz. They would yield "nine channels for high or medium power television transmitters" and "a further 30 channels for medium and low power transmissions."² Appropriate channel planning would allow the broadcast of "six additional television programme services capable of covering up to 80 percent of the population."³ Moreover, of those six services, three "could be extended to provide virtually 100 percent population coverage."⁴ Adding those three nationwide services on UHF to the three VHF services now in being or at the planning stage would still retain frequencies for low powered television stations and regional services in reserve.

10. Plainly the constraints on New Zealand securing more television services do not lie in the lack of existing options for terrestrial transmission. The real constraints lie in the heavy costs of taking up those options. UHF signals are worse than VHF signals at covering hilly country. There is more UHF signal loss in lead-in cables while UHF antennas are "inherently less effective".⁵ Because it is cheaper to improve general transmission than to improve hundreds of thousands of domestic receivers, that involves purchasing higher powered UHF transmitters and antennas which makes them 50 percent more expensive than their VHF equivalents.

11. When the individual costs of buying UHF convertors and fitting extra UHF antennas are added together the figures are impressive. In 1983 the CAC Report estimated that, for one UHF service for metropolitan Auckland's 240,000 households, the cost to broadcasters would be \$1.2 million for transmission and \$42.0 million to viewers for reception. Looked at nationally, the costs for one UHF service would rise to \$30 million for transmission and \$175 million for reception. However, once the conversion to UHF of sets and antennas has been made to receive the first service, there are frequencies for two further UHF services which would require very little further expenditure to receive but would call for a further \$60 million in transmitters and translators. Their addition would bring the total for transmission and reception of three UHF channels up to \$265 million.

12. The calculations thus far have left out of account the cost of programmes, where programmes are to come from, and the cost of operating the networks and of finding, hiring and further training the skilled staff. The cost to the BCNZ of operating two services of television in 1984/85 was \$118 million in direct and indirect charges which included the cost of making and buying in programmes. The figure is indicative only since there was a major investment programme for updating studios and equipment about to be implemented which

would show up both in increased future efficiency and necessarily also in system capital costs.

13. The operating costs of whichever private companies become warrant holders for elements of the third service are, of course, matters of estimate only. They could yield only the most general of indications as to what any fourth and private service might cost to operate. Nor does the specific BCNZ figure for operating two services produce clear guidance on costs should the Corporation be called on for a fourth and public service. The problem would be to fix how much less than half of that \$118 million would represent the additional costs. No doubt the BCNZ would make every endeavour to stretch existing resources across three services. Some savings would be available in shared overheads for administration, staff, studio equipment, production facilities and information services. But the savings would depend on the compatibility of the kind of programmes the extra service was intended to provide.

14. If the spread of programming aimed at was to be much like the two existing services then compatibility would allow of joint-use savings at the margins. At the same time overall costs would remain reasonably close to previous costs because of the proportion of relatively expensive New Zealand production and the general programming standards maintained. It would also be extremely difficult if not impossible to maintain those standards in respect of securing a core of overseas programmes of wide general appeal. With two services to fill, the BCNZ already buys a large proportion of the popular United States, U.K. and Australian programmes available, and many of lesser or minority interest. What is more, the third private and competitive service will also have fished in the same pool beforehand.

15. Any fourth service on UHF is therefore likely to be designed for one or more specialised purposes and with lowered operational expenses in mind. To investigate the cost of extending one possible service to New Zealand the Commission asked the BCNZ to prepare a first-order estimate for acquiring the right to broadcast the Australian Special Broadcasting Service programmes and doing so on a new UHF transmission system.

16. SBS Television is designed to be a multi-cultural service aimed primarily at that quarter of modern Australia's population who came from overseas. It explores the broadcasting world from Norway to Brazil and from Japan to Mexico to find films, features and news in languages other than English. The SBS has recruited an able and experienced staff of translators both full and part-time who subtitle their programmes with such subtlety that the viewer is scarcely aware of the process and is conscious instead of the flavour and different values of life and drama in other cultures.

17. The capital cost for setting up the microwave programme distribution links, buildings and transmitters for a UHF coverage of 90 percent of the population was estimated in February 1986 as \$30.6 million, very close to the CAC figure of \$30 million in November 1983.

The six hours a day of programming would in some cases require additional negotiation of rights before being shown here. Assuming those rights could be secured, the annual lowest programme cost is estimated at \$6.57 million. To relay it by satellite from Australia to a New Zealand Post Office earth station would cost \$4.69 million, and there would be BCNZ internal operating costs of \$656,000.

18. The BCNZ noted that their operational costs were marginal costs for consumable materials and did not include costs for sharing the use of BCNZ facilities, a return on capital or provision for depreciation. So a fully-costed estimate for their operations would certainly be decidedly higher although a negotiated long-term contract for the satellite supply could well prove lower. Taken as a whole, however, this first-order estimate shows the capital cost as \$30.6 million over three years for a UHF transmission system and \$11.9 million as a minimum annual charge for both BCNZ operations and a genuinely varied programme which would complement and extend instead of competing with programming on the existing two services and the potential third service.

19. To boldly transfer over a complete and balanced service from the nearest possible source is to set the price at or about the least which could be paid for supplying an entirely different fourth nationwide programme. To investigate the price is not to advocate transferring the SBS. For while it is a remarkably educative, entertaining and culturally broadening service, it is an acquired taste and makes its way gradually on UHF in Australia against the familiar fare on the VHF networks. What knowing its approximate cost does is to fix the minimum height of the programming hurdle which must be cleared in addition to the transmission cost when assessing UHF, cable and direct satellite broadcasting.

20. To bring across any of the three Australian commercial networks or the Australian Broadcasting Corporation service would not serve to fix this benchmark for an entirely different kind of programming at all. Instead any of the four, and especially the three commercial networks, would result in considerable overlapping with programmes already being broadcast here. What is more, in the case of the private networks, it would also introduce direct competition between separate national advertising campaigns for the same or comparable products. Such a head-on conflict would probably be settled in favour of the advertiser already working in and from the bigger market who would gather in the smaller by merger or defeat. Certainly it would damage the financial underpinning of those New Zealand networks which relied at all heavily on advertising for internationally distributed products from cars and airlines to records and cosmetics.

21. There are other specialised programme services which have been suggested. The Aotearoa Broadcasting System was, of course, a contender for warrants for the third television service, not for a possible fourth. Yet the sums the BCNZ proposed for its support should it win a warrant—\$46.5 million for the transmission system which BCNZ would provide and \$27.4 million in grants over three years—gave a clear

indication of the scale of costs for any service which intended to make itself or have made independently a half or more of its programmes in New Zealand. Nor were these sums all that would be needed, for the proponents of ABS had always looked to other financial sources in addition and had plans for advertising.

22. The Communications Advisory Council, in reviewing possible programming options other than TV1 and TV2, listed "coverage of local interest; movies on a Pay TV basis; sports; children's programming; community access; religious and ethnic; popular music; and news."⁶ Several of these fields will be tilted in varying degree by the successful applicants for the third service warrants. As a regionally-based service it may be expected to attend carefully to coverage of local interests and to provide some measure of community access as well as regionalised Maori programmes. They will not be broadcast as separate service options, however, but as constituents in balanced programming.

23. The other options likewise were not intended to stand alone and could hardly do so or justify their cost by their appeal as a UHF broadcast service. The all-news, continuous sport, or non-stop music video channels which are offered on a subscription basis to cable viewers in North America are designed to attract particular segments of a huge, continental audience and distributed as one among many choices to be paid for separately. As for what has proved the most appealing of the specialised programmes elsewhere, the showing of recently released films on a Pay TV basis, here in New Zealand the rapid spread of video cassette recorders and cassette rental shops is progressively meeting that demand without resort to a whole new UHF channel.

24. Thus far we have been answering from the evidence two prior questions as to whether existing transmission options have been efficiently utilised and whether further options were exhausted to which the answers were respectively "Yes" and "No". Given that further options existed, we have explored the corporate costs of further transmission systems wholly on UHF and the private costs of UHF reception. We then looked at a range of operational costs, programming costs and the associated problems of programme suitability and availability. In doing so we have skirted another critically significant cost which lies in the effect on the funding of the three existing and planned services if any further services, whether non-commercial or commercial, were to be added. Nor have we inquired into the cultural or social effects or the justification in the national interest of making any such additions.

Term of Reference 1 (a)

"1(a) The benefits and costs of cable services for bringing radio, television, and information services into and out of the home:"

INTRODUCTION

25. Cable services are best defined as a method of transmitting a product or service intended to have a saleable appeal by means other than through conventional terrestrial radiation on the radio frequency spectrum. These products or services may be television programmes, radio broadcasts, electronic data transmission or they may be interactive services such as telephony, banking, teleshopping, electronic mail and medical or burglar alarm monitoring.

26. The provision of telephone communication has been the basic service traditionally associated with cable. Yet, from the very earliest days of broadcasting, in some parts of the world cable was also used to relay radio signals to audiences in areas of poor reception. With the introduction of television cable served a similar purpose, particularly in Canada and the United States, to bring programmes to those areas which, through isolation or conditions of physical geography received poor signals or no signals at all. A system known as Community Antenna Television (CATV) evolved whereby antennae were strategically placed to receive signals from distant broadcast stations and then these signals were relayed to houses by means of cable. CATV, where it operated, was, thus, primarily a distribution network for conventional terrestrial broadcast television.

27. CATV systems were employed in European countries, not only to improve reception of domestic programmes, but also to widen the distribution of foreign broadcast programmes in areas where large sections of the population were bi-lingual or multi-lingual.

28. In the United States in the last ten years, however, cable television has evolved in a manner quite different from the original CATV concept. Since 1977 the United States television industry has been largely deregulated. Prior to that the Federal Communications Commission had a raft of restrictive rules to prevent cable television competing with broadcast television, as opposed to being an adjunct of it. Since deregulation, however, cable television services have come to large cities already well served by terrestrial broadcast. Faced with congested VHF and UHF broadcasting bands the simplest means of establishing new television stations was by cable network in part financed by user subscription charges. The result was an upsurge in the number of cable channel services, many devoting themselves to specific types of programme such as news, sports, films, childrens' programmes or the arts. By mid-1983 there were approximately 5,000 cable television systems in operation. Thus, these United States developments initiated a new concept in television. Cable television became a different, and competing, medium from broadcast television. It had changed from

being a mere transmission system to a particular type of programme service.

29. Wherever new cable services were introduced a new cable network had to be laid. Although there were existing cable networks for telephony purposes, it was not technically possible to use these for television since television required a broader band width than telephone cables could provide. Developments in cable technology have since changed this making it possible to now carry both services on the same cable system. Furthermore, advances in computer technology have expanded the available uses of telephone cable. Using this technology it is now possible to provide teleshopping, telebanking and other interactive services on existing telephone cables. The important point to be made here is that it is already possible to introduce information services into the home by cable. Contrary to some popular opinion, these are not dependent on the prior provision of cable television services. Thus, information services and cable television can be treated entirely separately. Provision of the former is all but technically guaranteed now. Whether there is a need for the latter depends on an entirely different set of criteria.

30. This Commission is not asked specifically to consider anywhere in its terms of reference whether there is a need for cable services in New Zealand. Rather, we are asked generally to consider the opportunities presented by options such as cable and to assess any benefits that might accrue from the introduction of such a service. Essentially, that means cable television because, as we have said, the provision of other cable services is already technically guaranteed on existing cable network. Yet, it seems to us that before "opportunities" and "benefits" can be realistically assessed in relation to cable television, the question of "need" first has to be addressed. If present broadcasting systems are meeting present requirements adequately and if they are likely to continue to do so in the immediate and medium-term future or, if they can provide new services equal to cable television and at lesser cost, then the whole question of cable television becomes somewhat redundant.

31. To this end, in the preamble to this term of reference we asked the questions whether New Zealand broadcasting has up to the present properly utilised existing transmission opportunities and secondly, whether existing available transmission opportunities have been exhausted to meet our short and medium term requirements. To the first question we answered "Yes". In a small, geographically isolated, narrow and mountainous country such as New Zealand, the most efficient form of television transmission is to use terrestrial broadcasting on the VHF band. This band has and is still being used to the full. There is also room for expansion of new services. Unlike many other countries where radio frequency bands are congested and space on the spectrum is at a premium, New Zealand still has some room on the VHF band and an untouched UHF band for broadcasting services. Use of the UHF band would allow for a further three services nationally, an additional three

services with approximately 80 percent national coverage, while still allowing provision for other services at regional or local level. That of course takes no account of the anticipated development of Direct Broadcasting satellites which, many believe, are inevitable and which will have the capacity to provide virtually full national coverage from a single satellite without the necessity, in the long run, of a network of terrestrial transmitters. The answer to the second question then was "No", New Zealand has not exhausted all available transmission opportunities open to it.

32. With the two existing BCNZ channels, the proposed third private channel, and the opportunities for expansion presented by the UHF band it would be possible in the future, ignoring for the moment any financial or funding constraints, for New Zealand to have up to nine television services of national or near national coverage and room for further regional or local stations. It is within this context that the opportunities and possible benefits presented by the introduction of cable television services need to be examined.

THE BENEFITS OF CABLE SERVICES

33. Of all cable services, it is probably cable television which most excites the public imagination simply because cable television has been in existence in other countries for many years, its services are easily comprehended, and a large number of overseas travellers have had first hand experience of it. Its main attraction lies in the variety of programmes it can technically transmit if they can be provided and if the viewer is prepared to pay. There is always a clear public preference for variety of choice.

34. The main advantage that cable television has over terrestrial broadcast television is that it is unfettered by the constraints of the frequency spectrum. The frequency spectrum is a finite resource but cable services can, in effect, replicate that spectrum as many times as required and produce as many television channels as the programme companies have on offer and the audience wants to pay for. The BCNZ, for example, indicated in its submissions that cable could technically provide up to 100 channels of partial coverage in New Zealand.

35. With the greater number of alternative channels available, cable television can offer diversity of services and greater specialisation in programming. From the American experience in those areas where 'good' cable systems operate, programmes from a dozen or more local or distant television broadcasters may be presented, together with an equal number of non-broadcast video channels for specialised audiences offering educational, sporting, news, movies or minority linguistic programmes. The main characteristic of cable television is that it is a decentralised local medium. In this sense, it is often called 'narrowcasting' as opposed to conventionally transmitted 'broadcasting'. Because it is decentralised, channels can be set aside for local uses such as community information, educational programming, social services or access television. Choice and variety

are limited only by the cost of programme production and what the audience wants to pay for so that programmes that might not be viable on radiated broadcast services, which need to attract and hold huge audiences, become in the North American markets realistic alternatives on cable because enough users pay subscriptions for the service. In effect, these people become their own programme schedulers and the whole system is market driven in that the users largely determine the type of material being carried.

36. Cable television services are particularly well suited to pay-TV where certain channels are reserved for reception to those who pay a fee specifically for them over and above their monthly subscription for connection to the system. This has commonly been used for channels showing first-run movies or live sporting events. With the latter type of programmes, this has often led to intense competition between broadcast and cable interests for screening rights.

37. Cable television can also provide improved picture quality over systems using the radio spectrum. There is much less susceptibility to 'ghosting' and noise, particularly in urban areas where conventional broadcast signals can be degraded by interruption from high rise buildings.

38. Likewise, cable systems have advantages for radio, providing reception free of interference and offering the possibility of full bandwidth stereo. However, from overseas experience, it is plain that there is much less attraction for providing cable radio than cable television. The reasons for this are primarily that cable operators have not seen cable radio as a viable revenue earner and secondly, the nature of radio as a medium. Television is viewed in a fixed location but radio listening is often a mobile experience heard through transistor or car radios and, hence, is unsuited to cable. Nevertheless, cable television networks have the capacity to carry FM radio signals for high quality stereo sound tracks associated with television programmes. This process of 'simulcasting' allows cable subscribers to use their existing FM radio tuner and Hi-fi system for stereo television sound. Much the same process is already achieved in New Zealand with one particular programme, albeit without cable. *Radio With Pictures* is simulcast through the limited number of FM stations which exist so that viewers can receive the picture on their television sets while receiving the sound on their radio tuners.

39. As we have stated, until recently, wherever cable services have been introduced overseas there has been a need for a separate television cable apart from existing telephone cables. Generally, the television cables have been transported along telephone pole networks. But, because the telephone wires have been simply twisted pairs, the bandwidth on telephone networks has not been broad enough to accommodate television transmission. However, other than the need for different cabling, there has been no inherent difference between telecommunications and broadcasting technology on cable. Both merely transport an electronic signal by analogue transmission from one

source to a destination. The means have been the same, only the transmission 'highways' have differed.

40. All that is now changing. The marriage of telecommunication and computer technologies have opened new possibilities for information storage and retrieval and interactive communication. Foremost among telecommunication developments has been fibre-optic cabling which transmits information by light through glass fibres. Such is the development in fibre-optic technology that some experts have claimed that fibre-optics will eventually render the copper wire used in co-axial cables virtually obsolete by the end of the century. The great advantage of fibre-optics is that they can transmit considerably more information much further than copper wire cables. A 2.5 cm cable of fibre-optic strands can handle up to 400,000 simultaneous telephone conversations. The number and variety of services fibre-optic cables can provide is limited only by the number of 'highways' in a cable.

41. The major advance in computer technology which has relevance to telecommunications is the development of the Integrated Services Digital Network (ISDN). Whereas previously telecommunication transmission through cable was by analogue transmission, ISDN is able to transport the same messages in digital form through a stream of on/off pulses. Both sound and television signals can be coded digitally for transmission. The cost advantages of digital transmission are such that analogue network equipment installation throughout the world has virtually ceased. Already the New Zealand Post Office is well advanced in installing digital transmission equipment for exchanges and telephone links in New Zealand in line with overseas practice.

42. By utilising ISDN all those services such as teleshopping, telebanking, electronic mail and alarm monitoring can be provided on existing telephone networks. The only service that presently does require a different type of cable is television. But, the important point relating to fibre-optic cabling and ISDN is that in future it will be possible to provide all services—information, telephone and television—on the one broad-band cable eliminating the need for wasteful duplication of cable networks. At present, however, fibre-optic cabling is best suited only for trunk transmission but, in the next few years, as the technology advances, urban and suburban reticulation are likely to incorporate fibre-optics. It is not yet an economic proposition at the subscriber level because of the high cost of transmission and switching components. The problem is that fibre-optic highways transmit data by pulses of light but at the receiving end these must be translated back into electrical pulses which requires complicated circuits. Furthermore, the electronic switches are not yet fast enough to keep up with the flow of data through the fibre-optic cables. These problems however, are likely to be solved and the components are likely to reduce in price as the technology advances and as economies of scale are realised. But, in the short term, any cable television system installed would be likely to employ co-axial cable and would, therefore, be of little use for future interactive communication services.

43. If then, as is likely, fibre-optic highways will in future form the basis of our telecommunication system, there will exist the dual capacity to provide cable television if such a service is deemed to be desirable or economically viable. Having established by research that there is a desire for subscriber paid television service, the question will then be, can cable provide that service at lesser cost than other alternative methods of providing the same service? Our discussion in the introduction to this term of reference suggested that, until the fibre-optic network was far advanced for other reasons, cabling television would be more costly than terrestrial radiated transmission and that could be coded and paid for.

THE COST OF CABLE

44. There is no escaping the fact that cable television is expensive. The costs of cable systems based on conventional co-axial technology can be accurately assessed. However, those based on fibre-optics are much more difficult to price because that technology is still in a state of flux. It is likely that current pricing for fibre-optics will significantly decrease in the future but, as we have noted, fibre-optic cabling is not yet an economic proposition at the subscriber level.

45. It is self-evident that the single greatest cost of introducing cable television into New Zealand would be the cost of reticulation. It also follows that to be cost effective, cable television must have the potential to reach a large number of subscribers. Evidence before us suggested that cable is best suited to small geographic areas containing large concentrations of people. A figure of 100,000 houses with the probability of 50 percent penetration by cable services was deemed to be the minimum required by both the BCNZ and the Communications Advisory Council to make a cable television system economically viable.

46. From this fact alone, it would appear that the small population base of New Zealand would militate against the successful introduction of widespread cable services. Only the Auckland metropolitan area with 240,000 houses falls safely within the minimum numbers suggested for a viable cable system. The next two largest urban concentrations, Wellington and Christchurch, each contain only approximately 107,000 houses, numbers close to the lowest limit of viability.

47. Outside of the main cities, the physical constraints of cable with its high cost of reticulation and the need for wide-band repeaters and distribution amplifiers, makes rural coverage unlikely to be viable. It cannot, thus, be seriously considered as a means of national television coverage.

48. While overseas cable systems have normally been reticulated through overhead cables, often along telegraph poles, it is probable in New Zealand that cable would have to be underground for environmental reasons. This, of course, would significantly add to overall costs. In addition to the actual cable, a cable television service would also have to invest in head-end facilities, to assemble programmes and ensure a satisfactory quality of signal, and repeaters and amplifiers if

the cable was reticulated over long distances. Subscribers to any such system would also face costs for adaptors to their television sets to receive the cable signal.¹

49. In their submission to us the Communications Advisory Council estimated that the capital cost of providing cable television services for Auckland alone would be in the order of \$200 million. The BCNZ also provided us with the estimated price for reticulating cable to Auckland, Wellington, Christchurch and one other unspecified town to provide, for costing purposes, a figure of 500,000 possible households. Noting that 100 percent national coverage was impractical, they went on to point out that 25 percent or 50 percent national coverage would be achieved if half, or all households respectively in these cities were connected to cable services. The costs for each level of coverage were \$425 million and \$475 million, based on 1983 estimates. Evidence before us has suggested that current costs would be some 50 percent higher.

50. To put these totals into a broader perspective, the BCNZ compared the cost of cable with the other likely means of extending transmission services—direct broadcasting satellites and UHF. These are summarised in Table 1.

TABLE 1

COMPARATIVE COSTS OF CABLE TELEVISION, SATELLITE AND UHF BROADCASTING

<i>Programmes transmitted</i>				<i>1</i>			<i>5</i>			<i>25</i>	
% of NZ population with receivers adapted for the service				25%	50%	100%	25%	50%	100%	25%	50%
				\$ million (1983)							
Cable Television	..	..	..	425	475	..	425	475	..	425	475
Satellite	..	..	..	275	525	1025	375	625	1125	..	..
UHF	..	..	..	74	118	205	194	238	325	..	..

NOTE: These figures are in 1983 dollars. Current costs would be approximately 50% higher for cable and 60% higher for UHF. Satellite would remain about the same according to the CAC.

(Source: BCNZ, written submission, term of reference 1 (a), Appendix A. p. 2.)

51. These costings clearly demonstrate that the cheapest method of providing additional television services in New Zealand lie with conventional terrestrial broadcast methods on the UHF band. Not only is the capital investment less, but UHF has the capability of providing nationwide coverage which is clearly impractical by cable methods.

52. To a large degree, New Zealanders have come to regard television as a basic service. This probably effectively rules out the provision of cable television as a public service broadcasting initiative for it is obvious those parts of New Zealand which did not receive the service would create strong opposition to the public funding of such a service to selected areas or regions. Inevitably, therefore, if cable television was to come to New Zealand in the immediate or medium-term future it would probably be a privately financed enterprise either with New Zealand capital or backed by overseas interests.

53. Of prime importance is the effect cable television would have on the funding and economic viability of existing and planned services. Cable services with their capacity to carry a large number of channels necessarily fragment audiences. At present, advertising rates are based on a "cost per thousand" formula, relating audience numbers to costs charged. Any drop in audience sizes would be accompanied by a corresponding drop in revenues. This would happen regardless of whether cable operators were bound by a "must-carry" rule requiring them to broadcast existing radiated services as part of their total cable network package of programming services. In many parts of this report we comment on the likely impact of a third television channel and the probable deleterious effect this will have on the revenues of existing broadcasting services. Cable television could only intensify this financial pressure.

54. This impact on revenues would occur even if cable television did not carry advertising. But, should cable operators be able to partly fund their operation through advertising revenue, the combined effect of this and audience fragmentation would, in all probability, have very damaging financial implications for broadcasting in New Zealand as a whole.

55. Probably the greatest perceived advantage of cable is the variety of services it can provide. Once the basic cabling network has been laid, the incremental cost of providing additional channels is very small. The number of channels provided is in turn dependent on there being sufficient public demand for a service and there being sufficient programmes available to screen. In regard to demand, there was little evidence in the submissions and evidence before us that a large proportion of the public want cable services. Although there will always be those who are critical of present services, by and large, the BCNZ seems to have managed to satisfy most wants, at least partially, in the community. Further choice will, of course, eventuate when the third channel is operational.

56. Of critical importance is the availability of programmes for any cable network. The cost of making programmes is expensive and yet, as the British broadcaster David Webster has observed, "the cable system has an insatiable and indiscriminating appetite for product...[and]...few nations have the production base to feed the multichannelled monster."² There is a limit, with a population as small as New Zealand's, to how many local programmes can be made. The alternative to local programmes is to import overseas ones. Despite the lofty claims made by many cable operators in the United States, the single most profitable service provided by cable there has been the Home Box Office which screens recently released feature movies. Many of the other American franchise holders, not involved in screening feature films, have found that they have been unable to deliver on initial promises because cable television is so capital intensive. A solution for many of these operators has been to run endless repeats, 'B' grade westerns, "child-minding" programmes, or pornography. A recent

report into cable television by the Australian Legislative Research Service drew attention to this and pointed out the dangers of it for a country with a small population and limited resources such as Australia. If it holds true in Australia, then it certainly would be even more applicable to New Zealand.

57. The British experience of cable television has shown clearly that where terrestrial services provide a suitable range and choice of programmes to satisfy public tastes, then cable is not a successful alternative. As of 31 March this year, the Peacock Committee on the Financing of the BBC estimated there were only 130,000 cable subscribers in Britain despite a major government initiative in 1983/84 to extend the provision of cable television. While noting that new systems do take time to build, the Committee also observed that the slow development "was largely caused by the hesitancy on the part of financial backers faced with the high capital costs of installing the cable network."³

58. A somewhat different situation pertains in Canada where an estimated 58 percent of homes were connected to a cable system by 1980 making it one of the most heavily cabled countries in the world. There, the initial impetus for cable was the desire to receive the three United States commercial networks. The potential danger of this was noted in the mid-1970s by the Canadian broadcaster Frank Foster, writing on behalf of the Canadian Radio-Television and Telecommunication Commission, when he observed, that:

"unlimited penetration by United States stations on a wholesale south to north basis would completely destroy the licensing logic of the Canadian broadcasting system as established by the Broadcasting Act. If a solution is not found to integrate cable into the overall system, the impact, by fracturing the economic basis of the private broadcasters, would also disrupt the Canadian cultural, educational and information imperatives of both the public and private sectors of the Canadian broadcasting system. . .

At stake is more than a system of national communication, because broadcasting also has the vitally important task of identifying and strengthening cultural entities, regional identities and community loyalties."⁴

59. The warning was not heeded. In Canada today sixteen cable channels operate in a virtually deregulated environment showing very little Canadian content. According to the figures produced by the CAC on p.59 of their submission to us, 70 percent of all the programming viewed by Canadian audiences on their English-language stations was of foreign origin in 1981. For entertainment and sports programming, the figure was 86.5 percent. About 40 percent of the viewing on French language television was non-Canadian programming. This has had profound effects on public broadcasting in Canada and the Canadian government and broadcasters have had to make strenuous efforts in recent years to try to re-establish a Canadian identity in broadcasting

through minimum local quotas. In a country as small as New Zealand, with limited programming resources, there are clear dangers of such a cultural invasion if cable were to be introduced on a wide scale simply because it is highly debatable whether such a system could survive without importing cheap, mass-appeal foreign programmes.

60. A further factor weakening the need for cable television has been the proliferation of video cassette recorders. New Zealand's ownership of VCRs is high by world standards. The availability of recent release movies on video cassettes freely available for public hire has largely blunted the demand in this country for one of the most popular and profitable services provided by cable television overseas. Indeed, VCRs have become a cause of some concern to cable operators in other countries as they see these eroding the attractiveness of their services.

REVIEW

61. Since the nature of this term of reference is largely descriptive rather than prescriptive we have, to this point, made little direct mention of the submissions and evidence presented to us by the general public. Many of those submissions gave little or no evidence to support the opinion stated. However, those submissions which we have relied on heavily that did provide in-depth assessments—notably, the Post Office, the BCNZ, the Communications Advisory Council, and the Public Service Association—were all in fundamental agreement. Each argued that while overseas experiences are useful as models, ultimately any decision on the introduction of cable services must be made in the context of the New Zealand environment—economic, social and geographic—and a clear understanding of the purposes and requirements of broadcasting services in New Zealand. Each of these submissions reached the same basic conclusions, that cable as a delivery system is uneconomic in the New Zealand context and would alter the structure and viability of broadcasting as we know it.

62. Cost, in comparison to other alternative options, was the biggest single factor against a cable network in the short and medium-term future. Next to cost was the relative inflexibility of cable services. They may well provide scope for a considerable number of extra television channels to be introduced but the small population of New Zealand and its scattered distribution mean that cable would only really be viable in the largest metropolitan areas, assuming that it could achieve 50 percent penetration of those areas. Cable certainly would not be practical for nationwide coverage in the manner that New Zealanders have become accustomed to expect and, indeed, demand, of their broadcasting services.

63. A common assumption in those submissions which provided any depth of information was that any cable system introduced into New Zealand in the short-term future would use co-axial reticulation rather than fibre-optics. The reason for this is that fibre-optic cabling is best used for transmission over long distances. For short range local distribution co-axial cable is still cost-competitive. As we have observed,

fibre-optic technology has yet to master the end of trunk line transmission problems and the price of local networking has yet to become price competitive.

64. The point made in the submissions was that any cable network laid for television now would be a wasteful duplication of resources and may in fact prejudice future options. There is no doubt that fibre-optic cabling will eventually supersede co-axial cabling for telecommunication purposes. Such cable will, of course, have broad-band capability for cable television purposes in a reticulated area far beyond the size of that envisaged for cable television alone. Integration of the two services with the Post Office acting as a common carrier of telecommunications and television, if the latter service is deemed desirable, would lead to significant economies and cost reductions. Indeed, it might even be possible to reticulate cable television to rural areas in these circumstances.

65. In that sense, therefore, it is probably inevitable that cable television in New Zealand in the future will become a reality. Once the capital cost of cabling is removed, the question of whether cable television is needed will be decided in a different framework, notably whether it can provide for a demand which is not being met, or which cannot be met, by other means.

66. In the short term conventional transmission methods appear to offer a cheaper alternative for expansion of any services. We have stressed in the introduction that the UHF band is still untouched for broadcasting purposes. Many of the perceived advantages of cable can be provided by UHF which is inherently suitable for regional television but with the additional capability to provide nation-wide coverage to which cable is unsuited.

67. One of the supposed advantages of cable over terrestrial transmission is its capacity for 'user pay' services through subscription. Yet, in evidence Mr Dorrington, Assistant Director-General of the BCNZ, pointed out that precisely the same advantage can be obtained by Radiated Subscription Television (RSTV). Basically, RSTV involves the conventional terrestrial transmission of a coded or scrambled television signal which can only be received by a decoder, hired on a monthly subscription basis, by the viewer. The advantage of RSTV is that it involves more familiar technology at a lower capital cost and there is ample scope for its development on the UHF band. Because there is less channel capacity with RSTV than with cable, programme supply requirements would be much more manageable.

68. We mention RSTV only in so far as it is an example of an alternative cheaper and simpler method, other than cable, of funding a new service to protect the viability of existing services. We do however, have serious objections to a limited public resource such as the UHF spectrum being utilised for services not freely available to all people. It is our belief that, if the UHF band is to be used for extending television services, then the same conditions of universality of the system that now apply should continue to do so.

69. Looking further towards the future, DBS could provide a suitable nationwide alternative to cable. Although there is only one true DBS system in operation at present, it is clear that by the turn of the century DBS could have a profound impact on existing broadcasting systems throughout the world. Whereas cable is best suited to localised programming, DBS would facilitate mass distribution of programme services and their signals would be able to be received on home parabolic reflector antennae measuring less than one metre in diameter. In their 1984 report on Satellite Services, the CAC stated that a suitably positioned satellite over the equator north-west of New Zealand would provide 99 percent of homes with direct satellite transmission. It would, therefore, provide the universality of coverage both expected by New Zealanders and provided for by the Broadcasting Act. This cable cannot do. However, it is possible that cable could supplement DBS. Assuming telecommunication broadband cabling had proceeded on a wide enough scale, DBS signals could be transmitted from a ground receiving station through a cable network to the viewer. Of course, it would also be possible to retransmit satellite signals by ground transmitters for distribution to the audience.

70. In any planned use of the UHF spectrum, extension of services on the VHF band, or implementation of DBS, however, an important proviso for consumers must be kept firmly in mind. Those consumers must be given adequate warning of any changes so that they can plan the future replacement of their receiving equipment well in advance. Up until recently, for example, television receivers retailed in New Zealand had no provision for receiving the outer bands of the VHF spectrum or UHF. Thus, anyone buying a new receiver could have done so in total ignorance that the set being purchased might have been unsuitable for future technological changes. The public cannot automatically be expected to know of any changes. They must be given the information. Recent developments in Australia provide a good example. There, the Special Broadcasting Service (SBS), when it was first introduced in Melbourne, Sydney and Canberra was on VHF. As other state capitals were introduced to the system, they were brought in on UHF. In 1984 the decision was made also to convert the services to the original three cities to UHF by 1986. The important point to note is that, from the end of 1984 until the conversion in 1986, a public education campaign was undertaken by the Department of Communication and the SBS on its own programmes alerting newspapers, magazines, and other radio and television services warning consumers of the impending switch and pointing to the need for new receiving sets or adaptors and aerials to pick up the UHF signal. We believe that it is essential in New Zealand for the agencies of government, broadcasters and the electronics industry to provide similar public education campaigns about the likely effects on future reception of new technology about to be introduced and the ramifications these have for the individual viewer so that consumer choices can be made with adequate and appropriate knowledge.

71. Not only then are there viable practical alternatives available to cable, it is doubtful that the New Zealand market is of sufficient size to warrant the multiplicity of channels that a cable network can provide. The cost of making programmes is expensive and this country does not have the resources adequately to supply any large number of cable services. We have already referred to the difficulties experienced by a number of American cable franchise holders. The attractiveness of cable may well be less than some of the literature would seem to suggest.

72. We agree that without an adequate supply of indigenous programmes, cable operators might well have to rely on low-cost, mass-appeal, imported programmes. Currently, all broadcasters in New Zealand, public and private, are bound by the Broadcasting Act to "ensure a New Zealand identity is developed and maintained in programmes", and in the case of television warrant holders, to provide "a range of programmes which will cater in a balanced way for the varied interests of different sections of the community." It would appear to us that cable, by its very nature, has the potential to downgrade the provision of both. Either a cable operator might rely on a diet of mass-produced foreign programmes or could corner a particular segment of the market and concentrate on that, to the exclusion of all else, in a way presently prohibited for existing broadcasters. Either course of action would, in our opinion, be socially undesirable and would be detrimental to the standards of public broadcasting in this country and would occur, we believe, even if there was a "must carry" rule requiring a cable network to broadcast existing services. We consider it imperative that the Canadian experience be guarded against.

73. Considerable concern was expressed in evidence about the fragmentation effect cable has on television audiences. The Commission regards this as a serious matter for the viability of broadcasting as a whole in New Zealand. At present, the Broadcasting Tribunal in authorising broadcasting warrants must have regard to the likely economic effects which the establishment of a new service or station will have on those stations or services in operation at the time. Already there is considerable debate and speculation over the likely economic effect of a third competitive television channel in New Zealand. There is no doubt that this third channel will have an impact on the present revenues of the BCNZ and this may have a consequential adverse effect on the ability of the BCNZ to meet their statutory obligations in respect of public broadcasting on both radio and television. It is our view that further audience fragmentation, or advertising on any cable network, could have very profound economic consequences for the future of public service broadcasting in New Zealand. We do not believe, nor have we seen evidence to the contrary, that the New Zealand market is sufficiently flexible to sustain more than three advertising funded television networks. If cable was to be introduced it would, therefore, have to be totally subscriber funded.

74. It is common practice overseas for cable operators to be bound by a "must carry" rule whereby the cable system must transmit all existing and future channels broadcast in their service area free of charge as part of their total programme package. Such a rule is to the benefit of all parties, broadcasters, cable operators and subscribers. It ensures that broadcasters have the same access to the cable television audience; it reinforces the variety of appeal in the programme make-up of the cable operator; finally, it means subscribers can receive both cable and broadcast programmes without the inconvenience of having to disconnect the cable and attach an antenna to receive radiated services. For these reasons, we believe it essential that any cable service in New Zealand, television or radio, should be bound by a "must carry" rule.

75. The question of the licensing of cable services also raises complex and fundamental issues. The Broadcasting Act in its present form is concerned only with broadcasting by means of the radio frequency spectrum. It makes no mention of those services transmitted by wires or cable. Cable television is a diffusion service and diffusion services are specifically excluded from the Act. Hence, as legislation stands now, any cable operator would not have to be licensed by the Broadcasting Tribunal. We believe that the Act needs to be amended to include cable in the definition of broadcasting. A cable service, particularly if it carried advertising in any form, would have the potential to be totally destabilising on the economics of broadcasting in whatever region it was proposed. That is not to say that cable *per se* needs the Tribunal's authority to go ahead. As we have shown, broadcasting is but one of the many available uses for fibre-optic cabling. It can provide a whole range of interactive telephony and telecommunication functions. Yet, we believe that at the point at which anyone seeks to introduce a new television or radio service on that cable then this must come under the jurisdiction of the Tribunal. If there is no legislative control in the licensing of pay television broadcast services or cable broadcast services, then the present broadcasting industry would, in effect, be asked to compete with these new rivals and finance itself on a revenue base being eaten into *ad lib*. That is not a situation that could be tolerated in the interests of either private or public service broadcasting.

76. The BCNZ, in its submissions, argued that it should have the power to install cable as an alternative to a translator where it is the best option to provide coverage—in effect, a CATV system—without applying to the Tribunal. We do not agree. If the BCNZ is given that right, then there seems little to prohibit any private organisation from installing a satellite dish and reticulating programmes received by the dish to a limited area by cable on a subscriber basis. We believe that such instances should be specifically covered by the Act.

77. In assessing the benefits and costs of cable services we have sought to establish first of all if there is a need for those services and secondly whether other means might provide the same services at lesser cost. We have concluded that, for the present, there is no specific

need in New Zealand for cable broadcasting. That is not to say that cable broadcasting will not come eventually. Indeed, some form of cable broadcasting is probably inevitable in the long term given the reticulation of fibre-optic cabling. However, the reticulation of that cabling should be first for telecommunication purposes and not entertainment-driven. In the short term there are viable alternative methods, particularly on the as yet unused UHF spectrum, for providing any additional services that might be required at less cost and with fewer complexities in terms of planning, legislation and implementation. In the longer term, DBS could appear to be an alternative. Yet, the use of these alternatives would not prejudice the long term use of cable should that be desirable provided that clear forward planning is undertaken to allow for possible integration of all the possible alternatives without the exclusion of any single one of them.

RECOMMENDATIONS

1. That the Broadcasting Act be amended to include cable broadcasting services in the definition of broadcasting.
2. That unless there is a radical change in relative cost, New Zealand fully utilise all existing space on the VHF and UHF spectra before consideration is given to introducing cable television services.
3. That the principle of employing a single integrated cable network for both telecommunications and television services be endorsed.
4. That any cable service employed for broadcasting purposes, including CATV services, be licensed by the Broadcasting Tribunal.
5. That any proposed cable television service be bound by a "must carry" rule to provide all existing and future radiated broadcast services on the cable network.
6. That the agencies of government, broadcasting organisations and the electronics industry mount comprehensive public education programmes to explain the likely economic impact on the viewer of any planned use of new technologies so that well before these technologies came into use the public is able to make reasoned consumer choices based on accurate knowledge in the purchase of broadcast receiver equipment.

Term of Reference 1(b)

"1(b) The benefits and costs of direct broadcasting satellite services and of reception facilities for such services."

INTRODUCTION

78. There exists considerable uncertainty in the public mind about what is precisely meant by direct broadcasting satellites (DBS). People can readily comprehend that they can receive immediate broadcasts of foreign events and happenings on their television sets by way of satellites but few would have more than a passing acquaintance with the technology involved or the considerable potential for the future offered to individual viewers and audiences by this technology.

79. Clear distinctions need to be made between communication satellites and DBS. In essence, the simple difference, as far as the public is concerned, is the size of the receiving "dish" required to "pick up" the signal from the satellite. Thus, when a viewer sits down to watch the direct broadcast of an overseas event relayed by satellite, that viewer is watching a signal that has been beamed to an orbiting satellite from one part of the world and then redirected to a ground receiving station from where it is transmitted by normal terrestrial relay systems to the viewer's receiving set. This is known as point to point broadcasting. The receiving dish needed to receive the satellite signal in this type of broadcast must be large, often measuring up to 30 metres in diameter and, therefore, impractical for viewers to have installed at their own homes. This method of satellite transmission is by communication satellite such as INTELSAT which, through various different generations of satellite, has been in operation since 1964. Communication satellites are not just for broadcast services. Since their inception, a primary function has been telecommunications and now, with the advent of digital data processing, they also relay high speed data, video conferencing and facsimile at far less cost than co-axial transoceanic cables can do.

80. A direct broadcast satellite is a very different type of satellite to a communications satellite. The primary purpose of DBS is to provide a broadcast service that is capable of being received by viewers at home through their own receiving dish without the need of intermediary transmission. Such a service is usually termed "true DBS". In order to perform this function, true DBS satellites are of much higher transmission power obviating the need for a large receiving dish. A DBS signal could be received by a dish of one metre or less in diameter.

81. Unfortunately, however, the distinction between communications satellites and true DBS systems is not always so clearcut. Pseudo DBS systems have been designed requiring a two metre diameter dish while some mid-powered communication satellites can provide marginal service with a three metre dish. Furthermore, any 'broadbrush' distinctions between various types of satellite can be further blurred by the standard of broadcast signal that is considered acceptable or, the location of the receiver in relation to the satellite transmission signal. On

top of all this, the technical composition of the signal will be different on different forms of satellite so that the receiver attached to the dish must be different. That is, "what's right for one will not be right for another—a little like trying to receive television signals on a radio."¹

82. DBS systems, as they develop, will also have the capacity to carry telecommunication and radio services. Nor should DBS be regarded as an entirely new and different system from terrestrial radiated services or cable systems. The satellite could, in fact, be used to provide a feed to conventional transmitter sites, or cable receiving stations if they existed, as well as providing a direct service to those viewers equipped with their own receiving dishes.

83. Provision has already been made for future possible DBS services to New Zealand. In 1977 and 1979 the World Administrative Radio Conference worked out an international allotment plan for DBS satellites. Individual countries in their hemispheres were assigned specific positions, or orbital slots, in outer space into which DBS could be placed, authorised to broadcast on certain frequencies and at certain signal strengths. As part of this arrangement, New Zealand was provided with two orbital locations (158° and 128°) and a total of seven channel allotments for high power DBS usage.

84. While the potential of DBS is immense, the one inhibiting factor in all this at present is that only one true DBS system has been put into orbit, a Japanese one launched in 1984. This is so unless one counts the operation of the CBC broadcasting by satellite to remote Inuit communities across the far north of Canada and, now that Australia has two of its AUSSAT satellites up and is testing their coverage to remote communities and homesteads in its vast 'outback', then this may be claimed as a third. It depends on how one classifies true DBS by what size of dish. While Japan's satellite is still operational, two of its three transponders have already failed leaving it with no back-up system if the third transponder should also fail. However, despite the Japanese experience, the technology involved in DBS is well known and most broadcasters consider DBS systems will be widely available by the end of this century. But, to date, several overseas plans to develop DBS have been deferred largely because of the very high capital costs involved in providing such systems and some initial uncertainty about the demand for the programme services they would provide. In fact, in Europe, DBS development appears to be "politically driven rather than market driven".²

85. If the technology of DBS is well advanced, it is still in an evolutionary state. Constant advances are being made on the quality of receiving antennae and the power output of the satellites themselves. This has raised fundamental social policy issues for governments around the world. When orbital slots were allocated to countries it was possible to provide each with a transmission cone or satellite 'footprint' that would cover the territory of the country with little overlap into the territory of others. Now, however, with the advances in reception technology it will be possible for transmission cones to substantially

overlap making "a nonsense of the regulatory structure".³ It raises the threatening possibilities of cultural invasion through satellites operated by other countries broadcasting in an area beyond the control of that area's government; it threatens local identity; it poses difficult questions about cross-national programming and advertising standards, and questions about the economic viability of existing broadcast services. In many countries, broadcasters are extremely concerned about the future of public broadcasting services with the development of DBS. New Zealand, being geographically isolated, is not threatened by these concerns to the same extent as European nations but, in assessing the benefits and costs of DBS, these are important issues that do need to be addressed.

THE BENEFITS OF DBS

86. Television signals travel in roughly straight lines. This means that in order to overcome the curvature of the earth and the obstruction of hills and buildings, a network of over six hundred transmitters and relays is required to broadcast New Zealand's two television services throughout the country. A DBS, however, suitably positioned to provide a 'footprint' over New Zealand could transmit a signal over the whole country which could be picked up directly by home receiving dishes, thus obviating the need for a complex infrastructure of terrestrial transmitters and relays. The potential of such a system is both obvious and immense, and opens up a whole new means of providing mass communication services.

87. The most recent and authoritative local study of satellites and their potential for New Zealand is the Communications Advisory Council Report of July 1984. Although concerned primarily with communication satellites rather than with DBS systems, the report did draw a number of conclusions about the advantages and disadvantages and costs of DBS compared with terrestrial television broadcasting.

88. The CAC argued that a DBS suitably positioned in geostationary orbit over the equator north-west of New Zealand could produce a footprint capable of providing 99 percent of New Zealand homes with direct satellite broadcast transmission. As a rule of thumb they noted that, "any home antenna site which receives the early afternoon sun in late April is almost guaranteed good quality reception directly from such a satellite."⁴

89. The greatest advantage of DBS is its flexibility. Assuming that most viewers purchased receiving terminals within a short period, no network transmission facilities would be required. Also, not only would remote outlying areas of New Zealand, such as the Chatham Islands and Fiordland, be instantly included in transmission patterns but also the quality of the television picture would be improved insofar as DBS is technically amenable for high definition (HDTV) and enhanced definition (EDTV) television allowing programmes to be shown satisfactorily on larger viewing screens. Also, as has often been stressed in European literature on DBS systems, the CAC in its *Report* could see considerable

potential for improved employment opportunities in the electronic manufacturing and servicing industries associated with DBS.

90. Aside from the technical aspects of immediacy of coverage and enhanced picture quality, the BCNZ submission commented that a major benefit to the public offered by DBS was the increase in programme choice and "the possibility of programmes or information that might not otherwise be available, or which might be available sooner than local broadcasters can provide."⁵ In this way, the BCNZ argued, DBS offered the potential for increasing awareness of other cultures and for immediate coverage of events.

91. Not only would DBS provide an alternative means of distribution of domestic programmes and facilitate more immediate coverage from overseas but, because satellite signals would have a spill-over into other territories, it may well be that at some future date, the government of the day could decide it was in New Zealand's interests to provide DBS services for other countries. The Pacific basin is an area that immediately comes to mind for such a service and, indeed, the Director-General of TVNZ, Mr Mounter, has already shown interest in providing such a service on a limited scale in the near future, albeit by communications satellite rather than DBS.

92. Because of the perceived inevitability of DBS, and because of the long lead-in time required to establish such a system, both the BCNZ and the CAC recommended that the Government enter into negotiations with overseas satellite interests to explore the possibilities of a DBS service for New Zealand and a possible time scale for its introduction. Essentially, there would appear to be three broad options open to New Zealand. Firstly, if it was decided that New Zealand needed a satellite committed fully to our own usage, then New Zealand ownership of the satellite would be justified. If, however, we only required part of any satellite's capacity, then the most appropriate arrangement might be to share ownership of the satellite in some regional consortium. A third option would be simply to lease a "dedicated" or sole use transponder or two from the satellite facility owned and operated by an outside party.

93. If New Zealand was to purchase and operate its own satellite system then the cost, according to the CAC, would be in the vicinity of \$250 million. This initial capital outlay would provide two satellites in orbit and one spare back-up satellite on the ground. It is expected that any DBS would have an operational life of seven years, thus any forward economic planning for DBS would need to take cognisance of the need to replace the satellites on a seven-year cycle. However, it may well be that not all of the satellite's capacity would be allocated to broadcasting in which case part of the costs could be apportioned to other users although, in any such proportioning, broadcasting would be the most significant factor because it alone requires the higher transmission power of a DBS in comparison to a communications satellite.

94. Perhaps a more feasible alternative for New Zealand than outright ownership of a satellite system would be part ownership through a joint

regional consortium. This would allow initial capital investment to be more evenly apportioned both between countries and between any groups utilising the New Zealand part of the satellite. However, the initial motivation for such a regional co-operative scheme has, to date, been lacking and nothing has got beyond the stage of informal discussions.

95. The least expensive and, perhaps, most practical answer to New Zealand's future needs would be the third option, that of leasing one or more transponders on a satellite owned internationally or by another country. In 1984 the CAC estimated that the annual cost of such an arrangement would be of the order of \$8 million per channel per annum. New Zealand has a share in an international consortium, INTELSAT, which has provided the communications satellites through which, up to now, overseas news, sports and major events have arrived at our earth station and dishes at Warkworth and from there by terrestrial transmission onto our screens. INTELSAT is offering to lease 'dedicated' or sole use transponders to partner nations, but the power of the transponders offered for a footprint over New Zealand has been at a level more appropriate for communications than for true DBS use. This situation was improving rapidly, but the effects of shuttle and rocket failures have meant delay and put availability and prices back in flux. Nevertheless INTELSAT does represent a truly internationalised competitor with UN recognition and a New Zealand share, and it does supply a future competitive option for leasing transponders which could transmit at true DBS power.

96. The alternative is to look to our nearest neighbour, Australia, where AUSSAT Pty. Ltd. was set up in 1981 to own and operate the Australian National Communications Satellite System. The Satellite Communications Act 1984 provides that the equity capital shall be at least three-quarters beneficially owned by the Commonwealth of Australia and up to one-quarter by the public Australian Telecommunications Commission which operates overseas telecommunications for Australia.⁶ Such moves towards AUSSAT are already under way. The New Zealand Post Office has been involved in negotiations with AUSSAT about a New Zealand use for a transponder transmitting to the Southeast Pacific which was, at a very late design-and-build stage, added on to the third of AUSSAT's three first generation satellites. Since this third satellite has back-up functions to the first two serving Australia's outback, the transponder pointed New Zealand's way could be otherwise engaged in an emergency. Unless the user has sole use of a transponder, it can hardly be depended on for regular television distribution, although an experiment might be risked such as a BCNZ trial of its proposals for a co-operative Pacific Island news and programme packaging service. But a transponder leased on conditions could well be employed for extending international telephone and data flow capacity and doubtless all three uses have been fully explored by our Post Office in negotiation with AUSSAT.

97. Moreover, the New Zealand Post Office has made design suggestions for the second generation of AUSSAT satellites. The last of the first generation, the satellite with the southeasterly pointing transponder which New Zealand is interested in, has yet to follow its predecessors into orbit and is now due for launch early in 1987. Yet such is the need to incorporate technical advances and so short at seven years is the life of a satellite, that the lengthy design process must be begun as the preceding generation is being launched. The phase II satellites will have more powerful transponders which will cover New Zealand and large areas of the Pacific at a level of strength suitable for direct broadcast to us. Although the New Zealand Post Office has contributed to the AUSSAT phase II programme, the Assistant Director-General of the Post Office, Mr Derek Rose, stated in a newspaper report in July, "that involvement in planning discussions did not mean New Zealand was committed to participating in the final system."⁷

98. According to the NZPO submission to us, if New Zealand did eventually use the AUSSAT DBS facility it would not rule out the possibility in future of migrating later "from AUSSAT on to another satellite using New Zealand's reserved locations, or onto some other system."⁸

99. Whichever method of satellite ownership or lease is decided upon to best fit New Zealand's broadcasting requirement, the cost of home antennae and earth transmitting stations would remain the same. The CAC estimated that the cost of an individual home parabolic receiving dish would be approximately \$1,500. For each transmitting station used to relay the programme to the satellite for broadcast, a further investment of \$2 million would be required.

100 The CAC noted the implications for local industry if New Zealand deployed a DBS system. Observing that the number of colour television licences grew from zero to 500,000 in a period of six years at a time when the real cost of a colour television set was not significantly different to the expected cost of a home satellite terminal, the CAC, assuming a similar growth pattern for satellite dishes, estimated that "100,000 terminals per year industry would result, with annual retail sales of \$200 million after two—three years, for a period of approximately five years."⁹ However, the same point that we stressed in relation to cable systems and UHF needs to be repeated: at all stages the public needs to be kept informed of planning options so that they can make reasoned choices in their own planning for and purchase of receiving and viewing equipment. The point was reinforced for present owners of parabolic dishes who have found that their receivers used for picking up INTELSAT broadcasts were incompatible with the system used on AUSSAT.

101. In assessing overall costs of DBS, caution combined with forward planning must be the watchword. As we have noted, satellite technology is still in a developmental stage. The normal evolution of the design of antennae, amplifiers and other basic system components for conventional point-to-point satellite communications have made

something of a mockery of the plans designed by the 1977 World Administrative Radio Conference to regulate future uses of DBS. There, the distinction was made between high-powered DBS systems with a narrow footprint, and communication satellites. But the Conference did not foresee the development of medium-powered satellite systems which have a much broader footprint than the high-powered ones and yet are still capable, through the increasing sophistication of antennae, of being picked up by home receiver dishes.

102 So far New Zealand has shown praiseworthy caution in this regard. Almost a decade ago New Zealand rejected Australian advances to be involved in its domestic satellite programme. That stance has been vindicated by the AUSSAT II programme which will provide technically superior satellites more practically suited to New Zealand use and at lesser cost than those with which we were originally asked to be involved. By continuing to remain abreast of the available options and planning in order to be ready to take advantage of any alternative which proves its economy and reliability there will be less risk of New Zealand being trapped into straining ahead of its needs and resources or being left behind in a technological backwater.

DISADVANTAGES OF DBS

103. In their report on satellite services the CAC listed four main disadvantages of DBS systems. They considered that not only were the receiving terminals relatively expensive, but they believed that a proliferation of overly large home terminals throughout the country might be considered to be environmentally unacceptable. They also noted that DBS would be uneconomic for separate provincial coverage and, in terms of overseas capital content, UHF provided a much cheaper alternative for expanding television services in New Zealand.

104. As the reality of DBS transmission approaches, however, it is more the social implications of the service that are of continuing concern to governments and broadcasters overseas. Stated simply, the major fear is, particularly in Europe, that nations risk losing control over their own system of television communication. This is not a new problem. Many countries in recent years have raised the question of cultural dominance by another, but objection usually has been set in the context of the Third World and North-South competition. Now, however, with the advent of medium-powered DBS satellites, it is the industrialised advanced nations which see themselves at risk.

105. Today it is technically possible for all of Europe to become a tangle of overlapping signals from satellites assigned originally to cover one specific national area in the main. And the likelihood is that receiving equipment will continue to become more sophisticated with the result that anyone equipped with a home receiver dish in Western Europe may have a bewildering variety of programme choices to view from an equally varied number of sources. Although New Zealand's geographic isolation may cushion it from most such effects, it will not do so entirely, and it is probable that we, too, will be able to pick up a

variety of stations from satellites owned by other countries or overseas organisations.

106. This will inevitably have serious consequences for existing broadcasting services, both public and private. David Webster, a member of the BBC's Board of Management, stated the problem concisely when he wrote that, "as technology brings more channels, market forces will grow to dominate, and some forms of government control may be eroded. There will be some modification and restraints, but the likely way to generate the large amounts of cash needed to expand communication systems, which governments themselves may be reluctant to spend, will be to let people make money out of it. Technology and market impetus will crash against the old barriers of supposed public good, and these eventually will fall."¹⁰

107. Obviously, though not exclusively, it will be smaller countries which are most at risk. They do not have the financial resources to maintain a sufficient quantity of high standard, locally produced programmes and especially drama reflecting and strengthening the local culture which, many would argue, is the best antidote to such a cultural invasion by others. And any drawing off of audiences by DBS systems would compound the problem in that "a service which depends on advertising will be at risk if its audiences fall, [while] one funded from licences or other public sources may well find that there will be less political willingness to maintain its funding at an adequate level if viewers choose in substantial numbers to look at other services."¹¹

108. As has been found with cable television, it seems unavoidable that with the greater number of channels provided by DBS there will be a shortage of quality programmes to be shown on these channels. We noted in our discussion of cable services that many cable franchise holders have been unable to deliver on their initial promises simply because few have the resources or production base to feed the insatiable appetite of cable systems for programmes. In response, some cable operators have resorted to screening low-budget, low-quality mass-appeal programmes. A similar trend is already surfacing with satellite broadcasting. At present there are nineteen television channels broadcasting in Europe by satellite. Because these satellites are all low-powered, the signals from them are retransmitted from ground stations, or by community antennae and cable. However, the important point is that, particularly on those stations owned and operated by broadcasting entrepreneurs, the programme fare has consisted in the main of old films, old TV series or rock-videos. None have attempted to offer a full range of programme services.

109. These trends can only be reinforced, and to the detriment of broadcasting as a whole, as more channels become available through satellites and as more of these channels are operated by entrepreneurs without the inhibitions of publicly responsible bodies. The fear of many broadcasters and governments is not only that their countries will be swamped with programmes from other sources beyond their control, but that these programmes will be of the lowest quality. There have

been suggestions that DBS services could be 'jammed' in much the same way that some nations have attempted to ban short wave radio reception from time to time, if DBS programmes were deemed harmful or not in the public interest. Such a suggestion is technically feasible, albeit expensive, but raises fundamental ethical questions about the freedom of information and, therefore, is considered an inappropriate option for western democracies.

110. There are also prospects that DBS broadcasts of highly valued programming like recent films will be encoded by their proprietors and only those with hired decoders will be able to unscramble the signals on a pay-per-view basis. This would open the operators to control by every country in which the paying viewers were resident but, internationally, this and like services would absorb and reduce the stock of desirable programmes of film, drama, sports and major international events which national radiated services and open DBS broadcasters could buy and include on their services. Unless measures were taken to control advertising on encoded broadcasts, funding for others would shrink. Ironically it could happen that the prospect of signal plenty could turn into a scrambled dearth of programmes. The same process could bring with it a radical reduction in the quality, range and balance of programmes at present cheaply available from conventional terrestrially radiated television where public service television in combination with regulated private services have served and generally prospered together.

111. In this discussion of DBS there is a further and major unknown factor and that is the extent to which the introduction of fibre-optic cabling and the integrated services digital network will have an effect on DBS. As we have already noted in the previous term of reference, these two developments are inherently capable of transmitting huge amounts of information to individual recipients. Already, the Post Office is installing fibre-optic cabling on trunk routes and it may well eventuate that very early in the twenty-first century every home is served by fibre-optic cables and, therefore, every home would have the potential for cable television. At present, cable television on fibre-optic cables is not cost-competitive but substantial cost decreases are expected as the technology evolves further. The result would be that the provision of a service would no longer become a question of whether one could afford the transmission medium but rather, whether one could afford to generate or receive the information. This has led some to conclude that fibre-optics, because of their potential to exceed the capacity of satellite transponders, "will ultimately supplant both satellite broadcasting and terrestrial broadcasting using the VHF and UHF spectrum."¹²

REVIEW

112. We have already stressed the need for caution combined with forward planning to keep options open in regard to the development and introduction of new technologies. We have already observed how technological progress has made something of a nonsense of the efforts

by countries in 1976 to control DBS services. Because satellite broadcasting, fibre-optic cabling and ISDN are all still in an evolutionary phase of development, it may well prove that precipitate decisions made now would have expensive ramifications later as technological advances altered the basic principles on which those decisions were made and the parameters within which they were concluded.

113. We agree that the introduction of some form of DBS is inevitable. The technology is well known and has been for a number of years. The basis for DBS has already been laid and this is largely outside the control of the New Zealand authorities. Yet, there has been a certain reluctance by overseas interests to fully commit themselves to true DBS systems, largely because of the development of the mid-powered pseudo direct broadcast satellites which have, in turn, caused so much consternation among governments and broadcasters because of the width of their transmission cones.

114. Yet, if one is to accept the view of Mr Rose and other commentators on communications matters, that fibre-optics and ISDN may supplant the supposed advantages of DBS, then it is possible there will be even further reluctance by broadcasters and governments to invest heavy capital expenditure even in medium-powered satellites, let alone the high-powered ones preferred for true DBS. The recent space shuttle disaster and the failure of the French Ariane rocket, both heavily utilised as launchers for broadcast satellites, have further delayed the prospect of DBS for most countries by up to two or three years. It may well be that delay is timely in that the relative merits of satellites *vis-a-vis* fibre-optic cabling are better able to be assessed.

115. To this end, we applaud the initiative of the Post Office in becoming involved in the development plans of the phase II AUSSAT programme, while still making no final decisions on whether or not New Zealand will use that facility. The changes in capability and costs of the AUSSAT satellites since the programme was initiated point to New Zealand's wisdom in refraining from becoming too heavily committed, with the attendant expense, at an early stage.

116. Apart from these inherent dangers, we can see good reasons on other grounds for not committing ourselves as yet to large investment in DBS. It has already been stressed that, if New Zealand requires additional programme services, then these can be provided at much cheaper cost on the remaining bands of the VHF spectrum and the as yet untouched UHF spectrum. Indeed, by using that available space, New Zealand could have up to a further six channels of national or near national coverage while still preserving ample scope for low and medium-powered regional or local programming.

117. An obvious benefit of DBS is that it would provide immediate national coverage and would obviate the need for any network of ground transmitters and relays. That is both an advantage and a disadvantage. An advantage in that it would provide the universality of coverage at present mandated by the Act, a disadvantage, in that, if DBS was to totally replace terrestrial radiation transmission, it would

restrict any opportunity to provide complementary regional and local programme services.

118. If New Zealand was, at some future date, to consider a DBS service, we consider it imperative that it be used, at least initially, in conjunction with terrestrial radiation networks. Our satellite use might well begin as a cheaper distribution system to stations before replacing, say, the towers of the aging TV2 system and all their translators and repeaters. There is a clear need to preserve transmission of programmes to all people for a considerable transition time especially those who by economic circumstances may not at first have the money to purchase a home receiver dish.

119. We do not believe that New Zealand authorities should contemplate the jamming of foreign DBS broadcasting. Nor do we consider it necessary to license receiving dishes for home use. However, we think it is imperative that any organisation seeking to retransmit a satellite service by means of cable, CATV or terrestrial radiation should be licensed by the Tribunal in precisely the same way that broadcasters are required to be at present. The arguments for this are precisely the same as we advanced for the licensing of cable operators, namely, that the unlicensed erosion of the revenue base of existing public and private television services should not be permitted.

120. The question of cross-national broadcasting by satellite is one that causes us concern. We recognise that New Zealand's situation in this regard is different from that of Europe and many other parts of the world. However, it is inevitable that any future unfettered proliferation of broadcast satellites would have an impact on New Zealand. In the first instance, it might be that New Zealand viewers had access to programmes which did not accord with standards and codes expected of our own broadcasters. Secondly, by fracturing and fragmenting audiences such outside broadcasts could have a very serious economic impact on the viability of New Zealand's domestic television industry. These are not simple issues and we are not in any position to provide simple answers. As a first course of action, however, we would concur with the BCNZ that, as a minimum, there should be agreements negotiated between governments so "that any organisation (public or private) which broadcasts for DBS reception should be authorised to do so by the authorities normally empowered to license broadcasters, according to the government policies and the standards applicable in the country of origin."¹³ Obviously this would not entirely solve the problem of cross-national broadcasting, but it would go some way to ensuring certain minimum standards.

121. Of equal or perhaps greater importance is the clear necessity to ensure that domestic broadcasting is adequately funded. By far the best means of countering foreign programme intrusion would be to have locally produced programmes providing wide choice and quality and reflecting New Zealand culture and society in a meaningful, interesting and entertaining way.

RECOMMENDATIONS

1. That New Zealand should investigate utilising all the broadcasting allocation on the VHF and UHF spectra as part of investigating any proposal to introduce DBS.
2. That the relative merits of cable television through fibre-optic cabling be carefully considered before any commitment is made to introduce DBS.
3. That the principle of universality of coverage of television services be preserved for an extensive transition period accompanied by a public information programme when it is intended to replace any terrestrial transmission by a DBS service.
4. That any person or organisation seeking to establish a domestic DBS or pseudo DBS service to New Zealand be licensed by the Broadcasting Tribunal.
5. That any person or organisation seeking to retransmit satellite services by means of cable, CATV or terrestrial radiation be licensed by the Broadcasting Tribunal.
6. That the New Zealand Government take the initiative in endeavouring to negotiate international agreements which would provide that any person or organisation intending to broadcast or broadcasting DBS services that can be received in the signatory states should, under conditions agreed by the signatories, be licensed by the appropriate government or licensing authority in the country of origin.
7. That adequate funding of public service broadcasting be maintained to ensure production of a wide and varied range of programmes reflecting New Zealand culture and identity.

Term of Reference 1(c)

"1(c) The consequence for broadcasting of the rapid spread of video cassette recording:"

INTRODUCTION

122. The spread of video cassette recorders (VCRs) in New Zealand has been very rapid. Although they have only been commercially marketed since 1980, it is estimated that between 21 percent and 25 percent of New Zealand households had a VCR by mid-1985. Some predictions estimate that by 1987 there will be some 500,000 VCRs owned or leased in New Zealand amounting to an overall penetration of one in every two households. Thus, if this figure is correct, approximately half the potential television viewing audience will not only be able to choose which broadcast programmes they wish to see, but also, whether they wish to view them at the time of broadcast or later, or, whether they prefer to watch non-broadcast programmes on commercially purchased or hired video cassettes.

123. As in other countries, New Zealand broadcasters have watched the increasing popularity of VCRs with nervous interest. Their concern

was whether VCRs would fragment the viewing audience and, perhaps, would lead to a decline in overall viewing numbers. From their own research and from comparative overseas data, the BCNZ now considers such fears to have been unfounded. VCRs have not significantly altered audience numbers but have, instead, opened up new commercial and programming opportunities for broadcasters themselves.

124. Where particular concern was expressed about VCRs it was in relation to questions of copyright and the impact on television advertising. Various organisations were worried that VCRs could make something of a mockery of law relating to copyright, while advertising interests were wary of the fact that people can 'zap' advertisements from their video cassette recording or 'zip' past them subsequently and that this, the advertisers believed, could have long term effects on advertising revenues of commercial television channels.

THE PENETRATION AND USAGE OF VCRs IN NEW ZEALAND

125. The rate of the spread of VCRs and their penetration in New Zealand has been high by overseas standards. There is some minor discrepancy in the research on the actual numbers of VCRs owned or leased in New Zealand. Information from the Statistics Department showed the import figures for VCRs into New Zealand between 1981 and 1985 to be 232,925. Allowing for institutional ownership, a reasonable estimate of penetration of homes would be 20 percent on these figures. The BCNZ in a recent survey of VCRs and their use estimated 20.8 percent of homes in the six main centres had a VCR. Amongst individual household members the proportion was even higher; 24.4 percent of respondents to the survey indicated they had a VCR. The higher figure for individual penetration over household penetration is explained by the conclusion coming from the research data that people in large or medium-sized households were more likely to have VCRs than people in small-sized households containing only one or two people. The Communications Advisory Council put the level of overall penetration of VCRs even higher than either the Statistics Department figures or the BCNZ's survey results. The CAC estimated that in mid-1985 New Zealanders owned or leased 260,000 VCRs, representing one in every four television set households. While acknowledging that the "number of homes with VCRs is at present not large enough to do other than indicate trends", they considered that, "on past patterns of acquisition in New Zealand for television sets. . .it can be expected that by 1987 there will be 500,000 VCRs in use in New Zealand, representing one in every two homes."¹

126. Comparison with the level and rate of penetration of VCRs in other countries puts the New Zealand figures in a wider context. A 1983 report in the United Kingdom recorded a 16 percent level of penetration at the end of 1982, and forecast a rise to 40 percent for the end of 1985 if trends continued. Australia had an estimated 25 percent penetration in December 1983, with a forward estimate of 57 percent by December 1986. Perhaps more relevant to New Zealand was a Swedish survey

conducted in 1985. Sweden has, like New Zealand, two national television channels and a reasonably scattered population. VCRs were first available in Sweden in 1977. In the first five year period 13 percent of households had VCRs. This had risen to 16 percent by 1983 and estimates were for 19 percent by 1984. On those trends it was expected that VCR penetration would amount to 24—30 percent of households by 1988.² On those comparisons, particularly the Swedish one, the growth of VCRs in New Zealand and projected estimates of future growth patterns are very high.

127. BCNZ survey material has shown that VCR penetration varied according to age. The highest penetration was amongst fifteen to nineteen year olds and those in the 30—49 age group. Compared with age and household size, the BCNZ concluded that the people most likely to have VCRs at home "are from medium-to-large sized households where the senior members are aged between 30 and 50 years of age and the junior members are teenagers."³ VCR penetration was lowest amongst farmers and "people at home" such as, home-makers, retired people, and the unemployed.

128. With regard to patterns of use of VCRs by people in New Zealand, the best data was provided by two surveys undertaken by the BCNZ Audience Research Unit during 1984 and 1985. The first of these surveys revealed that the prime use of VCRs for 89 percent of the respondents was to record programmes, or parts of programmes, from their television sets. The main reason offered for recording programmes was 'time-shifting' so that the programmes could be viewed at a different time. Absence from home at the time the programme was broadcast was mentioned as the prime reason for 'time-shifting' by 49 percent, while 25 percent mentioned programmes screening too late, and a further 15 percent cited programme clashes. Almost half of the respondents who recorded television programmes reported that their level of recording had remained constant since they first acquired their VCRs, while 35 percent reported an increase in recording from television.

129. Whether or not VCRs led to any change in overall viewing patterns was addressed by the second survey which showed that respondents with VCRs tended to watch slightly less broadcast television than those without VCRs. VCR respondents watched an average of twenty hours of broadcast television per week during the survey period, while the other respondents watched 22 hours. However, those people with VCRs did watch an average of one hour, 8 minutes of 'non-broadcast' or 'time-shifted' programmes each week and, in addition, spent one hour two minutes viewing pre-recorded videotapes on an average per week. Thus, taking into consideration the time spent viewing broadcast and 'time-shifted' programmes, people with VCRs spent fifty-two minutes less each week watching programmes which emanated from a television station by direct broadcast than did people without VCRs.

130. The 1985 survey revealed that television drama programmes were recorded and viewed on videotape more than any other type of television programme, usually because people were absent from home when these programmes were screened. After drama, the next most popular programmes to be videotaped were entertainment, comedy, crime, feature films and sport. This was a different finding to the 1984 survey where feature films were the most frequently recorded programmes and could, perhaps, be explained by the greater number of video rental outlets appearing in the intervening period. During the actual recording of programmes 57.7 percent of the 1985 respondents said they deleted commercials while a further 70.5 percent reported that they skipped past commercials on playback.

131. As one might expect, more viewing of videotapes occurred on Saturday and Sundays than other days of the week. Most of the time spent watching VCRs between Monday and Thursday was devoted to replaying 'time-shifted' programmes. On Fridays and weekends, however, the preference was for pre-recorded material. Yet, the viewing numbers were not high. For example, on an average day during the 1985 survey period, "an estimated 1.3 percent of the total 5+ population viewed videotapes at the busiest VCR viewing time."⁴ The survey was able to conclude, therefore, "that videotape viewing accounted for a very small proportion of people's time."⁵

CONSEQUENCES OF VCRs FOR BROADCASTING

132. The available research in New Zealand suggested that the use of VCRs has not greatly affected television viewing and certainly has not caused any quantitative decline in audience numbers. It would appear that VCRs have led to less viewing of television programmes by young people but that this has been counterbalanced by VCRs providing the opportunity for avid viewers to actually increase their overall television consumption. Rather than competing against television it appears that VCRs, in fact, complement it. That conclusion is also supported by overseas experience. In Sweden, for example, it has been found that when there was 'nothing on' television, either literally or figuratively, video viewing increased. However, if there was an interesting choice of broadcast programmes, the VCR was used selectively for "plucking the raisins out of the pudding". It is likely in New Zealand, with the advent of a third channel, that this trend will continue, given the increased volume and choice of programmes that will then be available to the public.

133. There are some warnings for broadcasters, however, in the use of VCRs. Both here and overseas, the main type of programme videotaped has been entertainment fare. The least likely types of programmes to have been taped were information programmes, the arts and religious broadcasts. Broadcasters are already aware that there is some fall off in audience when such programmes are screened. It may well be that this will increase as VCR penetration increases. This could have consequences for public service broadcasting. In a competitive third channel world, it may be that broadcasters would reduce the

incidence of these types of programme, or schedule them at off-peak viewing hours in order to attract and hold maximum audiences. In that case it could be that more such programmes are video recorded when rendered inconvenient to view off-air.

134. One effect of the spread of VCRs commented upon by the BCNZ was the difficulty for broadcasters in gaining broadcast rights for recently released feature films. Distributors found it more lucrative to sell film rights to the video rental market and this substantially increased the price broadcasting organisations had to pay for the films, if they could obtain screening rights at all. Often, distributors did not want to "kill" the rental market by allowing films to be shown on television first.

135. The concerns of advertising groups regarding the impact of VCRs was not supported by the evidence. The main worry of the advertisers was that VCRs could lead to a lessening in the effectiveness of television commercials. There would appear to be two ways in which this could occur: firstly, the use of VCRs could reduce overall audience numbers and secondly, the scope provided by VCRs to remove advertisements from video recordings. In both cases the advertisements would not be reaching target audiences and, therefore, advertisers might expect to pay less for advertisements which would ultimately affect television commercial revenues. However, survey figures show that, in fact, VCRs have had little impact on audience size. If anything, VCRs could increase the audience of a particular programme through 'time-shifting'. It is true, that a majority of people with VCRs admitted to editing advertisements out of programmes or fast forwarding advertisements on replay. It may be argued, however, that both practices actually required greater concentration on the advertisements to ensure none of the actual programme was lost. In that case, the effectiveness of the advertisements may have increased.

136. If there were no major negative implications from the spread of VCRs for broadcasters, the VCRs did provide some new commercial and programming opportunities. Already, the BCNZ indicated it had pursued the possibilities afforded by the video cassette rental and purchase markets to sell programmes which the Corporation had produced. However, they stressed the need to co-ordinate copyright policies amongst all New Zealand producers to ensure that rights to sell programmes as videos were not sold cheaply to overseas interests through inattention, thus lessening the financial return to their makers and to New Zealand.

137. Both the BCNZ and other groups commented on the options offered by VCRs for education, minority and special interest programming. Because VCRs could be set to record programmes at inconvenient hours it was possible, according to the submissions, to broadcast programmes with a low overall audience appeal at times outside regular transmission hours. Such programmes could then be video recorded for play back at more convenient times. Indeed, the BCNZ argued that they considered out-of-hours transmission of educational material as probably the most suitable means of developing

educational television. They contended that uninterested viewers would not have any decrease in normal programmes, and educators would be able to preview material before use and be able to re-use the material on more than one occasion.

138. Developments in programming such as these would be facilitated by the continuing advances in VCR technology. The BCNZ indicated that consideration was being given in Germany to "addressable" recorders which, when appropriately coded, could be activated by an encoded signal in the transmitted programme. Various codes could be applied to different types of programmes or information. It is probable, however, that there would need to be a much greater penetration of VCRs before such a service or services would be widely accepted so that the service was available potentially to large sections of the viewing public.

139. Although not strictly within the scope of this term of reference, several groups and organisations expressed some concern about the effect of VCRs on copyright laws. The worry about copyright was the scope offered by VCRs to pirate television programmes for resale or distribution on video cassette by people not involved in the funding or production of the programmes thus denying producers, writers, actors and musicians legitimate income from their work. Some submissions suggested a tax could be imposed on recorders or tapes to compensate people so affected. The University of Auckland, in their submission, commented on a different aspect of the copyright problem. That was, the extent to which universities and other educational institutions could legitimately video record broadcast programmes for archive and teaching purposes. The heart of the matter, so far as educational uses were concerned, was that the right to use for teaching, research and archival purposes was vital when so much of the record of society and nature was now on screen and the students were more used to it there than in books. Teachers were needed to interpret it, but it was needed for teaching. The University noted the "unsatisfactorily unclear condition of current copyright law in New Zealand"⁶ in this regard.

REVIEW

140. It seems clear, on present trends, that the rapid spread of VCRs will not have any significant impact on broadcasting systems at large in New Zealand. On the contrary, the evidence presented to us, and comparative data from other countries, would tend to suggest that VCRs should be welcomed by broadcasters and the public alike in that VCRs broaden the choices available and complement, rather than compete with, broadcast services.

141. The VCR is to television what records and cassette tape recorders have previously been to radio. They enable people to become their own programme schedulers. But, as in radio, the convenience and immediacy of broadcast television often outweighs any perceived threat from VCRs. Yet, the availability of new entertainment options provided

by VCRs should be a challenge to broadcasters. Other than 'time-shifting' of programmes, the VCR is used most often when the public considers that the fare offered on television is uninteresting or of low production standard. There is an incentive, therefore, for broadcasting organisations to maintain programmes, both popular and specialised, that will hold the attention of audiences and maintain the commitment of advertisers.

142. The greatest threat for public service broadcasting posed by VCRs, we believe, lies with minority programming. There is a danger, particularly with the advent of a third competitive channel, that such programmes could be relegated to time-scheduling back waters, on the assumption that those interested will videotape the programme or programmes. Such a trend would be further strengthened by the advent of "addressable" VCRs with encoded programmes. While we can see clear benefits from such encoded programmes, we do have some fears that these could lead to a dilution of public service broadcasting objectives which require a range of programmes for a variety of interests and tastes to be shown at accessible hours. We believe any such dilution needs emphatically to be guarded against.

143. We think that broadcasters should seek to maximise potential revenues by the release of programmes on to the lucrative video rental market. We also agree with the BCNZ that all producers should co-ordinate their efforts in this regard so that video rights to programmes are not lost to overseas interests. We further believe, that the copyright laws need to be amended both to allow educational institutions to utilise recorded broadcast programmes for legitimate archival and educational uses, and to protect the rights and incomes of those producers, writers, actors and musicians who have contributed to the making of any programme which might subsequently be retailed on video cassette. Because of the extent of the penetration of VCRs, we do not believe it feasible now to place limitations on ownership or use. Nor do we consider the imposition of a tax on sets or tapes is warranted to compensate broadcasters or performers for any illegal use that might be made of recorded broadcast programmes. The penetration of VCRs has already proceeded too far to make such a tax feasible.

RECOMMENDATIONS

1. That programme schedules of television broadcasters be monitored by the Broadcasting Tribunal to ensure that a range of programmes catering for a variety of interests and tastes are screened at accessible viewing hours.
2. That copyright laws need to be amended to:
 - (i) protect the rights and interests of producers, writers, actors and musicians in any programmes or material videotaped for commercial retailing.
 - (ii) allow educational institutions to video record broadcast programmes for use in legitimate archival, research, and

educational purposes but in no case for resale or commercial reproduction.

Term of Reference 1(d)

"1(d) The rate of technological change and the manner in which the rate of technological change affects the pattern of investment decisions:"

INTRODUCTION.

144. New Zealand does not have its own broadcasting technology industry. The type of investment normally required in broadcasting technology is large and the risks are such that only very large international organisations, sometimes supported by governments, can generally afford to undertake the research and development necessary. The BCNZ, as the predominant broadcasting organisation in New Zealand, certainly does not have the necessary funds to finance research on any scale. Nor is the domestic electronics industry, similarly tied by limited funds and lacking a sufficiently large local market, keen to commit itself to developing new technologies with specific application to broadcasting. As a consequence, New Zealand is dependent on overseas technological developments.

145. The developments occurring in broadcasting technology are often spin-offs from other industries or sectors of the economy, particularly space and military development. Sometimes such advances can be very rapid. A Committee on Broadcasting that sat in Canada in 1965, for example, made no mention of computers when it discussed data processing and no mention of satellites in regard to transmission facilities. Now, Canada has one of the most advanced satellite systems in the world.

146. While that may be an exceptional case, it does highlight the speed at which broadcasting technology can change. More commonly, however, the development of a new technology is comparatively slow, although improvements in existing systems will always be occurring. Thus broadcasters making investment decisions must not only have an eye to refining their existing systems, but must also look to any new and developing technologies which may supplant what they already have in use, while at the same time, remaining prepared for sudden and unpredicted change.

147. For the BCNZ, as for any public broadcaster with statutory obligations to fulfil, the investment choices are further complicated. An investment decision which might be justified in terms of efficiency and financial return might not be as easily justified on other grounds involving social considerations which a public broadcaster would be expected to consider. In the case of the BCNZ, direct broadcasting by satellite, for example, might cheaply replace the bulk of terrestrial transmission but leave too many unserved to be adopted at once.

TECHNOLOGICAL CHANGE AND THE PATTERN OF INVESTMENT

148. The bulk of the submissions on this term of reference came from the BCNZ and its witnesses. Those other individuals and organisations who did address it, with the exception of the Post Office, did so in general terms. That was to be expected since it is a descriptive term of reference relating very closely to the ongoing activities of the Corporation and few outside the Corporation could be expected to know the Corporation's pattern of investment priorities or how these were reached.

149. It has already been stressed that the development of new technologies is normally a comparatively slow process that requires substantial research and funding. However, the application of such technologies can be extremely rapid if there are thought to be national or commercial advantages to be gained. This can mean that there is a danger that either the technologies are not fully developed or that there is a lack of standardisation both of which can have substantial economic consequences if a premature investment decision is made. Examples of this would be the development of teletext, which took very different forms in France and the United Kingdom, or the different technologies used on different satellites with the consequence that the converters for one may not be compatible with another.

150. The BCNZ stressed that their tendency in the past had been to allow something of a time lag between the development of a new technology and their implementation or utilisation of it. Such a time lag permitted them to observe the effectiveness of the technology and also allowed time for its standardisation. It might have meant that the BCNZ was not always at the forefront of technological innovation. But, they argued, it meant that public funds were not committed at too early a stage to a technology that did not live up to initial expectations and the claims made for it.

151. It is apparent that few broadcasting organisations can ever begin to look at new equipment in isolation. Most have to build on existing installations and, in weighing up the cost benefits of any new technology, must have regard to investments already made in equipment and the longer-term costs of the equipment.

152. Within this constraint, the BCNZ stated that it had consideration for four main factors when deciding upon the introduction of any new technology. Of primary importance was the consumer. Transmission and distribution systems of broadcasting had to be designed to minimise the need for sophistication in the receiver. Broadcasting needed to reach wide audiences and, if the cost of receiving the signal was too high, then the BCNZ emphasised the broadcaster had defeated his own purpose.

153. The nature of the television receiver became, according to the BCNZ, the dominant influence on the rate of technological change to the basic transmission system. Modification to the receiver was typically at the cost of the owner or consumer, and any basic change to the system could not provide for the existing operation to be discontinued

until the number of old receivers had reached a suitable minimum. Once established the new system would become a new standard for decades simply because of the cost of changing it again. Thus, before any such changes were made, they had to be thoroughly prepared for and the transition phase was necessarily a long one while both the old and the new technologies were accommodated. An example of this was the twenty years it took the United Kingdom to convert from the early 405 line signal to the current 625 line standard for television broadcasts.

154. The second factor to which the BCNZ paid regard in the introduction of new technology was supply of equipment. To a significant degree, this was outside the control of New Zealand broadcasters in that they were dependent on overseas suppliers who dominated the introduction of new technology in a competitive effort to establish their products as industry standards. This had meant that sometimes equipment had become redundant quickly or that supply of spare parts had been difficult, or that New Zealand had been forced to follow the lead set by overseas broadcasters if aspects of equipment were to remain compatible. The decision of overseas broadcasters to change to a new 1-inch standard for professional videotape recorders meant New Zealand had to follow or be unable to exchange videotape material.

155. After the consumer and the supplier, competition was the third driving force behind any introduction of new technology. Such competition need not be national. The BCNZ bought a considerable amount of overseas programmes and this inevitably drew comparison with the home-grown product. A good example was sport where coverage of Australian one-day cricket matches or coverage of events such as the Olympic Games set standards of coverage and presentation which the audience came to expect of New Zealand coverage but which required modern and expensive presentation equipment.

156. The final factor which influenced technological investment decisions for the BCNZ was economic. They stressed that an important part of their ongoing management task was to continually evaluate utilisation of equipment and staff to ensure good economic use was made of both. As new technology became available, or as existing equipment aged, the Corporation analysed the costs and benefits of the new against likely alternatives and against factors such as supply, the impact upon the consumer and the quality of service.

157. According to the BCNZ the rate of technological change within broadcasting varied between different operational aspects of the industry. Equipment prices were high and the market, though an international one, was limited and therefore manufacturers were keen to establish a sufficient life for the product to recover development cost. Thus the rate of introduction of new technology depended on the ability of manufacturers to develop, sell and recover costs on each generation of equipment. Generally the greatest changes, according to the BCNZ, occurred in the areas of presentation and production. Opportunities for

change in transmission facilities were limited by the high investment costs and usually meant planning periods of up to 20 years in television and 10 years for radio. However, on the programme production and presentation side there was more scope for growth and diversity with freer entry and exit points. This was because the equipment was less fixed, more re-useable in terms of application and, in such equipment, the benefits of microelectronics could be obtained at a more modest level of investment with a shorter developmental cycle. This meant, the BCNZ said, that studio equipment generally had a three to five-year cycle. Perhaps the greatest benefit of such technological development was seen as greater reliability, which meant that equipment was more often up for replacement on the grounds of economies of operation before it had reached the end of its physical life.

158. One of the interesting characteristics of investment in broadcasting highlighted by the BCNZ was the indirect rather than direct linkage between the investment and the income or the value of the service it enabled one to provide. Often in public service broadcasting an investment was justifiable not in terms of income generation, but as part of the overall activities and roles of the broadcaster. Thus, public broadcasters with a commitment to local production often had to spend many times more on those programmes and equipment for them than the cost of importing an equivalent overseas programme. Equipment had, therefore, to be justified in terms of the most cost effective way to achieve the quality that was required of the programme. A similar situation pertained to the conversion of the Concert Programme to FM. That service was not an income earning one, yet the expense of FM conversion could be justified in terms of the public broadcaster's role and duty to a specific audience. Thus for the BCNZ it was not always a simple financial cost analysis in deciding upon new technologies. They were constrained in their decision making and investment plans by factors which would not be faced by a private broadcaster who did not have to meet the same statutory obligations.

REVIEW

159. As we have noted, this was a descriptive term of reference which related very much to the ongoing activities of broadcasters. The bulk of investment decisions relating to new technologies in broadcasting have been "in-house" decisions. Indeed, in many instances the public would not have been aware of any such technological changes. Only if the quality of broadcast and programme presentation dropped below an expected level would there be any public input or complaint. Broadcasters maintained that such "in-house" decisions were well within their area of competence to make in that they had to balance out several different factors in making such decisions and only they could be fully conversant with the overall ramifications of those decisions.

160. Where major decisions had to be made regarding the introduction of new technologies that did directly affect the public, and which had major implications for the national economy and the

expenditure of public money, there were already very strict safety provisions to ensure that no rash decisions were made. The Corporation had to have both the authority of the Government and Treasury before committing themselves to expenditure of more than \$500,000. Elsewhere in this report we recommend that this figure be increased but the essential point remains that there have been checks and balances to ensure, as far as has been possible when dealing with the sometimes uncertain future of new technology, that decisions have been made from the best available information.

161. The tendency of the BCNZ has been in the past to adopt a 'wait and see' policy to ensure that new equipment and technologies were fully proved and standardised before major investment decisions were made. This had not put the development of New Zealand broadcasting at a disadvantage *vis-a-vis* other countries. Indeed, the BCNZ indicated local production costs compared well with overseas costs and this indicated, they claimed, that investment in production equipment was relatively efficient.

162. For the future, the growth in international communications will encourage the trend towards standardisation of systems and equipment which will reduce the risk of investing in a failing system. Where future changes in technology will have an impact upon the consumer, we stress the need for thoroughly informed public debate to precede such changes so that the public can make their investment choices for receivers with an eye to the future. This has not always been the case in the past. We have already mentioned the manufacture of television receivers which did not provide for UHF reception when it seems likely that any new service or extension of an existing service will be partly on the UHF band. Such public discussion and information must be provided by broadcasters themselves, governmental institutions and the electronics industry. Change should not be premature, but it should not deny the possibilities of introducing new technology provided the public is informed. Under no circumstances should public broadcasting become a testing ground for unproven and untried technology.

Term of Reference 1(e)

"1(e) The respective roles of the Post Office and warrant holders in the provision of transmission services:"

INTRODUCTION

163. Since the earliest days of broadcasting in New Zealand broadcasters have owned and operated their own transmitters. When public broadcasting changed from a government department to a corporation in 1962 this right to retain control of transmission facilities was transferred to the Corporation and given statutory backing in the Broadcasting Corporation Act, 1961. This has been confirmed by successive governments and through the various revisions that the Broadcasting Act has undergone up to and including the present time.

164. At the same time the Post Office has always been recognised as the common carrier of telecommunications and, indeed, as part of its functions in this regard, has not only been responsible for licensing the use of the radio frequency spectrum, but has always provided studio to transmitter and networking facility circuits for AM radio, though not for television which the BCNZ provides by its own microwave links.

165. In 1982, with the impending introduction of FM radio into New Zealand, the Post Office's role in carrying and networking radio signals was extended by Ministerial direction to include reticulation of any FM stations as an integral part of its telecommunications role. There was a qualification, however, in that the same direction recognising the BCNZ's own transmission system permitted the BCNZ to carry two of its own FM sound transmissions in the base band of the existing television bearers that link the television broadcasting stations. However the direction did not include BCNZ studio to transmitter links, but did permit private FM station operators to establish such links if it could be shown that the Post Office could not provide the quality and reliability which was deemed necessary.

166. With the impending arrival of a third television channel, both the Post Office and the BCNZ have been permitted to provide programme distribution systems on a commercially competitive basis. Under a Ministerial direction of November 1984 no private television warrant holder is permitted to establish its own transmission network. Accordingly, while the Broadcasting Tribunal has been hearing the third channel applications, all these applicants have been conducting confidential negotiations on transmission facilities with the New Zealand Post Office and the BCNZ respectively.

167. What has resulted, therefore, would appear to the layman to be somewhat confused and overlapping transmission systems for broadcasting and telecommunications with, in many cases, transmitters and microwave links being co-sited but separately operated by the BCNZ and the NZPO independent of each other, and a further provision of transmitters owned by private station operators but not co-sited except in the case of FM transmitters.

168. The submissions to us on this term of reference amounted to something of a contest between the BCNZ and the NZPO. On the one hand, the BCNZ resolutely defended the separate provision of its own transmission links as being in the best interests of its own financial flexibility, future economic opportunities, staff morale, and good broadcasting engineering both now and in the future. For its part the NZPO fundamentally argued that its expertise could safely accommodate the provision of broadcasting transmission within its function as the common carrier of telecommunications without any downgrading of broadcast services and in a more economical and cost-efficient manner. For this Commission, however, the contest necessarily revolved around more than the competing interests of the two large organisations in that there was a third and larger interest, that of New Zealand as a whole.

THE BCNZ

169. As of March 1985, the BCNZ operated 65 AM and two FM radio stations while TV1 broadcast from 421 transmitters and TV2 from 206, located on 434 sites. In addition, the Corporation also operated 48 microwave linking stations. The system was planned, operated and maintained by a staff of some 347 people and, in capital terms, represented an investment of approximately \$100 million of which \$80 million was accounted for by the television transmission and microwave equipment.

170. In its submission to us, the BCNZ stressed that it was a public enterprise and, as such, had a statutory duty not only to provide national broadcasting coverage but also, to serve the public interest providing certain social services which could be predicted to attract little commercial revenue for considerable investment and maintenance costs. To these ends, the Corporation argued that it was essential that it have control over its own transmitting system in order to allow maximum flexibility of corporate planning independent of any external investment programmes and other conflicting organisational priorities. Indeed, the Corporation argued that, because of the constraints imposed upon it by its own uncertain funding, and because of its susceptibility to economic fluctuations, it had found it necessary to integrate its operational and capital budgeting to achieve optimum flexibility. Such integration, for example, had allowed the Corporation to reconsider or defer capital expenditures according to changing circumstances or priorities. Without this integration allowing shifts in the order and timing of investment, the Corporation considered that it was unlikely it would have been able to extend television coverage to 99 percent of the population, to introduce new radio services or to maintain levels of local production in television. Because its commitments were internal, it was able to make adjustments to best accommodate its own needs. We examine under term of reference 2(b) the accompaniments and consequences of such flexibility. The argument concluded that had the Corporation been compelled to contract its transmission out to another organisation, it foresaw that it would lose the flexibility it had possessed and would continue to need in the future.

171. From an economic point of view, the Corporation indicated it had established a return on assets of 10 percent, in keeping with many other public sector organisations. While this was lower than the Post Office return on assets for telecommunications, which had been as high as 18.5 percent, the Corporation contended that its own rate of return was acceptable in that transmission was only one part of its total investment. A higher rate of return would, in the Corporation view, increase transmission costs appreciably to the detriment of other services.

172. The Corporation emphasised the *esprit de corps* within its engineering division which produced considerable, though sometimes not easily measured benefits. In the first instance, high morale allowed the engineers to keep transmission costs at a level compatible with other goals of the Corporation. Secondly, because the whole staff had a

corporate identity, they had a common cause in ensuring that programmes got to air and schedules were maintained. It was argued that engineering staff were often prepared "to go that little bit further" or were prompted to use their initiative and experience to the full because of their involvement with the organisation as a whole. The result was an overall reliability of both television and radio transmission services of just fractionally below 100 percent efficiency. If such staff were part of an outside organisation, the BCNZ contended that their commitment might not be the same, that the response to breakdowns might not be so fast, and that the cost of transmission would inevitably be higher. Furthermore, the Corporation believed that having direct staff relations had considerable benefits in that the BCNZ was not at risk from any industrial action that might occur in another organisation and thus threaten all transmission operations at one and the same time.

173. Thus, while not denying the role of the Post Office as the common carrier for telecommunications, the BCNZ were of the firm opinion that their separate transmission facilities should be retained. Such an arrangement not only provided financial and planning flexibility for the Corporation but also produced a system which was manageable and responsive to the particular needs of broadcasting, benefits that would be endangered if transmission was to be vested in an outside organisation such as the Post Office.

THE POST OFFICE

174. The main thrust of the Post Office argument was that the national interest would best be served if the transmission facilities currently operated independently by the BCNZ were entrusted to the Post Office as the common carrier of an integrated telecommunications network. In arguing for this, it contended that not only could significant economies of scale be realised leading to lower overall costs, but also, with the addition of other television or radio services, that the optimum method of transmission for each customer could be chosen if a single organisation provided all the linking circuits for broadcasting as well as telecommunications. In short, it would provide a greater number of options because the Post Office was already involved in, and had a depth of experience in handling, transmission facilities as diverse as terrestrial radio systems, satellite systems, multi-pair, co-axial and optical-fibre cabling systems, all of which could be utilised for broadcasting purposes as well as their present telecommunications functions.

175. In part, the Post Office contended, it was already involved in broadcasting transmission in that anyone constructing private lines and radio systems had to be licensed by the Post Office. Periodically such licences required review yet, it was the Post Office's experience that such reviews had proved difficult once the licences had been granted for private owners were reluctant to write off their capital investments in establishing their own systems. All of this, the Post Office asserted,

made for piecemeal development of the national telecommunications network as a whole.

176. More importantly, with regard to the BCNZ's linking circuits the Post Office argued that over the next few years the Corporation would face high capital expenditure in updating equipment that had been installed with the introduction of television and which was nearing the end of its economic life. With an integrated network an unnecessary duplication of cost in this re-equipment process could be avoided.

177. The introduction of new technologies for speech and data services by the Post Office also provided them with cogent reasons for the common carrier principle. At present, the Post Office stated, they were installing optical-fibre cabling, satellite circuits and further terrestrial microwave systems all of which, with increased scope and expansion, could accommodate the broadband requirements of the BCNZ and a third television warrant holder without the need for the BCNZ to update its own aging equipment.

178. With regard to the BCNZ's broadcast transmitter network, the Post Office conceded that arguments of economies of scale did not so readily apply in that broadcast transmitters had a specialised function and could not be combined with other telecommunication applications. However, the Post Office could see scope for savings where they shared common sites with the BCNZ in that control by a single organisation would lessen overall costs in the technical infrastructure of buildings, towers, test equipment, access roads, power systems and maintenance depots, although the Post Office did note that a considerable amount of such sharing did already exist and that the two organisations had different site requirements in or near the big cities.

179. The Post Office recognised that any transfer of transmission responsibility from the BCNZ to themselves would lead to an imbalance of technical staff resources within the BCNZ. Studio engineers would still be needed if transmission staff went. However, the Post Office contended that it would be a simple matter in organisational terms to transfer control of this transmission engineering group to the Post Office in its entirety to form a new broadcasting division which could provide services impartially from a neutral base to any authorised broadcaster in the country. Such a transfer would, it was argued, be managed carefully to maintain the existing working relationships and *esprit de corps* which had been built up among this BCNZ group during the formative and developmental stages of broadcasting. Furthermore, the Post Office pointed out that in a larger organisation, and one which was rapidly expanding into new technologies, a stimulating work environment with a larger career structure open for advancement would be provided.

180. In terms of economy and rational planning of the national telecommunications network, therefore, the Post Office concluded that it was desirable to separate the function of providing the existing broadcast transmission services, including engineering and coverage planning, from the BCNZ leaving that organisation with the sole

responsibility for studio equipment, programme production and presentation.

THE INDEPENDENT BROADCASTERS ASSOCIATION AND THIRD CHANNEL APPLICANTS

181. The central contention in the submission of the IBA, representing all private radio warrant holders, was that the time had come for warrant holders to have a greater degree of flexibility and more options as to the provision of programme links. Such links between studios and transmitters had been provided by the Post Office through landlines. Yet, it was the IBA's opinion that those circuits had not been regarded as entirely satisfactory from the point of view of quality reproduction or reliability. According to the IBA, breaks in transmission had occurred when landlines had been inadvertently dug up by earthmoving contractors and too slowly rectified and this situation was unacceptable from a commercial broadcaster's point of view. Being off the air even for minutes was too expensive and had necessitated most stations having to secure a back-up UHF radio link supplied and maintained by the warrant holders themselves. Generally, the IBA asserted that Post Office staff had not been sensitive to the needs of performance and reliability for broadcasters. Accordingly, they argued for an element of competition to be introduced so that warrant holders could have the option of supplying and maintaining their own links or using the Post Office or the BCNZ to provide the service on a competitive commercial basis.

182. Under the Ministerial direction authorising the licensing of a third regional television service, applicants for those warrants were directed to negotiate the supply of transmission facilities from either the Post Office or the BCNZ on a competitive basis. They were not permitted to establish such services for themselves with attendant capital costs but were offered a choice. However, in the submissions to us from the third channel applicants all concurred with the IBA contention that private warrant holders should be allowed control over and freedom of choice as to the transmission facilities on which they relied. Either the provision of these facilities, it was argued, should be established as part of the warrant holder's own capital development plans or they should share with an existing broadcaster or be free to negotiate a combination of both options. Under no circumstances, they asserted, should they have to depend upon the Post Office.

REVIEW

183. The respective roles of the Post Office and of warrant holders in providing transmission facilities raised difficult and complex issues, as the preceding summary of the submissions of the leading participants indicates. It was quite clear that there was an overlap of functions and some un-needed duplication of equipment. At first sight, that might have appeared a persuasive argument for vesting the entire role of transmission in the Post Office which, no one disputed, should be New Zealand's common carrier of telecommunications. Yet we noted that the

general complaint of all broadcasters, both public and private, was that the Post Office did not have the right attitude or sense of urgency in providing transmission services to broadcasters who quite rightly regarded nearly perfect unbroken transmission as a critically important and integral part of the whole service they sought to provide.

184. Furthermore, an overriding consideration was that the two systems did presently exist. It was not, therefore, an argument in a vacuum as to who could most economically provide the transmission service. The BCNZ already had a capital investment of \$100 million tied up in plant and equipment and it wished to protect itself against pricing and priorities determined by another organisation if it was compelled to transfer its means of broadcasting to the common carrier.

185. What was plain was that there was no third network in being yet and for the nation's and the broadcaster's advantage any such transmission system should use the most modern, reliable and cost-saving equipment available. The presumption was that competitive bidding by the two existing systems would show in the prices which had the more surplus or efficiently expansible capacity for lease. Certainly we can see no valid case for authorising further warrant holders to build whole networks with their own transmission facilities. This, in our opinion, would be a waste of national resources and might prejudice the future review of the warrants since it would be difficult to transfer licences or amend warrants when warrant holders would have such large capital investments in transmission, or so it has proved in the USA and Australia. At that point taking over companies would become the effective form of transferring control of private broadcasting.

186. Some submissions argued that New Zealand's best interest would be served by having a multipath network or networks for transmission reliability in the face of natural disaster or enemy action. The Post Office network is increasingly multiple in that its designed paths are being increased from two to three. The BCNZ now provides a further path which can be broken yet still operate from three major points of origination independently. Reliability, therefore, does not suggest uniting the two transmission organisations.

187. The further possibility of interruption by single union industrial action, which was raised, again would suggest leaving the dual systems as they are. However, the history and tradition of the Post Office in respect to unbroken transmission makes this kind of action improbable. The BCNZ engineers have a similar record in this regard.

188. All submissions were in fundamental agreement that New Zealand's interest would be best served by having a technically optimal transmission system. Here the Post Office's present programmes of investment in high technology and advancing the integrated services digital network concept are a demonstration that New Zealand is progressing in parallel with the best technologies being employed overseas. The leasing of satellite transponders, the Post Office involvement in the design of the second generation AUSSAT satellites, and the construction of new earth stations to send and receive satellite

transmission are a further illustration that the general interest in remaining abreast of the variety of technological developments in advanced economies is being met as matters stand with transmission systems.

189. Likewise, the BCNZ's record as a transmission network is one of remarkably high reliability considering the difficulties of New Zealand coverage. It has been ingenious and economical rather than being advanced technologically over the whole system. But the Post Office evidence itself attested to the high quality of BCNZ engineers and, where the highest technology is the economic solution, it is used with alacrity. The BCNZ's problem is not that of being left behind since at any time it can lease the most advanced facilities of the common carrier and does so for overseas satellite reception for example. Rather, it is the problem of economic system maintenance.

190. At the present time the BCNZ is in the process of replacing the transmission equipment for its TV1 towers which has been in use since the earliest days of television in New Zealand and was reaching the end of its economic life. This certainly involves the considerable capital expenditure of \$15 million. Within the next ten to twelve years the BCNZ will have to repeat such an upgrading, in that case of its TV2 towers with the attendant capital outlay. However, it may well prove that by that time satellite will become a more economic form of distribution of programmes and, in the longer term, DBS could take over as a cheaper path to individual homes than terrestrial retransmission, thus obviating the need for extensive upgrading and re-equipment of terrestrial transmitters, translators and microwave links. Probably last of all will come ISDN and fibre-optic cabling to all homes.

191. Thus, in view of the capital investment and re-equipping already being undertaken by the BCNZ at the present time, the promotion of ISDN in fact becomes the main argument for advancing the common carrier principle. But that principle has co-existed as the Post Office common carrier for telecommunications and BCNZ network transmission for broadcasting over some decades without causing major distortions of either one. The BCNZ is committed to its transmission network for the short-term future. In the medium-term satellites will avoid the prime broadcasting use for a common carrier since the functions and services of broadcasters and the Post Office or successors will be different. Only when those functions and services can best be integrated into a single ISDN network providing all telecommunications including telephones, data flows, computing, videotex and quality television and radio diffusion, only then will the common carrier principle become a compelling economic and social priority for all national communications and the Post Office or its successor will at last become New Zealand's 'natural' common carrier.

192. Thus considerations of economy, technology and efficiency have been and will go on driving towards the stage when the general use of the common carrier's services will be rationally inevitable but only in the three steps outlined above. In the unlikely event that ISDN reaches to

the vast majority of New Zealand homes before DBS, then at that point the BCNZ and other warrant holders would naturally use the common network's ISDN for superior general distribution. There may in future, however, be points at which the spread of ISDN from the city outwards will suggest using city-wide ISDN as a cable system on a "must carry the established warrant holders but pay for extra services" basis, even in the face of DBS.

193. These future contests of one kind of transmission technology against another within New Zealand are provided for by common carrier investment now. The BCNZ can afford to await its exit points from independent transmission and judge the financial costs and advantages of each transmission technology at the point where it is available to a sufficient audience to begin the transfer.

194. That judgment cannot be made now, for costs and techniques are altering by the year and at times by the month. On present indications the first exit point into satellite distribution of programmes to stations is technically feasible very soon but the costs have so far confined its role to that of backing-up the terrestrial network. Even then the BCNZ programmes and those of the third channel would have to be transmitted terrestrially to existing receivers.

195. So the likelihood of a phased exit from the terrestrial network transmission will be moved off to a point where the second generation of AUSSAT or, perhaps, INTELSAT, can supply clear pictures to really small and cheap home dishes. The phasing in of DBS would take a period of years in itself while the viewers were alerted to the impending changes and could plan and buy their replacement receiving equipment. In that phase terrestrial broadcasting would have to continue until far the greater part of the audience had converted to the new mode.

196. If we suppose true DBS spot beams will be available and cost efficient by the early 1990s, then phasing in is likely to take until the late 1990s before terrestrial transmission can be dispensed with. That gives a ten to fifteen-year usefulness to the BCNZ network. It means that the new towers being commissioned for TV1 at present will have a reasonable operational life not far short of their maximum, and that DBS will in all likelihood coincide with the time when TV2 towers are due for replacement.

197. In the meantime, there is nothing to stop the Post Office or successors from bidding for part of the BCNZ's network functions on a commercial basis if they believe they can do the task in a cost competitive manner. Nor is there anything to preclude the Corporation from entering into such an arrangement on a commercial basis if they believe that the Post Office can maintain the standards, quality and efficiency of transmission demanded by broadcasters. Within a period of, say, three to four years, the third channel could be fully operational over a wide area and its impact on the BCNZ will be extensive and measurable. It could prove the case that this alters the economic reasoning of the BCNZ in maintaining its own transmission system.

Furthermore, there is the probability that the Post Office with experience will be providing transmission facilities for the third channel operator which have much improved the nature of its service to broadcasters. The prospect for the BCNZ then will be to look at any alternative on a commercial basis and wait to be tempted. This would leave the initiative for advancing the common carrier principle with the Post Office or Telecom, the organisation most keen to see its eventual establishment.

198. The BCNZ argued that it might wish to incorporate satellite technology as part of its services and to keep a place for itself in the packaging and distribution of internationally disseminated programmes. Thus, it could exit from part of its transmission role by leasing Telecom facilities as well as utilising the sunk costs in its existing network for the transfer phase.

199. We heard much of the loyal BCNZ engineers and their *esprit de corps*. Their preference for remaining with the BCNZ for the near future at least cannot be doubted. The proposed reorganisation of the Post Office into three corporations and perhaps a Department may change that viewpoint or experience of the new situation may reinforce it.

200. The Post Office argument that the engineers should come over and be combined into a Broadcasting Transmission Division with brighter ultimate promotional opportunities may be better received when it is seen as a division of the Telecommunications Corporation—or it may not.

201. But for the next three or four years, to recommend immediate transfer from the BCNZ would be to recommend pitching the BCNZ network into a fluid situation which would both alarm and possibly disorganise what is an effective and stable element in broadcasting. The risk of making a misjudgement will then decline as the Telecommunications Corporation settles down and its methods, prices and policies emerge. Knowing far more about the effects of the third channel impact will likewise reduce the uncertain features in this many-factored equation. Moreover by the early 1990s satellite reticulation and even true DBS or suburb-wide patches of ISDN through fibre-optic cabling will be much easier to timetable and to assess financially.

202. Based on the information and data made available to us by the various parties we are persuaded that the BCNZ for the present at least, should continue its transmission function and network. However, it is obvious that continual re-assessment against the input e.g. of a private commercial television channel and particularly developments and costs for alternative transmission technologies would suggest a need for constant dialogue between the Post Office (or its successor in telecommunications) and broadcasters. It might even be an argument for say a regular formal review having regard to the quicksilver environment.

RECOMMENDATIONS

1. That the BCNZ continues its transmission function network, that the third commercial television channel developments and costs for alternative transmission technologies and what the changing market presents in the form of fresh options and opportunities for broadcasters and for the telecommunications users, should be under ongoing assessment by the Telecommunications Corporation and the BCNZ.
2. That in arriving at this conclusion we feel that the options and commercial stimulation of a competitive environment are factors which will always have to be given consideration before turning to a single carrier situation notwithstanding its apparent advantages.

Term of Reference 1(f)

"1(f) The cases for and against a Department of Communications:"

203. The placement of 1(f) at the conclusion of a series of inquiries about the benefits and costs of different modes of broadcasting transmission and their control suggests why this Commission was asked to inquire into the cases for and against a Department of Communications, at least so far as broadcasting is related to telecommunications. All broadcasting and cable services from one source to a large public involve telecommunications in their transmission but that is far from being all that telecommunications convey. The same satellite can carry thousands of international telephone conversations, computer data flows and television programmes. This convergence of so many kinds of communication being conducted by means of telecommunications has suggested that, as in Australia and Canada, so perhaps in New Zealand, one rather than a series of agencies should plan communications development, set the standards and, where necessary in the national interest, exercise control of the process.

204. The Communications Advisory Council was created by a decision of the New Zealand Cabinet to consider problems referred to the Council and make recommendations in this rapidly expanding field. In their evidence the CAC point to the way digital technology has drawn computers and communications together so that "The communication of information is as important as its storage and processing and the dividing line between the two areas can no longer be defined technologically."¹ The resulting information technology includes a great range of techniques and products from fibre-optics and remote sensing to office automation, videotex and computer aided design.

205. Many boundaries of the past have thus been overrun so that no one Department could or would wish to control or plan so many processes in such a variety of fields. The common factor which runs through it all, however, is the telecommunications network which brings together the explosive combination of computers and communications.

That role of the common carrier of communications has been very largely but not exclusively the role of the Post Office and, with it, the setting of standards and the management of the radio frequency spectrum.

206. In his evidence Mr F. K. McInerney, Director-General of the Post Office, argued that the creation of a Department of Communications was needless since "the role of such a Department is in many respects already filled by the Post Office."² Speaking of policies on "information technology, privacy, transborder data flows and the social aspects of communication"³ he emphasised that the "Post Office as New Zealand's Department of Communications is already active in such matters and is involved to varying degrees with each one of the above issues, along with other departments and agencies whose portfolios extend into these areas as well."⁴ The task of co-ordination and policy formulation were already being performed and, as the Post Office submission put it, "an extra superstructure" would be "a cumbersome and costly response" since "New Zealand already has a Department of Communications in the form of the Post Office, serving the people and the Government of New Zealand."⁵

207. Among the sixteen submissions which opposed a Department of Communications, others, such as the New Zealand Association of Radio Transmitters, made the same point that "New Zealand already has a 'Department of Communications'. . . The Amateur Service is completely happy with the Post Office in this role" adding that they could "see no need for a 'Department of Communications' to supersede it or to assume its regulatory or licensing tasks."⁶ The Musicians' Union agreed "there is already a Department of Communications well established under the title of 'The New Zealand Post Office'. . ." and thought it "a backward step"⁷ not to recognise its experience.

208. Others like the Association of New Zealand Advertisers simply opposed "the creation of yet another Government body to attempt to control the area of communication"⁸ and, with the Association of Accredited Advertising Agencies, considered there were enough advisory bodies already. The Public Service Association concurred for a distinctly different reason. "What is required in the first instance is not a structure, but a coherent communications policy and this must be sought at the political rather than the administrative level." A range of agencies only partly overlapping and with differing objectives would engender debate which, under specialist and political direction, would bring out coherent policy. "We suggest that the statement of a case for or against a department of communications. . . is premature."⁹

209. Supporters of creating a Department of Communications fell into two broad groups; those who wanted it mainly or solely to take over management of the radio spectrum from the Post Office or to provide one transmission network for all and, on the other hand, those who saw the Department as a means of tackling broader problems raised by the social effects of communication.

210. The Independent Broadcasters Association offered "qualified support for the concept of a Department of Communications." On behalf of private radio warrant holders the IBA contended that "the factual position has demonstrated the grave difficulty for any organisation to operate in a climate in which it controls allocation of frequency spectrum but at the same time competes for the use of that spectrum."¹⁰ A Department of Communications administering the spectrum and regulating was thought "desirable"¹¹ provided that it neither used the spectrum nor reported to a Minister who held the Postmaster-Generalship.

211. Four applicants for television warrants tended to agree with the core of the IBA's position but with significant variations. TV3 wanted such a regulatory Department only if "it does not result in anything other than regulating frequencies."¹² Southern Cross would accept an authority provision of "price competitive, distribution services" so long as it was not a "broadcaster, or otherwise in commercial competition". It rejected any authority "control or supervision of programmes, schedules, standards or content."¹³

212. United Telecast Corporation considered there was a "need. . . for long term planning in the field of communications" and saw allocation of frequencies as a primary function of the Department which could "conceivably"¹⁴ also build, maintain and set rentals for all broadcasting transmission facilities, state and private. ESTV was the most doubtful. "In organisational terms a new Department of Communications drawing on Post Office resources would be the most efficient method of providing transmission services." To pass control to one Department did entail "significant risk" which was, however, "highly theoretical" since "it has been noted the Post Office has in ESTV's experience acted with propriety and due concern for its responsibilities. But a restructured Department of Communications could be another matter".¹⁵

213. Three of these four television applicants thus went beyond approving of a Department of Communications as regulatory only and contemplated the Department serving as a transmission authority of some kind. The Television Producers and Directors Association, an organisation of BCNZ staff, put a parallel view succinctly. Such a Department "should be concerned with the maintenance and delivery of transmission systems."¹⁶ That would allow warrant holders to concentrate on producing programmes. The Rev. M. J. Campbell suggested an integrated communications network governed by an independent board and J. R. Grant proposed combining the BCNZ and each of the specialised departmental networks with the Post Office communication system and placing them all in the new Department. The Otago Association for Continuing and Community Education put forward similar views.

214. To a considerable extent these submissions strengthened rather than countered the Post Office case that it already provided a largely integrated common carrier network for New Zealand and, therefore,

already was the Department of Communications the submissions were advocating. Insofar as the submissions favoured more integration of such specialised networks as those of the BCNZ, Railways, Transport, and Works, their inclusion would simply reinforce the Post Office's present intention of providing one integrated services digital network for New Zealand with the object of maximising efficiency, economy and technological convergence. By giving no further function to a Department of Communications than the task the Post Office was now pursuing, such submissions pointed towards the conclusion that the case for a Department of Communications was a case for modernising the name rather than transforming the reality of the existing institution.

215. The body of submissions which regarded the role of a Department of Communications as being broader than solely the provision of electronic pathways fell somewhat uncertainly into two groups: those who placed the Department in a context of all kinds of transmission and communication including broadcasting, and those who considered the role of a new Department primarily in relation to broadcasting. The first was a very varied group but Mr Brian Priestley identified its central concern when he wrote: "I am not sure whether one needs a Department of Communications but it must surely be necessary to have some central authority which will consider new technology and its likely impact." He mentioned needing "far more expert help in the setting of priorities" and "an overall policy, providing it is not drawn up solely by technologists. The Commission for the Future's report on communications perhaps typifies the sort of thinking we could get if we are not very careful."¹⁷

216. Mr P. W. Harpham of Progeni Systems Ltd. referred positively to "Network New Zealand" for he saw it as in line with urging "the establishment of a Department of Communications which is not an operational body but a research, planning and regulatory body."¹⁸ The Federation of University Women thought a Department "worth investigating in the light of the rapid growth of computer communications"¹⁹ and linked it to the growth of data banks and concern over the issue of privacy. Massey University rejected a Department as a "perhaps overly 'bureaucratic' monopoly" then recommended a Commission of Communications to monitor, co-ordinate and plan all services and have statutory control over "the resources, both public and private, that are required. . ."²⁰

217. This uncertainty over the form which the authority should take was possibly an indication of some distrust of the classic Westminster model of Minister and Department and reflected some confusion about the nature of departmental structure. Radio Rhema supported a Department of Communications which included all the services of the Post Office, an administration and the Broadcasting Tribunal but then went on to describe three sub-departments which would overlap in what they controlled. A former chairman of the Independent Broadcasters Association, Mr N. Wesley, recommended a Department in three divisions, a Broadcasting Tribunal, a Telecommunications Commission

and a Commission for Planning and Development under an executive committee rather than a minister. Four other submissions were quite indefinite as to departmental form, but the Catholic Women's League was sure that the time was ripe for "information on the availability and consequences of new developments in telecommunications" which would "have a profound influence on home and work environments."²¹

218. At this point we should examine the argument of the Communications Advisory Council for, in its 53 pages of text and appendices, it provided the most thoroughly worked out response presented to us on the idea of an inclusive Department of Communications and a response generously supported by comparative material on the Swedish, Canadian, British and Australian situations. The Council's cases for and against such a Department are reproduced below.

"FOR

- (i) It would be an independent body with no commercial role and would provide advice to Government on Broadcasting and Telecommunications Policy issues.
- (ii) It would be seen to provide, on a non-partisan basis, liaison and co-ordination of input from all sectors concerned with the broad field of communication for the purposes of—
 - (a) Forming a New Zealand view on international communication policy issues;
 - (b) Formulating national communications policy;
 - (c) Forming a New Zealand view on international standards;
 - (d) Establishing national equipment and transmission standards;
 - (e) Encouraging co-operation within the government sector in establishing communication networks with a minimum of duplication of facilities;
 - (f) Equitable allocation of a national resource—the radio frequency spectrum;
 - (g) Identifying profitable areas for and co-ordinating research and development.
- (iii) It could administer and arrange for the type approval of telecommunication terminal equipment.
- (iv) It should arrange research resources for studies in the social sciences on the effects communication development has on society.
- (v) It could provide an administrative structure through which non-profitable and socially desirable services could be independently identified and, where appropriate, subsidised.
- (vi) It could provide adequate administrative, secretarial and technical support to service the Broadcasting Tribunal and other similar bodies.

- (vii) A small department of communications having an important role to play in the area of policy would attract the appropriate expertise.
- (viii) It would permit the Post Office to engage in commercial activities without prejudice.

AGAINST

- (i) No activities have been identified which are not already the responsibility of an existing body.
- (ii) A clearer identification of the requirements to facilitate these activities could lead to improved performances but may require a reallocation of existing resources.
- (iii) Post Office personnel have the experience, skills and resources for all technical regulatory functions.
- (iv) The Post Office, the BCNZ, the Tribunal, the CAC and other groups could be seen as already performing the functions of a department of communications.
- (v) An additional department must almost inevitably mean additional costs to the taxpayer.
- (vi) It may be difficult to limit a department of communications to the small organisation and terms of reference that are seen as being required.
- (vii) A department of communications may dilute the advice received by Government including the public interest input which it currently receives from a wide range of expertise coming from the various advisory bodies and the Broadcasting Tribunal."²²

219. It will be seen that six out of the eight points in favour of a Department, including all the vital purposes listed in (ii), refer to broad communications or telecommunications issues, policies and processes. The concept in (vi) remains true if another example than the Broadcasting Tribunal were to be chosen. What is more, frequency allocations, standards and licensing would have to be provided for broadcasting however it was administered. Equally (i) would remain valid if the advice to Government concerned Communications, Information Technology, and Telecommunications Policy issues. However, the case against such a Department is weakened rather more if the broadcasting area and institutions are withdrawn.

220. The case for the negative is fairly and well made. But it would be overwhelmed by the positive case if the Post Office as an alternative Department to advise Minister and Government were to be transformed. The case against a Department of Communications made above assumes that, if Communications did not take over the responsibility for preparing and formulating national policy under the Minister, then the Post Office as it was would continue to perform these tasks and that is the first point in the case against.

221. The appearance on 3 April 1986 of the Mason, Morris *Post Office Review* of 21 February and its acceptance in outline by the Minister and

Government have removed that assumption and transformed the situation as it was when all the submissions and evidence we heard came before us. What has been recommended is the division into three corporations of the Post Office's present banking operations, postal and agency work, and its telecommunications functions. Each corporation is to be commercially structured and to compete commercially in its own sphere. Subsequent announcements have conferred the task of considering the proposals and preparing for implementation of what is approved by Government on a Steering Committee established by Cabinet Directive which will, in the first instance, make recommendations to a Cabinet Committee of three chaired by the Postmaster-General. This Committee will then report to Cabinet for decision.

222. Our Warrant is concerned with telecommunications only so far as they are related to broadcasting. Those relations concern networks, transmission links and standards, international negotiations and the regulation and allocation of frequencies in the radio spectrum, besides the liaison necessary between neighbouring and interdependent Ministries. We therefore make no comment on the recommendations of the Mason, Morris *Review* in general, but confine ourselves to certain consequential matters which are raised in sections 16 and 17 of the *Review* touching on the location of certain policy and regulatory functions and the involvement of Government and the Minister, and to those matters in our Warrant which are also directly affected.

223. The *Review* recommends on page 55 that: "Post Office's role in providing policy advice and regulatory functions should be carried out by a group which can be seen to be independent of the business areas of Post Office. It has been suggested that these functions should be carried out by a body completely independent of the Post Office. This question requires further study."

224. We are considering at this point not regulatory functions, to which we shall return, but advice to the Minister after Telecommunications, Posts and Banking have become corporate, competitive bodies and how that restructuring would affect the cases for and against a Department of Communications. In brief, could such a Department serve as the body either completely or functionally independent of the "Post Office" to which the *Review* refers?

225. Let us review the arguments for a Department of Communications being that body which provides policy advice to the Minister. Once Telecommunications and the others have become operational corporations they must at once be at a long arm's length from the Minister. They would be required to report annually to Parliament, its Committees, and to the Minister on major developments in their affairs, just as their competitors must report to their stockholders. Such reports would require Departmental assessment as to overall policy implications.

226. Could they, like the BCNZ, be given an advisory role concerning their own separate spheres? In the first place this would certainly raise

acute problems as to favoured positions with advisory rights as against their business competitors. In the second place, how would the Minister evaluate the advice and consider the national and public interest unless he had the departmental machinery to do so? It is patent that the corporations would require access to the Minister just as their competitors would require it. But none could fittingly give statutory advice. Such representations as are made would likewise require departmental evaluation.

227. Departmental machinery there would have to be to prepare advice to the Minister on six areas the *Review* specified. Three of them were regulatory, but two were concerned with pure policy issues. "What categories of service should be provided by Post Office [i.e. by the corporations] and what should or could be provided by the private sector." A provisional division would need to be decided from the outset but that decision would require to be kept under policy review according to what would probably prove rapidly changing experience. So would the next matter raised by the *Review*: "Establishing after due enquiry what were the appropriate boundary lines for commercial competition."

228. The third purpose set out by the *Review* is a mixture. "Provide a forum for appeals and for the community to review the policy applied."²³ Those appeals might be representations to the Minister about the policy which is or ought to be applied in respect to the statutory or regulatory rules of competition and have been discussed earlier. Other forms of appeal concerning how the corporations had acted in the course of competition would be matters for the courts from their beginning. As to providing a forum for community review of policy, such matters are the essence of the political process. The forums are many and could be Parliament, Ministerial press conferences, advisory group reports, delegations, or representative and public conferences. In general they all demand the accessibility of well-researched information from a small but expert Department of Communications.

229. In "Section 17: Involvement of Government and the Minister" the *Review* sets out a number of aspects in which the corporations would need to be freed from the normal Ministerial and Parliamentary controls in order to act as independent corporations. It then adds: "The question of service standards, pricing and profitability are all interlinked and the service standards should be approved as part of the organisation's fundamental policies."²⁴ Those service standards are in part regulatory. However, the link to pricing would also give rise to policy setting, certainly in the initial phases when subsidised social services are being considered for authorisation, reduction or abolition. If the experience of the results of the policies adopted is to play any part in reviewing them, then an informed Department would again be necessary.

230. Turning now to the Communications Advisory Council's case for a Department of Communications, it began its list of purposes with "(a) Forming a New Zealand view on international communications policy issues;" then continued with "(b) Formulating national communications

policy," and "(c) Forming a New Zealand view on international standards".²⁵ Underlying that order of purposes is the fundamental fact that all telecommunications which are not cabled use the radio frequency spectrum for transmission.

231. The Government of New Zealand as a sovereign state is a member of the International Telecommunications Union, and has been since 1878. By conventions and agreements arrived at under ITU auspices at international conferences New Zealand's share of the radio frequency spectrum is fixed, including a detailed apportionment to each service. That obliges the Government to manage our allocation of the spectrum, a task which cannot, for example, be transferred to a competitive Telecommunications Corporation. It is in fact an irreducible reason for having a responsible Minister backed by a Department. It is also a compelling reason for attaching a Spectrum Management Division to that Minister and his Department in order to supply the essential technical expertise for that task.

232. The CAC's remaining purposes and reasons for the desirability of a Department of Communications were of two kinds. There were further matters requiring or assisting policy formation and a group of regulatory functions. The broad objective was a Department independent of any commercial role to prepare and give advice to the Minister and one which would liaise with all sectors in the broad field of communications.

233. Encouraging co-operation between government networks to avoid duplication and co-ordinating research and development both combined resource reviews with policy concerns. Research into the social effects of communications development and the assessment of socially desirable services were further components in the process of policy formation. As for the provision of administrative, secretarial and technical support for any advisory group or for liaison and conferences, they represented finding the means to broaden the range of inputs into policy. The regulatory tasks were threefold. They concerned equitable allocation of the frequency spectrum, equipment and transmission standards, and conducting type approvals of equipment. Therefore it followed that a small Department of high quality with a Spectrum Management Division would meet both policy and regulatory functions.

234. Looking back at the CAC's case it can be seen that it described the kind of Department of Communications which would be necessary to advise the Minister on international and national policy and to manage the spectrum if the Post Office's commercial operations became its sole business. Once these commercial operations were conceived of as separate corporations, as the Mason, Morris *Review* successfully recommended they be, the unattached functions to which the *Review* pointed could then be fulfilled by the type of Department the CAC had advocated in their submission to us.

235. The case for a Department of Communications including a Spectrum Management Division institutionally separate from the commercial business of the corporations was strengthened by the extensive evidence before us that the tasks of regulation should be

separated from the role of user of the spectrum. The Post Office was both regulator and user. The CAC, the BCNZ, the Ministry of Works and Development and the IBA all disapproved in principle of that combination continuing, and it would not continue with corporations as users and the Department of Communications as regulator.

236. No proven instance was advanced that the Post Office had ever misused their statutory powers or done other than endeavour to apply the provisions of the Radio Regulations 1970, the Telephone Regulations 1976, and a 1982 direction from the Minister of Broadcasting under the Act. But the intention of these regulations to protect the Crown's revenue from its common carrier transmission network did give rise to suspicions expressed in evidence about whether the regulatory process could be affected by commercial concerns.

237. Some of the doubts appear to have arisen from the name the Post Office had given to its "Business Planning Section". Its task was to check, under the regulations, whether a requested service could be provided by the existing network or a planned addition or would require a frequency allocation and make "an assessment of the impact on Post Office revenue"²⁶ as their Senior Counsel described the process. The Ministry of Works and Development's submission at 4.2(b)(i) considered that "The Business Planning Section must have commercial objectives."²⁷ Questioned directly about this submission, Mr N. S. Robertson, Director of Telecommunications Services, replied that "It is clearly a misconception of the duties and responsibilities of the Business Planning Section. The commercial or selling activity is within the Marketing Division of Telecommunications which is not within my area of responsibility at all."²⁸

238. After clearance by the Business Planning Section, or by Telecommunications Division Radio Section in the case of land mobile radio services, applications were sent to the Radio Regulatory Section of Post Office Headquarters. Mr R. W. Becker, a Divisional Engineer who had "day to day control of the radio spectrum management team in New Zealand"²⁹ evidence that 42 professional and 120 radio inspectors administered and managed the spectrum at a cost of \$8 million per annum. Income from licences was \$1.7 million and the deficit was "cross subsidised from other Post Office activities."³⁰ The functions of the Section were international and national planning, frequency assignment, equipment standards and radio interference from stations and appliances.

239. "The guiding principle of spectrum management," Mr Becker submitted, "is that whosoever wishes to use radio communications within the requirements of the Post Office Act may be permitted to do so, on a frequency suitable for the purpose and as free from interference as possible."³¹ When asked by Counsel for the BCNZ, "You are not concerned there with matters of economic or commercial policy?" Mr Becker replied, "Not at all."³² Asked by the Commission about whether the whole frequency management job could be very distinct

within the Post Office, he agreed, adding "In fact it is fair to say that within the Engineering Branch it is completely separate."³³

240. The Post Office evidence as a whole was much concerned to establish that "Post Office uses of the radio spectrum are treated in exactly the same way as those for other users" in the words of the Director-General. He went on to admit that he was "aware that such a relationship is not particularly visible to the public." Therefore he was developing proposals for a more visible distinction by separating "the Radio Inspection Branch from the control of the District Engineers. . . and to place their line of control in a separate structure." As for head office, he was considering the aggregation of "the staff concerned into a separate unit and to have it directly reporting to me. . ."³⁴

241. That evidence was filed with us on 30 August 1985. By 15 November the Assistant Director-General, Mr D. Rose, was able to table a specific plan for a Radio Frequency Management Division responsible to the Director-General. There was to be a Radio Frequency Occupational Class, under the State Services Conditions of Employment Act, to which officers of the Post Office, other state or private organisations or individuals could be appointed, transfer or be seconded. There they would be "employed exclusively" within the Division. The Division would "assign frequencies, powers and bandwidths. . . on a fair and equitable basis to all users" and do so "without fear or favour in any manner whatsoever". The Division was "to consult with users and potential users. . . on the widest possible basis;"³⁵—something Mr Becker had emphasised his Section regarded as essential—and notify planned changes of frequency usage, and publish an annual list of allotments and bands in use or planned.

242. Mr Rose's plan met the questions raised by submissions to the Commission which had been available publicly since July. Because the Division could draw freely on expert and experienced officers from the Post Office itself and such reserves of professional engineers as the BCNZ and private consultancy, it met Mr Becker's conditions for a "high level of engineering expertise" which was a balance between "experience and continuity and, on the other hand, intimate knowledge of the latest technological developments. In New Zealand this can only be achieved by Radio Regulatory staff having significant contact with and being drawn from the foremost area of high technology usage, that is to say the Post Office."³⁶

243. Mr E. J. Wilkinson, Programme Controller of the South Pacific Telecommunications Development Programme and former member of the Australian Broadcasting Tribunal, concurred about "the dangers of placing radio regulatory staff in an organisation separated from the mainstream of technical expertise." The number needed in New Zealand was "quite small". What they required was "an appropriate organisational niche where the necessary technical expertise can be established and nourished." Mr Wilkinson also endorsed "the proposal mentioned in the Post Office's submission and evidence from other witnesses to isolate this function as far as possible (within the Post

Office structure) from other activities concerned with commercial matters."³⁷

244. The McInerney and Rose proposals for a Radio Frequency Management Division would therefore need to be isolated from the commercial Telecommunications Corporation foreshadowed by the Mason, Morris *Review*. At the same time, as the Rose plan foresightedly provided, the Division would need to be able to draw ex-Post Office personnel in mid-career from the Corporation among other sources. Close liaison with all spectrum users would keep the Division abreast of developments as would its daily concerns with spectrum planning, frequencies, equipment standards and radio interference. As a natural consequence of the competitive form of the user Corporation, the neutral Frequency Management Division would accompany the office of Director-General and the policy staff in their movement from one Department to its successor, a much smaller but equally essential support for the Minister responsible for one of the fastest growing areas of the economy.

245. The BCNZ's case and evidence in respect to a Department of Communications were, of course, formulated long before the situation was transformed by the Mason, Morris *Review*. But the BCNZ maintained its line of argument unchanged into their Final Submissions of 2 May 1986. Their basic position was founded on a continuation of the Corporation's "function of advising the Minister in respect of public broadcasting."³⁸ It assumed that the Department of Communications in question would cover broadcasting and telecommunications and thus their right to advise would be threatened by the appearance of a Department which they opposed.

246. The BCNZ stated its "belief that the roles of global policy formation and advice, regulation and operation should be separate." Accordingly their proposals took regulation from the Post Office and lodged it with the Department of Trade and Industry. At the same time the plan removed advice on telecommunications from the Post Office and placed it with "a re-structured Communications Advisory Council, representative of sector groups and appropriate disciplines" which would advise "a Minister of Communications and the Government on broadcasting and telecommunications developments".³⁹

247. The two proposed excisions left the Post Office bereft of its duty to advise on telecommunications and distant from spectrum management but able to operate or, though it was unstated, possibly the successor corporations would do so. In turn that left a Minister without departmental support and advice but reliant instead, with regard to international and national obligations and policies, on a body made up of sectoral representatives who would themselves in large part be users of, or even suppliers to, the services on which they were entitled to advise.

248. This illustrated the BCNZ's problems with consistency in applying their "principle of separation of roles".⁴⁰ For they themselves were users and suppliers of telecommunication services while

maintaining their duty to advise the Minister on public broadcasting. What is more, through their membership of the existing and no doubt of the restructured CAC, the BCNZ were proposing to help formulate policy and advice on both telecommunications and all broadcasting whether public or private. Their difficulties recalled those of the framers of the United States Constitution who, in pursuit of the principle of the separation of powers, found it also necessary in the end to balance and intertwine the powers of the three arms of government so that they should check one another and allow the whole structure to work.

249. While it is clear that the BCNZ encountered problems and inconsistencies in endeavouring to make a sectoral body into a substitute for a Department, the CAC itself saw the requirements for a Department of Communications and supported it. In its sketch for a structure it included an advisory council. Given the necessity of liaison with users, manufacturers and consumers in such a proliferating and complex field, it would seem wise to make provision for the Minister to call for consultation and reports from some such external body, rather as now occurs with the ten part-time members of the CAC. The CAC's permanent three-man planning unit, at present somewhat isolated and sporadically overloaded, would properly fit into the Department of Communication's functions of research, policy development and its servicing of consultative and liaison bodies like the planning unit's parent Council.

250. The Post Office's overseas witness, Mr E. J. Wilkinson, ISO, had a quarter of a century's experience as a senior executive since 1961 in the Australian Post Office, the Australian Broadcasting Control Board, the Postmaster-General's Department, the Post and Telecommunications Department, the Department of Communications and the Australian Broadcasting Tribunal, besides his present international post. His career thus embraced both telecommunications and broadcasting while spanning an entire evolution in departmental forms. While not recommending for New Zealand either the particular scope or plan of the Australian Department on grounds of system or logic, he did stress the value of "the Westminster conventions" of a Department "providing confidential, impartial, expert and non-partisan advice to the Minister in respect to the affairs of his portfolio."⁴¹

251. He also saw the need for a variety of professional expertise in the Department whose business touched society at so many points. "Certainly you need social scientists and the like to be involved in telecommunications policy making, but you also need good calibre people who have served their time in telecommunications and 'getting their hands dirty' in the field."⁴² Although Mr Wilkinson's evidence was given in October 1985 in a quite different context, almost six months before the Mason, Morris *Review* became public, his injunctions have a fresh relevance to a Department of Communications as successor to the Post Office.

252. Mr Wilkinson was also peculiarly well-fitted by his breadth of experience to give evidence on the Post Office's proposal that the

giving of policy advice on telecommunications and transmission could and should be split from the giving of policy advice on the content and control of broadcasting. In Mr Wilkinson's view "their [the Post Office's] proposition to split responsibility for policy advice relating to the *technical* aspects of broadcasting from that relating to the *content* of programme material [his emphases] is quite feasible and practical."⁴³

253. Given this separation of fields with post and telecommunications on one side and broadcasting on the other, there would still be need for effective liaison and the representation of broadcasting institutions in the study of joint problems from time to time. Similar liaison has long been essential, for example, between Foreign Affairs and Defence and with Trade and Industry. Evidence was given both by the Post Office and BCNZ that they had for many years each been represented most co-operatively at international conferences on radio spectrum matters for which the BCNZ is registered as a private, contributing operator. Likewise there had been continuing co-operation on spectrum planning within New Zealand. So long as the BCNZ maintains an extensive, independent transmission network, that kind of liaison and co-operation would remain necessary.

254. But the basic submission that broadcasting had no need to be administered or its policies made as part of the realm of postal communications, telecommunications and information technology was not opposed by submissions or evidence in any quantity. On the contrary several submissions, such as those of the New Zealand Film Commission, treated the Department of Communication term of reference explicitly as relating to broadcasting concerns alone, while many submissions already cited, treated it solely in relation to spectrum management or transmission. Thus the utility and practicability of the split were confirmed by omission in each direction.

255. We therefore feel ready at this point to sum up the case for a small Department of Communication of high quality and varied professional skills to provide administrative support and impartial, expert advice to the Minister in the fields of postal and telecommunications and information technology. The Department would need to include a Spectrum Management Division to assist in framing international and national communications policy, planning spectrum use and licensing of frequency assignments, establishing transmission and equipment standards, and reducing interference from transmitters and appliances.

256. In addition the Department would keep under policy review the range of established and new services to be provided by the corporations and assist in formulating policy on which areas were to be open to competition. It would encourage co-operation, joint planning and unification among government networks and promote co-ordination of technical research and development in the communications field. The Department would identify and assess socially desirable but unprofitable services which might be assisted, while also conducting or contracting for research on the social effects of communications.

Overall it would aim to promote close liaison with related organisations whether public or private, and to provide opportunities and services for debate within the industry, with consumers and among the interested public.

257. The case against a Department of Communications, after the principles of the Mason, Morris *Review* are implemented in a form accepted by Government, is very much weakened. It really becomes a case that the functions described above, since they cannot be avoided, should be tacked on to another Department as a division of, say, Transport or Trade and Industry. This would not diminish the size of the staff required either to regulate or to advise the Minister, while it would ignore the speed, and variety of developments in an already large sector of the economy with an impressively expanding rate of investment. If the case against is a case for savings, then that is substantially a case for starting with clear objectives and a small expert staff and that is a premise of the case for the Department of Communications.

RECOMMENDATION

1. We would recommend the case for a Department of Communications serving the kind of functions we have described.

References

TERM OF REFERENCE 1

1. *Cable Television in New Zealand: Report of the Communications Advisory Council*, November 1983, p.29.
2. Darryl Vaughan Dorrington, written brief of evidence, terms of reference 1(a), 1(b), 1(c) p.8, para 2.13.
3. *ibid.*
4. *ibid.*
5. *Cable Television in New Zealand*, p.28.
6. *ibid.*, p.63.

TERM OF REFERENCE 1(a)

1. Chapter 12 of The Communications Advisory Council Report, *Cable Television in New Zealand*, 1983, provides information on the various reticulation options for cable television.
2. David Webster, "The Era of Direct Broadcast Satellites", *Dialogue* No. 68, 2/1985, p.6.
3. *Report of the Committee on Financing the BBC*, 1986, p.23, para 94.
4. Frank Foster, *Broadcasting Policy Development*, Ottawa, n.d., [1976?] p.315.

TERM OF REFERENCE 1(b)

1. Darryl Vaughan Dorrington, written brief of evidence, term of reference 1(b), p.10, para 3.2.

2. *ibid.*, p.11.
3. David Webster, "The Era of Direct Broadcast Satellites", *Dialogue*, No.68, 2/1985, p.4.
4. Communications Advisory Council, *Satellite Services*, Wellington 1984, p.49.
5. BCNZ, written submission, term of reference 1(b), p.4, para 20.
6. The Chairman was able to consult at length Mr W. G. Goosewinckel, Chief Executive Officer and General Manager of AUSSAT, on two occasions when in Australia as a Visiting Fellow of the Australian National University, while the Commission as a whole paid a most informative visit to the headquarters of INTELSAT when in Washington. The Commission thanks those who assisted us generously at both institutions.
7. *New Zealand Herald*, 30 July 1985.
8. New Zealand Post Office, written submission, term of reference 1(b), p.11.
9. CAC, *op. cit.*, p.49.
10. Webster, *op. cit.*, p.6.
11. Anthony Pragnell, *Television in Europe: Quality and Values in a Time of Change*—Media Monograph No.5, European Institute for the Media 1985 quoted in BCNZ written submission, term of reference 1(b), p.6, para 25.
12. Derek Cooper Rose, written brief of evidence, term of reference 1(b), p.13.
13. BCNZ, *op. cit.*, p.7, para 35.

TERM OF REFERENCE 1(c)

1. Communications Advisory Council, written submission, p.17, para B2.4(iii).
2. All figures quoted from BCNZ, written submission, term of reference 1(c), p.2, paras 4 and 5.
3. BCNZ, Audience Research Unit, *Video Recorders in New Zealand Homes 1985*, p.7.
4. *ibid.*, p.8.
5. *ibid.*
6. University of Auckland, written submission, p.10, para 3.31.

TERM OF REFERENCE 1(f)

1. Communications Advisory Council, written submission, p.41, para C6.3.
2. Frederick Kenneth McInerney, written brief of evidence, 2 September 1985, p.30. para 7.13.1.
3. *ibid.*, pp.27-28, para 7.12.1.
4. *ibid.*, p.28, para 7.12.2.

5. New Zealand Post Office, written submission, p.29, paras 7.6.1., 7.6.2.
6. New Zealand Association of Radio Transmitters (Inc), written submission, p.8.
7. Musicians' Union, written submission, p.4, para f.
8. Association of New Zealand Advertisers, written submission, section 1.
9. Public Service Association, written submission, p.14, para 25.
10. IBA, written submission, p.13, para 23.
11. *ibid.*, p.14, para 23.
12. TV3, written submission, p.3, para f.
13. Southern Cross Television Ltd, written submission, para 1(f).
14. United Telecast Corporation Ltd, written submission, para 2.
15. ESTV, written submission, p.7.
16. TVPDA, written submission, p.3, para 1.f.1.
17. Brian Priestley, written submission, p.3, para 1(f).
18. P.W. Harpham, written submission, p.1.
19. New Zealand Federation of University Women (Inc), written submission, para 2(a).
20. Massey University, written submission, p.6.
21. Catholic Women's League of New Zealand, written submission, p.1.
22. Communications Advisory Council, written submission, pp.vi—vii.
23. R.N. Mason and M.S. Morris, *Post Office Review*, 21 February 1986, p.55, section 16.
24. *ibid.*, section 17, p.56.
25. Communications Advisory Council, written submission, p.vi.
26. R. B. Squire, on 3 September 1985, transcript, p.3.
27. Ministry of Works and Development, written submission, p.3, para 4.2(b)(i).
28. Norman Samuel Robertson, transcript of oral evidence, 4 September 1985, p.72.
29. Ross William Becker, written brief of evidence, 4 September 1985, p.1, para 3.
30. *ibid.*, p.28, para 14.1.
31. *ibid.*, p.5, para 6.1.
32. Ross William Becker, transcript of oral evidence, 4 September 1985, p.62.
33. *ibid.*, p.65.
34. McInerney, written brief of evidence, 2 September 1985, pp.19–20, paras 7.6.1, 7.6.2.

35. Derek C. Rose, Principal Factors in Identifying and Making Provision for Radio Frequency Management in the Post Office Act, Exhibit 89, p.1, paras 1—2.
36. Ross William Becker, written brief of evidence, 4 September 1985, pp.26—27, para 13.9.
37. Edward James Wilkinson, written brief of evidence, 15 October 1985, pp.26—27, paras 6.4, 6.5.
38. BCNZ, final written submission, term of reference 1(f).
39. *ibid.*, para 1(f)20.
40. *ibid.*
41. Wilkinson, written brief of evidence, 15 October 1985, p.18, para 5.1.1.
42. *ibid.*, p.28, para 7.3.
43. *ibid.*, p.22, para 5.1.7.

CHAPTER 2

Term of Reference 2

"2. The constitution, operation, programming, financing, and control of the Broadcasting Corporation of New Zealand; with particular reference to—

2(a) The independence of the Corporation and its continuing role as the provider of a broadening range of programmes which inform, educate, and entertain."

1. The key questions about the independence of public service broadcasting are two in number; how is it governed and how is it financed? The answers determine how much independence it has. In very recent years that independence has been shrinking, but not because the forms of its government have altered. Corporation control is still the overwhelming choice of democracies which possess public service broadcasting.

2. The real change has concerned financial support which Western governments have given more cautiously as they felt pressed by inflation and reduced economic growth since the mid-seventies. In Australia governments of both main parties have successively cut back the ABC. In Canada the CBC faced a ten percent cut. France is putting whole public networks into private hands. The United Kingdom Government has just received a *Report* from the Committee on Financing the BBC which preserves the dual funding system of licence fees for the BBC and advertising revenue for the private broadcasters, but only after the most intense scrutiny. And for New Zealand the eleven years of unchanged rates for New Zealand licence fees between 1975 and 1986 have represented a similar kind of pressure.

3. We examine the matter closely in our next section so we will turn now to the other question. But not before emphasising that the two answers are linked by the fact that, if governments want an independent and effective public service broadcasting system, they must will the means to it, which is a viable basis of funding.

4. The answer to how public broadcasting is governed in New Zealand is straightforward if one looks solely to the Broadcasting Corporation. For that is a creation of Parliament. The Corporation's powers and its limits are prescribed by Parliament in the Act, and it is accountable to Parliament through the Minister and his answers to questions in the House, in the Corporation's annual *Report* and accounts, and before select committees examining estimates and otherwise inquiring into the affairs of its own creations. This accountability to Parliament as the elected and representative source of law and authority in a democratic state is as near as institutions can come to being accountable to all the people.

5. This is by no means an abstract question for the submission of Mr Ian Cross suggested "a new broadcasting body which would have supreme authority over separate corporations operating radio and television. Its powers would include all or some of those presently held

by Government, the Broadcasting Corporation and the Broadcasting Tribunal. Appointment to it would be with the joint recommendation and approval of the Government and official opposition parties. This new authority would in turn appoint members of the boards of the radio and television corporations."¹

6. While the new Authority, if given powers from both Corporation and Tribunal, might well meet certain problems of overlapping responsibilities between those two bodies which we discuss in term of reference 4 and recommend on in another way, the Authority itself would remain just as much a creation of Parliament as the Corporation—even in the Corporation's heyday when it operated all broadcasting and there was no Tribunal. And the new Authority would still face the task of relating to private sector development which the Tribunal was created to watch over. Moreover, the problems of the relations of government with the Corporation about financial controls, funding and the relation of the Corporation's plans to the broadcasting policies of successive governments would not disappear, they would be transferred to the new Authority. We consider and recommend upon several of the financial controls given by the Act to the Ministers of Broadcasting and Finance respectively at 2(b), and recommend on the means to fix the public broadcasting fee at 2(c). But if the governing body were a "supreme authority" and not the Corporation, the underlying concerns about revenue, efficiency and accountability would not vanish and Parliament would be just as entitled to hear them as before.

7. As things are the Corporation has the general function under 17(1)(a) of carrying on public broadcasting services and extending and improving them. The Corporation of between seven and nine members, including a Chairman and Deputy Chairman, are all appointed by the Governor-General on the recommendation of the Minister for terms of three years. Both this and the last Government have waited for terms to expire before replacing members, so there has been a degree of continuity which the Corporation in its submission would like to see encouraged by a term of four years.²

8. Mr Cross suggested selection by both the major parties, presumably in a 5:4 ratio for nine members. However that would politicize the Board in a way that recent Boards have not shown themselves to be. What is more, if the experience of some of the West German states' Radio-Television Boards, which are appointed this way, are anything to go by, the result can be an uneasy mixture of senior executives identified by party and so on down, at times, to front-of-camera people.

9. The key problem of the Board is in any event not in its maturing unity as the three years wind on, nor is it partisan division. But it is whether the Minister, the Government and party in front of it wants public service broadcasting to strengthen and develop or whether they wish it to level off or be reduced. As Dr R. J. Gregory perceptively remarked, "the threat to the integrity of public broadcasting. . . had been

re-directed. It was not operational decision making that was so vulnerable to political pressures as the general concept of public broadcasting itself."³

10. The Annan Committee in Britain had noticed a similar shift when they looked back from 1974 to the Pilkington Committee of 1962. "The questions which the public were now asking about broadcasting were vastly different. . . They were more critical, more hostile and more political."⁴ And yet that British public was viewing the finest public and private television to be seen anywhere. For such a widely enjoyed and preoccupying phenomenon as broadcasting, the rule of thumb appears to be that the longer you know it and the more of its potential you have seen, the more you expect of it.

11. So there is a double tension, firstly between what the public system can do and afford and what some of the audience would like to see done and, secondly, between the Corporation following its statutory purpose of developing the public system and governments wanting to leave licence fees unchanged or as little changed as possible despite what might be happening to the dollar or the pound. These tensions are to be found in Britain as well as Canada, Australia or New Zealand. They have been there a long time, but what is changing is how tightly these tensions are drawn in a period of economic difficulty. For if they tighten too sharply they must constrain in a general way the independence of the public system in its "continuing role as the provider of a broadening range of programmes which inform, educate and entertain".

12. That is the broad problem of preserving independence and it is a problem for both the Corporation and for successive governments. The Corporation has to seek the optimum balance between efficiency and economy on the one hand and, on the other hand, providing some growth in the areas set out as objectives in the Act. If the long-running experiment of public broadcasting is to prosper, however, governments for their part must seek to balance what is asked of the Corporation by the Act and government policy and the support they will allow it in the form of licence levels.

13. There is another vital set of problems. As the Annan Committee put it, "the independence of the Broadcasting Authorities from day-to-day control by Government is fundamental to British broadcasting."⁵ They then pointed to the changing conventions on handling political and controversial topics based on the convention that the BBC does not editorialise on matters of public policy. Our Act in section 24 sets out as standards the consensus that news shall be gathered and presented accurately and impartially "according to the recognised standards of objective journalism" and that reasonable efforts be made to present significant points of view on controversial matters "within the period of current interest". The maintenance of taste and decency, law and order, and the privacy of the individual are likewise called for. It is a sound working code with questions on every margin for case-by-case Tribunal settlement but a generally recognised and directly stated guide.

Probably for this reason it evoked hardly any reference in submissions and no suggestions for change.

14. Nevertheless, as Dr Gregory points out in his broadcasting history, well-advertised pressure has been placed on individual television broadcasters and on the Corporation from time to time in recent years and he comes to two general conclusions. First, since the pressure came in the form of highly visible complaint and direct sanctions, that the older forms of the quiet exercise of influential suggestion have diminished in effectiveness.⁶ Second, that "the final determinant of public broadcasting's vitality and strength, and the surest defence against its corruption from both within and without, must be the public's desire to sustain it, to trust it and—above all—to value it."⁷

15. The Corporation's submission points to two related provisions of the Act which are both in section 20(1).

"The Corporation shall have regard to the general policy of the Government in relation to broadcasting or to the functions, duties, powers, rights, and authorities of the Corporation as that policy is communicated to the Corporation from time to time by notice in writing by the Minister, and shall comply with any directions given by the Minister to the Corporation by notice in writing pursuant to any such policy."

16. Then follows section 20(2) with a lengthy list not authorising the giving of directions on particular programmes or complaints, news and current affairs, advice to Ministers, the operation of each Service as a public service, standards, the Symphony Orchestra, the *Listener*, publishing, contracts, personnel and decisions on complaints. The section ends in 20(4) and (5) by giving the Corporation the right to choose whether or not to announce publicly that a notice has been given but which compels the Minister to publish the notice in the *Gazette* and lay it before Parliament.

17. Day-to-day operations and programmes are excluded but structural and planning change are not and these are wide powers. Without inquiry or enactment, government policy can be enjoined, although it may get entangled with the judicial duties of the Tribunal as remarked under term of reference 4. The Corporation "accepts that it should have regard to the general policy" since Parliamentary majorities and governments are elected on manifestos that usually do include new broadcasting policies. But the Corporation wanted those and any additional policies to be "clear" and "by notice in writing" as well as being gazetted and laid before Parliament.⁸ The way the Corporation might have regard to those policies is left up to the Corporation and, plainly, the Corporation stands prepared to recognise the democratic will.

18. What it went on to question was whether "the power to direct it on its functions, duties, powers, rights and authorities is necessary."⁹ The Corporation argued that the list of exclusions showed that direct Ministerial intervention was undesirable and that, since the Board acted as trustees in the national interest and were required to have regard to

general policies, the objectives of direct intervention would be achieved anyway.

19. This was to appeal for more confidence from the Government in its own and Parliament's trustee, and more independence from the possibility of rapid changes being enforced without the very public processes of election or enactment. At the same time, the Corporation's submission had agreed that policies additional to those at election time should be given regard to by Corporation action. So what it came to in the Corporation's view was whether the Minister or the Corporation should shape and take the initiative about the kind of action to be taken on the basis of general and additional Government broadcasting policies.

20. In New Zealand politics the electoral cycle is rapid and electoral overturn can be swift. Broadcasting's technical changes may open quite new opportunities for action which the Government wants to shape and take. Moreover the previous Government's direction on sponsorship as a means of financing FM extension of the Concert Service and the present Government's Ministerial direction proposing and beginning to implement the four-strand radio policy were taken after receiving advice from the Corporation and in harmony with it.

21. They both may be regarded as giving formal approval to and assisting by their accompanying notices of direction to the Tribunal the policies of the Corporation itself. Nor did either direction flow from some rapid technical development, they were answers to old problems. By contrast the successive directions to the Tribunal to hear applicants for a third channel constituted a revolution in the affairs of the Corporation but again, not a technically motivated one. It followed on from much Cabinet and Caucus discussion by the previous Government and from a short Tribunal *Report* on methods of introduction. But the detailed examination of the implications for broadcasting and the public interest are being carried forward now before the Tribunal as a consequence rather than as a basis for the two Ministerial directions.

22. We may conclude that these precedents are mixed in their meaning for the Corporation's independence and mixed in their message about the careful maturation of plans for broadcasting change, one of the Corporation's major concerns. The Corporation's conclusion appears in their submission questioning the desirability and the need of Ministerial direction to the Corporation. There is no such parallel power, of course, for Ministerially directing private warrant holders in radio. Direction of the Corporation does trench on the Corporation's statutory independence and there was frequent reference in the submissions to preserving that independence. Apart from the Corporation's submissions and evidence, submissions were couched in the most general form however. Nevertheless we consider their general tenor sufficient on which to base a strong suggestion that the whole matter of Ministerial direction be reconsidered by Parliament in the light of the trend towards clearer and more overt role separation between corporations and government and in the light of the agreed power of the

Minister to state general and additional broadcasting policies to which regard must be had.

23. If the power of Ministerial direction be retained, the Corporation would prefer the addition to the classes of direction which are not authorised, of the matter of editorial independence in broadcasting and the *Listener* and, as another class, the Corporation's primary purpose of provision of programmes and information. We will be recommending on editorial freedom in reference to the *New Zealand Listener* under term of reference 2(j) and both classes of exclusion appear to us so fundamental as to be entirely necessary and certainly in accord with evidence heard.

24. We have looked at the answer to how public broadcasting is governed and at how much independence its constitutional position confers on the Corporation. It is a conditional independence and its future strength will measure the attachment of New Zealanders generally to the idea of public broadcasting, to the system they have paid for, and to their valuation of the benefits it brings. The other portion of this term of reference concerns its continuing "role as the provider of a broadening range of programmes which inform, educate and entertain."

25. The Broadcasting Research Unit's study, *The Public Service Idea in British Broadcasting*, discusses the range of programmes under its second principle, universality of appeal. "The central aim here is to provide range and diversity over a reasonable span of time for practically all kinds of taste, for large groupings and small. It recognises that we are all at different times parts of majority and minority groupings, belong to overlapping constituencies of tastes and interests." Diversity introduces viewers to subjects and treatments they did not know they would like. If the quality is there it makes " 'popular programmes good' and 'good programmes popular' ".¹⁰

26. This kind of programming is the converse of the familiar formulas approach to mass-appeal broadcasting which aims always for the centre of the road and leaves the rest of the highway unfilled. The public service broader range is not about radically altering the balance between entertainment and the rest. In London "viewers seem to spend about 60 percent of their time watching entertainment programmes, 15 percent sport, and about 25 percent demanding programmes like news, current affairs and general information programmes." Since the figures are for London, just on half will be watching BBC and those proportions also hold for professional and managerial as much as the majority and for high, medium and light viewers.¹¹ The proportion for current affairs and information is higher, but the essential difference is that within each category there is more diversity and more choice. Comedy is still comedy even if it ranges from *Fawlty Towers* to *Not the Nine O'Clock News* or *McPhail and Gadsby* to the *Billy T. James Show*.

27. The other principles of public service broadcasting in the BRU study make an intriguing parallel to the New Zealand Act's objectives. Their "geographic universality" is our Act in 17(1)(a)(i) directing radio to

provide "as far as practicable for the whole of New Zealand" and expecting the same coverage from TV1 and TV2 under 17(1)(a)(ii). Their "broadcast programmes should cater for all interests and tastes" is our section 3's "a range of programmes which will inform, educate and entertain". Our "ensure that programmes reflect and develop New Zealand's identity and culture" is their "Broadcasters should recognise their special relationship to the sense of national identity and community."

28. Others among the BRU's eight main principles are recognised here such as "Broadcasting should be distanced from all vested interests, and in particular from those of the government of the day." Some are recognised in New Zealand but poorly practised, such as "Minorities, especially disadvantaged minorities, should receive particular provision." But the flexibility and levels of a New Zealand points system reaching both private and public broadcasters should, as the BRU puts it, "encourage competition in good programming rather than competition for numbers." This may be so, however, only to the degree that competition in a small market does not threaten viability and begin to break down basic objectives and purposes.

29. The effect of putting this kind of aim into action is an overall one. A week's or a month's programmes have a different balance, not radically but positively different by way of altered proportions, more choices of style and subject and an assumption of adulthood in the viewer. The balance is difficult to achieve and the planning is complex. It requires expertise, preparation far in advance and resources of equipment and staff beyond the predictable patterns and pre-tested story-lines of the purely market-oriented competitor.

30. In a sense most of the remaining terms of reference examine aspects of the BCNZ's performance in living up to these principles because they are there in the Broadcasting Act as objectives or are implicit in the practice of public service broadcasting. The evidence was often critical of the BCNZ for falling short of public or legislative requirements and scarcely ever, as the Annan Committee found in Britain, thankful for what had been achieved. Two points should therefore be made. First that an objective like a "broadening range of programmes" can never be finally reached. It moves upwards as performance climbs. Second that these principles of public broadcasting cost money to implement at a time when resources are rationed.

31. It is vital therefore that what can be expected from a resource base the size of New Zealand be kept steadily in mind. The United Kingdom can afford the very rational luxury of entirely supporting two public channels with a licence fee because of the number of the fee-paying audience. The BBC's results have repaid them. At the same time the regional monopolies in television advertising awarded to the private companies of Independent Television have provided in a major market enough to supply the most varied television of quality, meeting all their regulator's demands and more, yet leaving room for profits and a levy.

32. Australia supports two public channels of television by direct Parliamentary grants from general taxation but with five times our population. Here in New Zealand, however, receipts from licences alone could support only a proportion—less than a sixth—of all the public television and radio provided. Even though New Zealand has only one-seventeenth of Britain's fee-paying population it is the same size as Britain when it comes to paying for transmission to cover it, and we have two public television channels to their two.

33. In terms of coverage we have rather more than two-and-a-half to the BBC's four radio services. Yet the licence fee here after the raise will be distinctly less than two-fifths the size of a British fee currently equivalent to \$174. The remaining five-sixths of revenue for the BCNZ is derived from advertising, some sales and some interest.

34. New Zealanders have expressed surprise to us at the height of the British fee. Yet, compared to any other service used by the whole family for an average of 2,000 hours a year per member, it is cheap. A contributor to the BRU study had this comment to make:

"The broadcasting tradition is that everyone, whether poor or rich, is entitled to as much television as he wants, without any special or extra payment. . . But it has made a great difference in letting people sample things they would not have paid to sample, and in making broadcasting what someone has called 'the privilege of the under-privileged' . . ."

It may be unfair to describe all this as a 'free service' (you do, of course, pay a licence fee and you may, of course, buy the things which are advertised on television); but it is the nearest equivalent that the mind has to the air that the body freely breathes; . . . [It] is the feature of broadcasting which . . . one should be most sorry to see lost because it becomes possible to charge everyone strictly for what they receive. For nothing has done as much to inform and educate people as well as entertain them, as has this bountiful unmetered supply of television and radio programmes, there for the taking."¹²

35. In New Zealand our dual or mixed system of funding grew out of necessity if New Zealand was to extend two public radio services when licence receipts would pay for only one. This is the dual funding system's fiftieth anniversary year, so it is appropriate to examine it for signs of age. For its duality generates its own pressures on freedom of independent action for the BCNZ, particularly when the balance tilts heavily towards support by advertising. The same forces which drive private Australian or American television and radio also press on the BCNZ but, thanks to the fee component, much less insistently.

36. In order to judge the differences between advertising-based television systems with and without close regulation on the one hand and licence fee public systems on the other the Commission required information more designed for the purpose than could be gleaned from a short trip overseas. In each country visited we had specific subjects to inquire into and particular institutions to visit so that broadcasting's

general features in each country were noted rather than closely studied. Fortunately Professor Peacock's Committee on Financing the BBC had sponsored a large comparative study by the Centre for Television Research at the University of Leeds and Her Majesty's Stationery Office has generously agreed to our including as Appendix 3 that portion of the *Peacock Report* which dealt with the Leeds results. Although our Chairman had made four studies of overseas broadcasting systems, he regarded these as entirely confirmatory of the Leeds findings and it is on those that we rely.

37. It is plain from this study that commercial broadcasting can be of great benefit to the public as it is in the United Kingdom. There the private companies do not battle with one another for each has a separate region as a market and both separately and collectively they enjoy a monopoly of television advertising revenue. They also market the advertising on Channel 4 which is their collective subsidiary and the only very minor exception is the breakfast AM programme which sells its own advertising spots.

38. The Independent Broadcasting Authority closely controls the standards and the quality of programme making among the companies who sell to one another as well as make for themselves alone. The result has been a high general level of well-funded production which must, of course, meet the standards and variety of BBC competition in programming. The British system is that fortunate combination of programme competitiveness without competition in funding. In consequence there are many public service elements in the commercial system as well.

39. Up to now New Zealand's television, although commercially supported in large part, has also not been pressed by competition to follow wholeheartedly after the programming norm, say, among Australian commercial channels. The BCNZ has been unable to play the BBC's role for lack of non-commercial resources. Instead within the BCNZ public service and commercial motivations have both been present so that the programming represents the impulses of both and is reflected in the imported products of both systems. It is not an IBA modification of commercial television, but a public service balance which has met the Act's demands and made reasonable progress towards several but not all of its goals.

40. By comparison, in some countries in Western Europe such as the small countries like Denmark and Norway—which are, however, larger than New Zealand—where television is comprised of one or two public service channels, they produce a wide range of programming though the overall hours they broadcast may be fewer than in New Zealand. There is also a tendency to earnestness in some of their programming which our large imported content counteracts in New Zealand. Nevertheless, the lesson remains the same, that sufficient public service funding produces range and quality in programming. As the Peacock Committee has recently concluded:

"As to the range of programmes, the pattern differs country by country. In general, the greater the amount of advertising the narrower the range of programming. Those systems most dependent on advertising (such as the United States) concentrate primarily on entertainment and cater less for information, the arts and minority interests. Those systems most dependent on income from a licence fee (as in Sweden) on the other hand are less sensitive to mass demand and more ready to cater for minority interests. British television caters for both and with a reasonable balance."¹³

41. Consideration has been given by the Commission to The Treasury's suggestion of identifying all public service programme areas which would thenceforth be funded directly by the State if departments considered they had a need for them as social services. The Corporation operations would be conducted thereafter in an entirely commercial and competitive fashion. In consequence there would be no public broadcasting licence fee.

42. When a department saw the need for a programme, say the Ministry of the Environment or Maori Affairs, it could indicate the subject matter and contract to have it made either by the Corporation or perhaps by an independent production house. Presumably space in the schedule would then be bought or negotiated under regulation and the result would represent a public service element in programming.

43. This would appear to represent a radical step back towards direct Government control of a sector of broadcast programming more complete than anything in our past. It would shift the initiative for some of our best areas for imaginative production into the hands of civil servants who would take for the moment a fragment of the role of the Director of Programming and Production. So would parallel figures in other departments. The erratic pattern of production that would ensue would have somehow to be sorted and inserted into an otherwise straightforwardly commercial programme.

44. In the meantime one has only to read the Leeds study to see in which direction the now entirely commercial channels, as proposed by Treasury, would be moving. It would be a considerable price to pay for clarity of accounting and accountability to a commercial board. The Treasury evidence and argument was primarily concerned with other aspects such as freeing the spectrum from allocation and pricing it instead. But with regard to programmes they resisted the concept that a schedule is more than the sum of its parts or should at least be a planned whole, the final product of a planning process of purchase and production going back in parts for two or three years.

45. We understand Treasury's desire to clarify, define and differentiate the public service from the commercial side of television. It would be possible to exactly determine and subsidise the amount of television coverage undertaken or maintained for social service reasons where it was uneconomic to have provided any, for that is a matter which can be identified by engineers, accountants and economists. It

would be harder, though not impossible, to measure what was done for public service reasons and what for commercial reasons with the production or purchase of a highly popular programme which was also educative in addition.

46. And then there are the complications of 'carry-over' or 'inheritance' effects. A public service programme might pass on a particularly small or large audience to the next commercially motivated programme or the socially-intended programme could itself have 'inherited' well or ill. The problems of pricing the programmes will be complicated by the degree of success of the programming. It was said in the questioning of Treasury that it was an attempt to "unbundle the unbundlable" and there is still some point to that.

47. To the extent that it can be done, particularly as a method of controlling expenditure, such measurements should be undertaken and reported within the Corporation and to bodies outside as a way of increasing accountability. We examine this further in the next term of reference. We also found illuminating Treasury's suggestion for leasing the right to broadcast and advertise and are considering its further investigation alongside an alternative method of securing a return for a valuable right. This is taken up in term of reference 4.

48. Another suggestion¹⁴ which has been considered among the Commissioners is to make one public channel non-commercial on the analogy with radio. The other public channel would compete on an entirely commercial basis, though there the neat analogy breaks down somewhat since there are elements of public service broadcasting within the Community Radio Service programmes. Any new third channel warrant holders would compete with the Corporation's commercial contender which would receive no share of the licence fee revenue.

49. Let us first address the economic accompaniments of this proposal. In its annual *Report* to March 1986, the Corporation records gross television advertising revenues of \$184.3 million. The commissions and discounts paid by the Corporation were \$46.2 million and, if it is assumed that television's share was in proportion to its share of gross Corporation advertising revenues, then it was \$35.7 million. That would leave net television advertising revenues of \$148.6 million in the year to March 1986. Half of that is \$74.3 million. As any third channel competitor closed in on its 90 percent coverage goal, most of that, or its future equivalent, would be lost from the Corporation's income.

50. The accounts to March 1986 show total operating expenses for the Corporation for the year to be \$244.1 million. How much of this it costs to run one channel is a matter for conjecture.

51. The contribution to income from the licence fee in the year to March 1986 was \$35.6 million. Half of this under the current policy would have gone to radio. The other half or \$17.8 million would have passed to television and, in this option, would have gone to beginning to make up the cost of the non-commercial channel. The soon-to-be-current \$65 fee is estimated to yield \$52.5 million net to the Corporation in a full year.

Some would still have to go to radio but under the non-commercial channel proposal all the balance of \$26.2 million would go to that channel or, if the Corporation policy changed, more. Nevertheless there would still be a substantial gap between that figure and what a fully-serviced public non-commercial channel would surely cost to run and maintain.

52. This sum to close the gap could be made up by a combination of possible departmental grants to pay for programmes and other services, the revenue of a percentage tax on both public and private commercial channels and a much increased licence fee. The problem there is the willingness of people to pay a public service licence fee if it went to support one non-commercial channel out of three channels and two non-commercial radio services. Once stripped of its normal context of entertainment, much sport and the rest, the concentration of minority and information and other elements of programming, which can add range and difference to the total public service programme, could look a trifle remote to many. So a healthy proportion of 'normality' would have to remain or be restored and be paid for.

53. Even then the figures on the audience share of ABC and SBS in Australia, or National and Concert radio together in New Zealand, suggest a probable share of from fifteen to twenty percent with the likelihood at the lower end. This could deprive much of the specialist, information, and minority programming of its customary audience derived from the well-mixed content of our two present channels.

54. And what of the remaining Corporation commercial channel and its putative private competitor? Their programming necessarily would be, as the Peacock Committee puts it, "geared to the market."

55. The hope then of spreading some of the present objectives of the Act over all three channels would have to yield to the exigencies of making up to the Corporation as much as possible of that foregone net revenue of \$74.3 million while the new competitor channel would be seeking to build fast enough to realise on its windfall market. As the *Peacock Report* points out, under that kind of circumstance, exercising any significant control tends to provoke evasion.

56. So we return to the present uncertain option of the status quo. So long as the question of the potential third channel is unsettled, the Corporation can employ the interval to strengthen its services, restructure internally and ready itself for the contest to come. As discussion in 2(b) will indicate, the Corporation will require time and good fortune to do so.

57. As for a three-channel future, we have heard estimates in evidence of viability for all and of problems for all but in an unknowable economic environment from three to six years away. This, too, is a matter for conjecture as to how it will affect the Corporation but, while we have information against which to examine the Treasury and the one non-commercial television channel proposals, the viability of a three commercial channel situation introduces unmeasured factors which will affect all three possibilities. We must therefore report as we found the

rapidly changing scene, as one in which the Corporation was engaged in refitting either to broaden its range of programmes after refitting, and some as it proceeded, or to concentrate and prepare for battle.

RECOMMENDATION

1. That the Corporation's editorial independence in broadcasting and the *New Zealand Listener*, and the Corporation's purpose of provision of programmes and information be added to the list of subjects on which the Minister is not authorised to give a direction under section 20(2).

Term of Reference 2(b)

"2(b) The Corporation's structural and financial efficiency, its resources, its profitability, and its capacity to compete without loss of programme quality."

STRUCTURAL EFFICIENCY

58. The Broadcasting Corporation is constituted by Part I of the Broadcasting Act 1976 and is made up of not less than seven nor more than nine members. These members are constituted as the Broadcasting Corporation of New Zealand while there is also statutory recognition in section 37 for the positions of Chief Executive, Secretary and the General Manager Resource Services, and of the Directors-General of the two Services, Radio New Zealand and Television New Zealand.

59. In Part II the Corporation is granted its general functions, powers and obligations. These are to carry on public broadcasting services and to improve them in the public interest, in particular ensuring that Radio New Zealand and both channels of television cover as far as practicable the whole of New Zealand. The Corporation also has the role of advising the Minister in respect of broadcasting matters and is given the powers deemed necessary to carry out its functions.

60. Parts III to V of the Act stipulate the Corporation's programme functions. The Corporation must ensure that each service operates as a public service, provide for systems of news gathering for radio and television, provide for the acquisition of programmes, maintain libraries and commission research. The Corporation is made responsible for programme standards, broadcasting in relation to art, education and culture, the Symphony Orchestra and the *New Zealand Listener*.

61. Part VII of the Act contains the personnel provisions, and Part VIII deals with property. Part IX of the Act establishes the funding and powers of the Corporation in relation to finance. Considerable powers are given in the Act to the Ministers of Broadcasting and Finance in respect of property and finance. These powers are discussed further when we come to the subject of resources and referred to again in the conclusion to this term of reference.

62. For many purposes the word "Corporation" in the Act means the Members as a Board—elsewhere in the Act "Corporation" refers to the whole of the BCNZ as an enterprise. This has resulted in the Members being called the Board Members in order to distinguish the Corporation in the strict legal sense of the Members, from the Corporation and all its staff and assets. The BCNZ has suggested to us that the Members of the Corporation be referred to as its Governors simply to distinguish between the two meanings.¹

63. There is no doubt that the Corporation's Board is presiding over an organisation with many of the attributes of a commercial enterprise, though this is not emphasised in the Act. The Board's very real functions in appointing to the major executive positions, approving major financial and other proposals, and in setting priorities would as a whole be understated by the title of Trustees. On the other hand, to call them a Board of Directors would be to ignore the fact that the members as a corporation act as a trustee of the national interest² and would underestimate their responsibilities as guardians of the public interest³ in programming and the other values which constitute the principles informing public service broadcasting. We are therefore led to agree with the Corporation's submission that it would be far clearer for the Corporation and the public if the members of the Corporation were called the Governors of the Corporation to distinguish them from the enterprise as a whole.

64. We have considered whether or not the trusteeship role would be best carried out by separating it from the responsibility for the oversight of the Corporation's management and operations.

65. The Commission invited the former Chairman and Chief Executive of the Corporation, Mr Ian Cross, to present his views to us and in a wide-ranging paper Mr Cross proposed an alternative system of control of broadcasting.

66. Mr Cross proposed that we recommend "...that broadcasting administration and policy direction be removed from the political arena and placed under a supreme broadcasting Authority;..."⁴ He took the view "...that a new system could fully represent and protect the public interest and provide adequate safeguards against any abuse of broadcasting's power or failure in the discharge of its responsibilities. I believe that this could be achieved by the creation of a new broadcasting body which would have supreme authority over separate corporations operating radio and television."⁵

67. The new subsidiary corporations proposed by Mr Cross would have boards completely separate in personnel from the board of the new superior authority to avoid trade-offs between various divisions.⁶

68. The new Chairman, Mr Rennie, put the case for retention of the existing structure:

"This Board has been empowered by Parliament to operate Broadcasting in the best interests of the public. It may be that that Board has not always functioned adequately in the past."

The answer to this is not to create a new and different higher level of authority which will seek to impose controls, regulations and other constraints. If the concept of the Corporation and the Board is sound (as I believe it is, and as international experience and even private sector experience would confirm), then the target should be to strengthen and improve the present structure, not impose a further level of control."⁷

69. In this respect the Commission has been impressed by the reasoning contained in the *Report of the Committee on the Future of Broadcasting* in the United Kingdom, chaired by Lord Annan, where they dealt with the management structure of the BBC. The Annan Committee recognised that:

"...the Governors have a dual role. They are the trustees of the public interest, and therefore they cannot, or should not, identify themselves too closely with the day-to-day decision taking in the Corporation or they would never be able to call for a change of policy in the public interest. But they are also the Board of the Corporation itself and have the final responsibility for the management of the BBC."⁸

70. This is certainly the case with the members of the Broadcasting Corporation of New Zealand. The Commission believes that, while the independence of the Corporation does require strengthening, this should be done in other ways and the oversight of its management should continue to be the responsibility of those also charged with representing the public interest. This is to ensure that, while the broadcasting expertise and advice of senior executives is clearly indispensable, in the last analysis it is the viewpoint and judgment of the members of the Board in their capacity as informed representatives of the public which must prevail.

71. The BCNZ between 1973 and 1976 was divided, not between the functions of Trustees and Board of Management, but into a corporation of three members for each television channel and another corporation of three for Radio New Zealand, the whole being linked together by a Council with responsibilities for financial oversight and common services. The principle was that members of the corporations would concentrate each on their own competitive services while their chairmen would also be on the Council and be balanced in number by two councillors and a Chairman so that all six together decided on common service matters and the use of overall resources. This accorded with the pronounced trend in the management of large enterprises to divisionalise the internal structure and to delineate profit and cost centres within those divisions. The formalisation of the 1973 structure as externalised divisions was, however, only one way of implementing the principle of clear divisionalisation with its associated clarity of responsibility and accountability by the component centres.

72. In its original submission to us the Corporation described its structure as follows:

"The BCNZ is organised into six divisions which reflect its main activities—the programme and communication services of RNZ, TVNZ, the *Listener*, the Symphony Orchestra; BCNZ Enterprises, developing and marketing the property of the Corporation that its activities create; and Resource Services, providing corporate and servicing activities and the transmission system. The structure (effected by the 1985 Broadcasting Amendment Act) is media based, with emphasis on output. It allows the distinctive character of each service to develop and to be presented to the public and clients, an essential requirement in a competitive environment."⁹

73. It seemed to follow from this description that divisionalised accounts would be regularly prepared and monitored as the basis for all management decisions. However, when we asked¹⁰ to see certain divisionalised accounts we were informed¹¹ that divisional balance sheets were not in fact prepared in that way. (These matters are dealt with further in the section on financial efficiency.) Accordingly our inquiries into the Corporation's structure thereafter were directed to clarifying how far the Corporation was in fact managed and operating as six distinct divisions.

74. The features of clarity of responsibility and accountability by the component centres could be developed within the external envelope provided by the present Corporation were it to pursue further the lines set down in an Executive Committee Report¹² which dealt with structural as well as accounting matters.

75. As a Commission we had been pressing for some months on aspects of this structural question and we were surprised when as late as February 1986 this evidence came forward, that a group within the Corporation had been working since July 1985 along lines¹³ which paralleled our own thinking.

76. Referring to this Report, the Chairman of the Corporation stated in his written Brief of Evidence of 28 February 1986: "In finance we are making progress towards the establishment of logical trading divisions supported by appropriate accounting procedures. We have some distance to go in the appropriate allocation of assets and the revision of control of those assets. I expect that process to be completed in the next few months."¹⁴

77. The BCNZ then advised the Commission in a letter dated 7 May 1986¹⁵ that a restructuring of Resource Services foreshadowed in that report had taken place. Essentially this change involved the clear separation of corporate planning from the provision of common services including transmission and engineering within the Resource Services Division. In addition BCNZ Enterprises had become TVNZ International with an associated decentralisation of those commercial functions best carried out in the individual divisions.

78. We would expect these and associated changes to contribute in particular not only to improved divisional accounting including the identification, measurement and allocation of costs of commonly provided services, but also in their overall effect in providing improved opportunities for the senior executives of all divisions to contribute to the Chief Executive's consideration of policy questions before they are taken to the Board for decision.

79. Given a more clearly divisional and decentralised internal management structure, the corresponding structure at Board level would make more use of standing committees on which all Governors would serve so that they gained a deeper knowledge of a section of the operations of the Corporation. One such committee could comprise Governors immediately interested in the running of Television New Zealand and TVNZ International, another committee could interest itself in Radio New Zealand, the management of the Symphony Orchestra and the *Listener*, and a third committee be concerned with infrastructure, transmission, and common services.

80. What are plainly the principal concerns of the Board as a whole are, firstly, the appointment of the major officers, secondly, decisions on the allocation of financial resources including the use of the licence fee, and thirdly, the setting of priorities on the rate at which particular services are developed and which projects should be advanced or deferred. The whole Board we consider should take these decisions in the light not simply of Executive Committee reports and recommendations, but also after consideration based on experience and knowledge gained and derived from serving on standing committees and making reports to the main Board.

81. The view was canvassed that it could be unhelpful if Board Members became too closely concerned with one or another section of the Corporation's activities since that could be to the detriment of their commitment to the full breadth of the Corporation's activities. It seemed to us more probable, however, that it is attention to and close understanding of the affairs of one section which best illustrate the general constraints under which the whole structure is operating. This knowledge can only be achieved by some degree of specialisation, as there are no general problems and constraints which affect the whole Corporation which will not affect also the three sections to be dealt with by the committees we have suggested or by an alternative committee structure which the members of the Corporation may wish to adopt. In his written Brief of Evidence of 28 February 1986, the BCNZ Chairman stated that more flexible Board procedures had been established, with an associated ability for rapid response and that new and extensive delegations had also been established.¹⁶ Other structures may be preferred and still leave the principle unaffected that a degree of particular understanding precedes a general grasp of the problems and opportunities of the Corporation as a whole.

82. We therefore consider that section 10 of the Act should be altered to give the Corporation clear power to form standing as well as

occasional committees should it wish to do so and that the number of Governors be fixed at nine including the Chairman and Deputy Chairman. We do not intend that the Governors by forming standing committees become involved in the Corporation's day-to-day management or in editorial matters, which are the province of the Chief Executive, the Directors-General, the General Manager Resource Services and the Editor of the *Listener*. Indeed, fewer or shorter, certainly more productive meetings of the Governors as a whole may be the result of prior consideration of agenda items by the standing committees. Whatever particular arrangements the Governors may make, they in future must, in this Commission's view, be provided with sufficient information and be sufficiently acquainted with the priority choices about finance, programme services and infrastructure facing the Corporation so that, on the advice of management, they are in a position to give the guidance and take the decisions that their position demands.

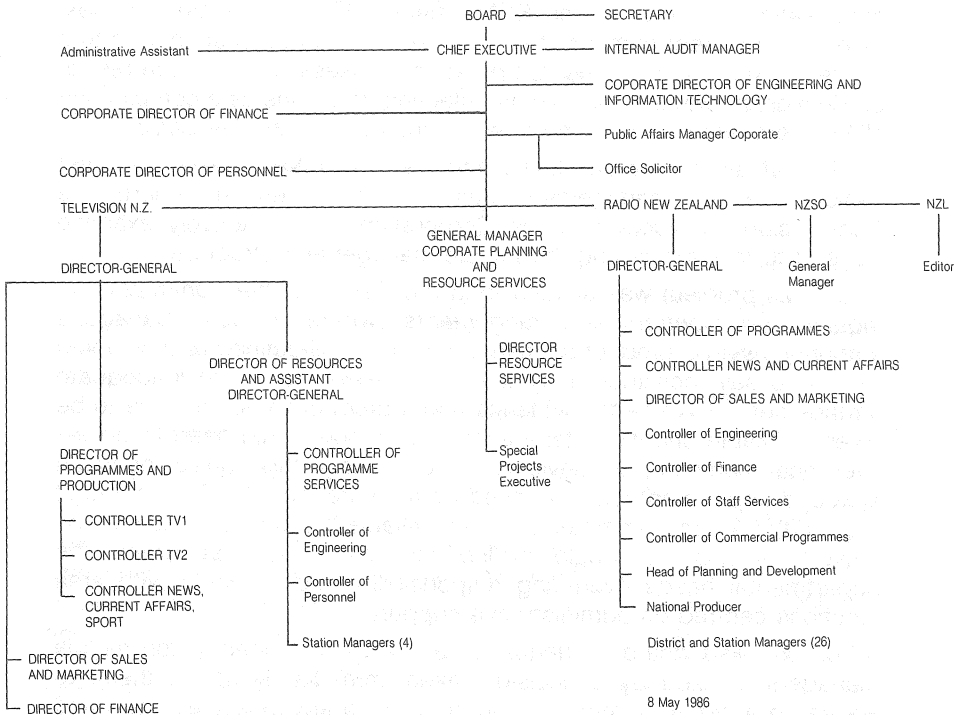
83. It is now common practice in publicly listed and private companies for the Chief Executive and possibly other very senior managers to serve on the main Board. While we acknowledge that this practice has merit, we do not endorse it in the Corporation's case for the reason the Annan Committee made clear. The Annan Committee pointed out that for the Directors-General to be appointed as Governors would involve the Government in choosing and appointing them or at least being able to veto any appointment.¹⁷ One of the principal functions of the Governors of the BBC is to appoint their Directors-General and it is a mark of the Governors' independence that they do so. In New Zealand also the same is now the case. The Corporation in New Zealand invites, pursuant to section 12 of the Act, the Chief Executive, the Directors-General of both television and radio and the General Manager Resource Services to attend meetings, to speak but not to vote, and thus obtains their assistance without losing its independence to appoint them for specific terms. In our view these officers should continue to attend meetings of the Board and also the appropriate standing committee meetings in the same way.

84. In 1985 the positions of Chairman of the Corporation and Chief Executive were separated by an Amendment to the Broadcasting Act. The Commission believes that the combination of both functions should never have been undertaken and that no one person should have been expected to carry the fundamentally incompatible responsibilities of these two positions at one and the same time. As Dr. R. J. Gregory has pointed out in this connection, the responsibility of "divining the national interest in regard to public broadcasting",¹⁸ the task of the Chairman and Board, is a very different task from the responsibility of the Chief Executive "for professional standards and for the representation of professional interests."¹⁹ The combination of functions must also have contributed for example to the practical shortcomings remarked upon in the *Report of the Commission of Inquiry into Contractual Arrangements* presented in April 1984.²⁰

85. Moreover, the Corporation has re-defined its structure so that now there is an Executive Committee (Excom)²¹ made up of all four executives attending the Board of the Corporation who themselves consider all major matters collectively. Three of these, the Directors-General and the General Manager Resource Services, as well as the Editor of the *Listener* and the General Manager of the Symphony Orchestra report directly to the Chief Executive, along with his other senior staff managers. The latest management structure, including changes within Television New Zealand noted below, is set out in the accompanying organisation chart provided to the Commission by the Corporation.

TABLE 2

OUTLINE ORGANISATION CHART OF
BROADCASTING CORPORATION OF NEW ZEALAND



86. In its letter to the Commission of 7 May 1986 already referred to above, the Corporation informed us that a reorganisation had been approved which considerably simplified Television New Zealand's senior management structure. There was now to be:

"... a management team of the Director-General and reporting to him a Director of Programmes and Production, a Director of Sales and Marketing, a Director of Finance, and a Director of Resources (Assistant Director-General).

A Controller TV1, and a Controller TV2 will report to the Director of Programmes and Production, responsible to him/her for scheduling of their channels and quality standards. Heads of Departments will also report to the Director.

The Controller of News, Current Affairs and Sport will report to the Director-General on editorial matters, but to the Director of Programmes and Production on make and scheduling."²²

87. The Commission has also received from the Corporation detailed organisational charts for the BCNZ since 1977. These are complex, reflecting the great number of specialities within broadcasting, and to a degree resulting from the Corporation possessing four centres of production in television as well as reflecting its origins as a combination of two separate channel structures rearranged on another basis.

88. Just as the Corporation's and Television New Zealand's most senior level of management has recently been simplified, the Commission considers that the Corporation should actively examine ways of further simplifying the middle management structure.

89. This problem was alluded to in the *Report of the Commission of Inquiry into Contractual Arrangements*, where a local manager's authority *vis-a-vis* production management was ill-defined and, it would be fair to say, considered by that Commission to be an inadequate arrangement.²³ We heard evidence that if production needs were to be given workable priorities, departmental direction would need to prevail over local managers of television stations. Since this conflict between area and department has continued from before the 1973 Committee of Inquiry (the Adam Committee),²⁴ it is advisable that a final settlement be arrived at and we would incline towards a solution giving the departmental heads overriding responsibility and authority with area functions centred on administrative support.

90. We also heard evidence of a constant tendency for middle managers blocked by a decision taken immediately above them, to appeal to a higher authority again in order to advance their case and that multiple lines of authority encouraged this tendency.

91. These difficulties are not present in the same way or to the same degree in Radio New Zealand where the authority of area and Station Managers and the overall management structure itself are well established,²⁵ and the regional and other characteristics of the stations within the particular radio networks and the characteristics of the networks themselves are more distinct. But the quantity of

decentralised production and its management is far less of a problem in radio than it is in television and it is far less expensive.

92. Thus, while the Commission favours greater assumption of responsibility at each level of senior and middle management beneath Director-General level consistent with the principles of divisionalisation and accountability, it recognises that this must be implemented only after adequate planning and consultation, and the necessary training in all functions delegated has been successfully carried through.

RESOURCES

93. The capital and reserve structure of the Broadcasting Corporation of New Zealand in relation to total funds employed is set out in the following figures taken from the Balance Sheets appended to the Corporation's annual *Reports* for the years 1981 to 1985. Other financial statistics are similarly drawn from this source unless otherwise stated.

TABLE 3

<i>Year ended 31 March</i>	<i>Balance Sheet Figures</i>				
	<i>\$000</i>				
	<i>1981</i>	<i>1982</i>	<i>1983</i>	<i>1984</i>	<i>1985</i>
Fixed Assets	54,910	54,509	85,552	93,375	99,253
Current Assets					
Cash, Bank and Investments ..	2,539	812	10,561	13,416	28,591
Debtors	12,079	19,440	24,612	31,271	32,770
Stocks	15,181	17,654	19,144	22,987	33,634
Less Current Liabilities ..	(12,986)	(14,170)	(15,989)	(23,510)	(32,629)
Funds Employed	71,723	78,245	123,880	137,539	161,619
Equity Capital	38,900	38,900	38,900	38,900	38,900
Capital Reserves	25,664	25,664	25,664	25,664	25,664
Revaluation Reserve (Buildings) ..	..	..	29,198	29,191	29,191
Retained Earnings (Accumulated Surpluses)	7,159	13,681	30,118	43,784	67,864
Capital and Reserves	71,723	78,245	123,880	137,539	161,619

94. The capital of \$38,900,000 was established by the Broadcasting Amendment Act 1977 by the capitalisation of national development loans taken out to build TV2 and to colourise both channels. The capital reserves of \$25,664,000 emanated from a transfer of the Accumulated Surplus Revenue as at 31 March 1977 of the Broadcasting Corporation and its predecessors. The revaluation reserve of \$29,191,000 was a result of revaluing 21 studio properties as at 1 April 1982. Valuations for 18 of the buildings were obtained from the Valuation Department. The remaining revaluations were based on valuations given by independent valuers.

95. The Minister of Finance's powers in respect of the Corporation are set out in Part IX of the Act. While the Minister of Finance, with the concurrence of the Minister of Broadcasting, is empowered in section 52A(3) in Part IX of the Broadcasting Act to advise that the capital of the Corporation be increased, this power has not been exercised by the Ministers in the period since 1977 when the present equity base was

established. Rather, during this period of rapid growth in assets, retained earnings have risen from being the smallest component of all capital and reserves to the largest single component as at 31 March 1985 of \$67,864,000. Therefore, the major portion of total capital and reserves, being Capital Reserves and Retained Earnings but excluding the Revaluation Reserve, is now derived not from funds provided by the state but from surpluses accumulated directly from Corporation revenue. This change is highlighted in the following table wherein the above figures are shown in percentage terms.

TABLE 4

Year ended 31 March	% of Funds Employed				
	1981	1982	1983	1984	1985
Fixed Assets	76	70	69	68	61
Current Assets					
Cash, Bank and Investments	3	1	9	10	18
Debtors	17	25	20	23	20
Stocks	22	22	15	17	21
Less Current Liabilities	-18	-18	-13	-18	-20
Funds Employed	100	100	100	100	100
Equity Capital	54	50	31	28	24
Capital Reserves	36	33	21	19	16
Revaluation Reserve	0	0	24	21	18
Retained Earnings (Accumulated Surpluses)	10	17	24	32	42
Capital and Reserves	100	100	100	100	100

96. Of the three potential sources of revenue to meet expanding capital requirements, new equity, term borrowing and post-tax surpluses, the Corporation has eschewed the first two in favour of the third as a matter of policy over the past nine years.

97. The then Chief Executive of the Corporation, Mr Cross, in a letter to the Commission of 5 December 1985, advised that it has no medium or long term debt:

"Cash flow from operating surplus and depreciation provides the internal funding limit for capital expenditure. There has been no borrowing for capital expenditure since 1976/77. . . .

The standby term loan facility was set up to provide funding for Television New Zealand studio equipment. This facility has not been drawn down.

Corporation policy in past years has been to fund capital expenditure from internal cash flows.

Thus the Corporation has not applied to the Minister of Finance for consent to borrow apart from the standby term loan facility of \$3 million."²⁶

98. Section 53(2) empowers the Minister of Finance to consent to borrowing (other than on overdraft) and to determine the terms and conditions of such borrowing and to the issue of debentures, mortgages or charges.

99. Quite apart from the Ministerial powers in regard to borrowing, the Corporation has determined not to borrow. However, there is a further constraint on borrowing which was enunciated by the Chairman of the Corporation who, when addressing this question, stated as follows:

"...When I was appointed I obtained a copy of the Corporation's balance sheet and looked with interest to see how much money we had borrowed from anybody and discovered that we hadn't and we don't owe anybody a dollar. And my immediate inclination was to think...there is the answer to some of our immediate capital problems—we will...borrow...whatever the figure may prove to be to get to grips with these things. But then you find that the rate of return which we earn is not enough to pay for the borrowing, let alone repay the principal. And so in a sense our difficulty is that we could alter our capital structure, but the only way we would get our profitability up to a level where we would function in a true private enterprise fashion is, once again, if we cut some services. Now this is this enormous philosophical jump from the way that we used to run broadcasting to where we are at now."²⁷

100. In respect of land and buildings and capital works including expenditure on equipment, the Minister of Broadcasting is empowered under Part VIII of the Act to approve of the disposal of interests in land, provided that the Minister may delegate, subject to conditions, to the Corporation the exercise of such powers (though the acquisition of land does not require the Minister of Broadcasting's approval) (section 46(b) and (c)).

101. Under Part IX the Minister of Broadcasting approves the form of the estimate to be prepared each financial year by the Corporation of the receipts and the amount of expenditure for all purposes of the Corporation (section 56(1)) and he approves a proposed programme of capital works for the ensuing year (section 57(1)). There is a proviso that the Corporation shall have regard to any directions in writing by the Minister in respect of capital expenditure generally and shall not undertake capital expenditure in excess of \$500,000 or such larger sum as may from time to time be specified by Order in Council (section 57(2)). The Treasury advises the Minister of Broadcasting in these matters.

102. Evidence to the Commission showed that nowadays there are very few significant items of capital expenditure under \$500,000 or for that matter \$1 million because equipment is usually purchased in bulk, so that purchases on capital items and equipment usually require the Minister of Broadcasting's consent. Accordingly, the level of expenditure the Corporation may undertake without the Minister of Broadcasting's approval could well be raised at once by Order in Council to \$2 million pursuant to section 57 of the Act.

103. In addition, the Minister of Broadcasting's power to approve all sales of land effectively means, given that the acquisition of land is

usually preceded by a sale in a rationalisation of holdings, that all land purchases are also subject to his consent. Thus, there are few significant areas of expenditure including expenditure on equipment which do not involve Government approval.

104. The most urgent needs in these respects were first for the replacement of the transmission towers built for TV1. All were approaching or past their predicted design life and some were showing signs of corrosion. If any one of them had collapsed, that could have led to a serious break in transmission for some areas lasting days or even weeks. An entire \$15 million programme is now in hand and work is well begun.

105. The second requirement was the construction of a Network Centre containing a News complex in Auckland. The Corporation occupied many buildings in Auckland to the detriment of its production efficiency there and particularly its television news operation. A Corporation video included shots of the lady with the bag whose business it was to walk steadily from the news room down into and across the valley of Queen Street and up the other side conveying the news script to the broadcasting studio. It made an impression in this age of instant news coverage. Consent for a rationalisation of buildings and property holdings by sale and purchase had been sought over some years. Change brought consent and, with Board encouragement, the highest priority was then accorded to needs which had been recognised for a decade. Meanwhile a temporary news headquarters was arranged to cover the construction period of the new facility.

106. But Mr Rennie's statement shows that a relaxation of Ministerial controls and a mere rearrangement of the capital structure of the Corporation would not of themselves necessarily put the Corporation in a position where it could begin to borrow for capital purposes. Such changes, desirable though they are in this Commission's view, given the growth in total assets since the present capital was established and the desirability of strengthening the Corporation's independence in financial decision making, would not change the Corporation's basic cash position at any time.

107. If extra cash is not injected by the Government as equity, however, a restructuring of capital simply involving the conversion to equity of some of the designated reserves and accumulated surpluses saved from past revenues should see the additional capital so created vested in the Minister of Broadcasting and not the Minister of Finance. We refer to the matter of the dividend requirement when we come to the section on profitability.

108. However, it should be noted that the Crown's total direct investment in the assets of the Corporation is not large compared with its very substantial investments in other areas and undertakings. We note, for example, that \$100 million has been set aside for potential additional investment in the Shipping Corporation of New Zealand.²⁸ This additional figure of \$100 million compares with the Crown's total shareholding of \$38.9 million in the Broadcasting Corporation of New

Zealand, a modest investment comparatively speaking in a fundamental section of the communications apparatus that binds the nation together.

109. The Commission believes that borrowings for particular purposes should begin to be undertaken where appropriate and where servicing of such debt can be wholly met from revenues earned from the section of the Corporation's activities to which the borrowings are applied. However, there seems little doubt that the prime requirement for the Corporation is to have an injection of fresh capital.

110. As regards licence fee revenues, the following table gives the distribution of television licences between monochrome and colour for the period 1974 to 1985. Figures are taken from the *Report* of the Broadcasting Corporation of New Zealand for the year ended 31 March 1985, Appendix C, page 28.

Television Licences—Colour and Monochrome

Year ended 31 March	Monochrome	%	Colour	%	Total	%
1974	742,384	98.4	12,239	1.6	754,623	100
1975	668,572	89.1	82,027	10.9	750,599	100
1976	622,271	76.7	188,911	23.3	811,182	100
1977	513,586	63.0	302,212	37.0	815,798	100
1978	449,360	53.3	394,195	46.7	843,555	100
1979	360,675	41.9	499,210	58.1	859,885	100
1980	299,838	34.0	583,183	66.0	883,021	100
1981	232,115	26.2	655,348	73.8	887,463	100
1982	180,390	19.7	733,447	80.3	913,837	100
1983	137,241	14.9	784,483	85.1	921,724	100
1984	109,430	11.6	833,804	88.4	943,234	100
1985	86,472	9.0	872,572	91.0	959,044	100

111. After the licence fee was last increased in 1975, to \$27.00 for black and white and \$45.00 for colour, growth in revenues from the licence fee continued, notwithstanding that the fee itself remained the same, because the proportion of total black and white sets to colour sets of 9:1 progressively reversed to nine colour sets for every one black and white set by 1985. So there is little more that can be expected in the way of increased revenue from the conversion from monochrome receivers to colour. There was also an increase in the total number of receivers over the period, and the two factors gave rise to the increase in revenues from \$16.9 million in 1975 to \$36.1 million in 1985, as set out in the following table. We were advised by the Corporation²⁹ that the overwhelming majority of households now have at least one television set, and because the licence fee is good for one or more sets in a household unit, little more revenue can be expected from that source either.

112. Licence fee revenues and the other main components of the Corporation's total operating revenue for the years ending 31 March 1974 to 1985, being net advertising revenue and revenue from the *Listener* combined and Other Revenue, are set out below. (In respect of the years 1981 to 1985, these figures equate to or in the case of "Other Revenue" approximate the figures set out in the Statement of Income & Expenditure 1981—1985 which follows.)

TABLE 5Total Operating Revenue
\$000

Year ending 31 March	Net Advertising and Listener	Net Licence Fees	Other Revenue	Total	CPI
1974	18,500 (18,500)	13,874 (13,874)	295 (295)	32,669 (32,699)	287
1975	22,168 (19,636)	16,864 (14,938)	532 (471)	39,564 (35,046)	324
1976	29,532 (22,304)	24,280 (18,338)	3,090 (2,334)	56,902 (42,976)	380
1977	39,820 (26,454)	25,960 (17,247)	2,287 (1,519)	68,067 (45,220)	432
1978	49,753 (28,847)	27,569 (15,984)	3,186 (1,847)	80,508 (46,678)	495
1979	55,747 (29,249)	29,467 (15,461)	3,231 (1,695)	88,445 (46,405)	547
1980	70,345 (31,204)	30,694 (13,615)	2,927 (1,298)	103,966 (46,118)	647
1981	85,717 (32,977)	32,355 (12,409)	4,169 (1,604)	122,141 (46,990)	746
1982	112,905 (37,504)	33,911 (11,264)	4,030 (1,339)	150,846 (50,107)	864
1983	140,455 (41,429)	33,862 (9,988)	5,760 (1,699)	180,077 (53,116)	973
1984	149,283 (42,546)	34,806 (9,920)	11,629 (3,314)	195,718 (55,781)	1007
1985	175,287 (44,052)	36,103 (9,073)	13,932 (3,501)	225,322 (56,626)	1142

The figures in brackets show the gross dollar figures converted into 1974 figures using the formula Actual Dollars x (287/CPI). They show the changing relationship between advertising and licence fee revenues in constant figures.

113. This change is more dramatically represented when the actual dollar figures are represented as percentages:

TABLE 6Total Operating Revenue
%

Year ending 31 March	Net Advertising and Listener	Net Licence Fees	Other Revenue	Total
1974	56.6	42.5	0.9	100.00
1975	56.0	42.6	1.3	100.0
1976	51.9	42.7	5.4	100.0
1977	58.5	38.1	3.4	100.0
1978	61.8	34.2	4.0	100.0
1979	63.0	33.3	3.7	100.0
1980	67.7	29.5	2.8	100.0
1981	70.2	26.4	3.4	100.0
1982	74.8	22.5	2.7	100.0
1983	78.0	18.8	3.2	100.0
1984	76.3	17.8	5.9	100.0
1985	77.8	16.0	6.2	100.0

114. These figures show the well-publicised decline of licence fee revenues as a percentage of total operating revenue in the years from 1975 until 1985. At the time of reporting the figure had dropped further to approximately 13 percent of total operating revenue.³⁰ This last figure does not of course take account of the recently announced increase in the licence fee, to be called the public broadcasting fee, to \$65.00 and \$35.00 plus GST which is to be effective from 1 November 1986.

115. As regards television advertising revenues, in the period from 1975 to 1980 the Corporation sold advertising space for TV2 separately from space on TV1. This was a continuation of the process of building the revenue in that channel (TV2) begun in 1975. However, national advertisers showed a continued preference for the established first channel notwithstanding the vigorous marketing of the spare advertising capacity on the second channel, which tended to be taken up by regional advertisers. The decision was then taken in 1979 to totally co-ordinate programming on both channels by seeking to attract equal audiences to the two and any residual competitive element was extinguished. This enabled the Corporation to maximise potential revenue earning capacity.

116. If the Corporation has exploited its monopoly in television advertising which it is said to have been doing by some of those making submissions to us, it would seem that it was most likely to have been doing so in the period 1981/1982. But of course the Corporation is effectively in competition with other media for advertising at all times, to such a degree that in February 1986 the Corporation was publishing in a promotional booklet, *Television & Other Media 1982—1985*, that its rates were becoming increasingly attractive in relation to other media.³¹ This booklet showed that, even though television advertising rates were increased by 9.7 percent in 1984 following the price freeze and again in 1985 by 13.9 percent, the electronic media of radio and television were still more cost efficient for advertising in 1985 than in 1982 and in this respect compared very favourably with other media over the same period. The new management of the Corporation then raised the rates again in 1986.

117. In the Commission's view therefore, it is at best an unsupported simplification to assert that the Corporation has been unremittingly monopolistic in its pricing policy. While there is debate about the potential growth in television advertising revenues in future, to which we will allude in the section dealing with the Corporation's capacity to compete, it seems highly unlikely (given the desirable restrictions on advertising time and requirements for balanced programming) that advertising revenues will continue to rise in the next five years as quickly as they have in the past five, though rates of growth in the economy as a whole will have a bearing on this.

118. The combined elements of the Corporation's basic income and expenditure over the five years 1981 to 1985 are set out below in dollar terms to indicate the scope of the Corporation's operations and to give

some particularity, and again in percentage terms for greater clarity of understanding.

TABLE 7
Income and Expenditure

<i>Year ended 31 March</i>	<i>1981</i>	<i>1982</i>	<i>1983</i>	<i>1984</i>	<i>1985</i>
<i>INCOME</i>			\$000		
TV and Radio Advertising Revenue	76,406	101,035	125,219	132,963	157,799
NZ Listener and BCNZ Enterprises	9,311	11,870	15,236	16,320	17,488
Net Licence Fee	32,255	33,911	33,862	34,806	36,103
Other Income	2,861	3,024	4,101	8,168	8,589
Concert Proceeds	738	740	751	1,346	905
Grants-in-Aid	180	180	..	..	..
Net Operating Income	<u>121,750</u>	<u>150,760</u>	<u>179,170</u>	<u>193,603</u>	<u>220,884</u>
<i>EXPENDITURE</i>			\$000		
Wages, salaries and related costs	64,245	78,083	83,957	86,984	91,465
Depreciation	6,205	7,044	8,668	9,448	11,507
Bad Debts, Audit and Directors Fees	223	433	215	760	620
Other costs	51,054	60,630	72,399	86,999	99,899
Less Capitalised engineering costs	..	(1,535)	(1,561)	(1,740)	(1,769)
Net operating Expenditure	<u>121,727</u>	<u>144,655</u>	<u>163,679</u>	<u>182,451</u>	<u>201,722</u>
Surplus (Income—Expenditure)	22	6,105	15,491	11,152	19,162
Plus Net Interest Revenue	423	86	908	2,115	4,438
Surplus before Non-Operating Income	445	6,191	16,399	13,267	23,600

TABLE 8
Income and Expenditure (Percentage Analysis)

<i>Year ended 31 March</i>	<i>1981</i>	<i>1982</i>	<i>1983</i>	<i>1984</i>	<i>1985</i>
<i>INCOME</i>			%		
TV and Radio Advertising	63	67	70	69	72
NZ Listener and BCNZ Enterprises	7	8	9	8	8
Net Licence Fee	27	22	19	18	16
Other Income and Concert Proceeds	3	3	2	5	4
Net Operating Income	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<i>EXPENDITURE</i>			%		
Labour Costs	53	52	47	45	42
Depreciation	5	5	5	5	5
Other Costs (Not itemised)	42	40	40	45	45
Less Capitalised engineering costs	0	-1	-1	-1	-1
Net Operating Expenditure	<u>100</u>	<u>96</u>	<u>91</u>	<u>94</u>	<u>91</u>
Operating Surplus	0	4	9	6	9
Plus Net Interest Revenue	0	0	0	1	2
Surplus before Non-Operating Income	<u>0</u>	<u>4</u>	<u>9</u>	<u>7</u>	<u>11</u>

Note that percentages are expressed as a percentage of Net Operating Income. Where figures do not add to 100% this occurs because of rounding.

119. It is of particular concern to the Commission that depreciation and capitalised engineering costs have been accounted for on a fixed percentage basis. In particular in our view, it may be that the 5 percent straight line depreciation provision has been inadequate of itself to replace existing plant. There must be some doubt given that there is an urgent need to replace plant, especially the television towers installed in the 1960s for TV1, that this approach is adequate. We would prefer to see depreciation accounted for in a way that more nearly approximated the life of equipment and the rapidly rising costs of replacement, and we note that in its most recent *Report* for the year to March 1986 the Corporation applied varying rates of depreciation on a straight line basis to different categories of assets over their estimated useful lives.

120. In addition, capitalised engineering costs should be deducted on the basis of time actually spent by engineers on the installation of new plant as opposed to the maintenance of old. We believe that maintenance engineers have been maintaining existing plant and replacing it on the one hand, and installing completely new capital equipment on the other without sufficient differentiation between the two.

121. All of this has led us to a concern that the replacement of existing plant and the funding of new projects is being undertaken from what we believe may be the same resources. In short, new capital expenditure should not be funded from monies set aside for the replacement of existing plant. On top of that, if the level of the provision for depreciation is inadequate in the first place, this will increase the need to supplement depreciation monies with funds required for new capital works and equipment. The Corporation is now committed to a long delayed programme of capital expenditure.

122. It would appear that the depreciation provision may have had the effect of increasing the apparent rate of return in the five year period under review. This situation, in our view, is one that needs special attention in the context of a separate review of capital and the desirability of entering into an associated borrowing programme for new capital expenditure.

123. Figures were provided by the Corporation³² at the Commission's request which were indicative of the non-commercial deficits and commercial surpluses over the 1981—85 period. These figures showed a trend whereby, while the Corporation has been making increasingly large surpluses on what it considered as its commercial operations, it has at the same time been incurring increasingly large deficits on its non-commercial operations which since 1982 have been growing at an equal rate, and the Corporation has been covering these deficits with the commercial surpluses. This is at the heart of the Corporation's claim that its gross surpluses are not to be regarded as profits in the normal commercial sense, a view with which the Commission concurs, the surpluses having been generated even at the expense of range in programming to make up for the shortfall in non-commercial (principally licence fee) revenues. It is also to be noted that, as shown in the Income

and Expenditure Statement above, because licence fee revenues have always been included in operating income, there would have been no net surplus in any of the five years covered without the licence fee contribution. Indeed the losses would have ranged from approximately \$32 million in 1981 to \$12.5 million in 1985. In our view there have only been three reasonably good years and even then they needed the licence fee.

TABLE 9
BCNZ CASH FLOW FORECAST

(Note: 1984/85 and 1985/86 in nominal dollars : all other figures in 1986/87 dollar terms)

	1984/85	1985/86	1986/87	1987/88	1988/89	1989/90	1990/91	1991/92
Base Income	225.965	266.976	293.732	293.732	293.732	293.732	293.732	293.732
Growth less Investment Income loss			0.000	6.971	15.750	24.848	34.279	44.054
Licences at \$65 (Note 1.)			9.000	11.853	6.677	1.787	-2.699	-6.661
	225.965	266.976	302.732	312.556	316.159	320.367	325.312	331.125
Base Expenditure	201.719	238.555	279.618	279.618	279.618	279.618	279.618	279.618
New Activities			6.167	20.212	26.630	30.737	44.967	39.324
	201.719	238.555	285.785	299.830	306.249	310.356	324.586	318.942
Operating Surplus	24.246	28.421	16.947	12.726	9.910	10.011	0.726	12.182
Less Interest (Note 2.)			2.077	-6.318	-14.892	-18.549	-20.372	-22.307
Taxable Surplus			19.024	6.407	-4.982	-8.538	-19.646	-10.124
Less Tax (Note 3.)			-9.131	-3.075	0.000	0.000	0.000	0.000
Surplus before Dividend			9.892	3.332	-4.982	-8.538	-19.646	-10.124
Less Dividend			-9.000	-10.000	-7.000	-5.000	-5.000	-5.000
Retained Earnings (Note 7.)	24.246	28.421	0.892	-6.668	-11.982	-13.538	-24.646	-15.124
Capital Expenditure (Including base)			54.297	89.870	57.445	18.500	18.500	18.500
Cash Flow—								
Balance Brought Forward			30.000	-9.366	-84.273	-129.176	-136.691	-155.313
Net Cash Flow for the Year (Note 4.)			-39.366	-74.907	-44.903	-7.514	-18.623	-9.101
Balance Carried Forward			-9.366	-84.273	-129.176	-136.691	-155.313	-164.415

Increase in Licence Fee in 1986/87 required to cover the Cumulative Cash Flow deficit is \$102 including the \$65 allowed for, but excluding GST.

TABLE 9—continued**BCNZ CASH FLOW FORECAST****ASSUMPTIONS:**

1. The 1986/87 estimates as approved represent current base activity levels for all services.
2. Adjustments are confined to those declared and already approved, eg BAPS operating costs, or proposals yet to be approved at Board but discussed at EXCOM.
3. That there is a base replacement CEP of \$18.5 million current throughout.
4. That the dividend is based on the Government Expenditure Reform paper.
5. That the total cash flow deficit grows evenly for the whole year. Interest stays at 15%.
6. That a licence fee increase of \$20/unit provided \$18.0 million in a full year.
7. No third channel during period of review.
8. Staff numbers remain constant.

Notes:

1. Extra Licence Income less impact of inflation on all Licences based on 900,000 licences total.
2. Calculated at 15% on average of opening and closing balances.
3. At 48c on taxable surplus, including Licence Fee Income.
4. Sum of Retained earnings, Capital expenditure and Depreciation less capitalised labour.
5. New activity costs include extra depreciation from additional investments.
6. Additional Capital Expenditure is for 1986—1989 only. These levels are from the 3 year plan at present under review.
7. 1985/86 Retained earnings is a provisional estimate only.

10 June 1986

124. We refer now to the accompanying Cash Flow Forecast which was provided to the Commission by the Corporation in June 1986. In this forecast, depreciation was deducted as part of base expenditure and added back in when calculating the net cash flow for the year as described in Note 4 to the forecast. The Cash Flow Forecast was calculated on the basis of a \$65.00 licence fee. Note 1 relates to the third line of the forecast which shows the extra licence fee income over and above \$45.00 less the impact of inflation. In 1986/87 this additional income is less than for a whole year. Projected tax and dividend payments exceed the real increase in the fee in 1986/87 onwards. (This remains true for 1986/87 notwithstanding the halving of the dividend requirement from \$9 million to \$4.5 million mentioned later in this section of the *Report*.)

125. Taken together with the Income and Expenditure Statement this forecast showed that even under current conditions when there was no third channel 1985/86 was the last year in which the Corporation would achieve a significant level of retained earnings and that in 1986/87 tax and dividend requirements would reduce the last substantial taxable surplus to an insignificant level of retained earnings. The forecast showed that there was also to be by March 1987 a rapidly growing trend of serious deficits in the balance carried forward which would culminate in a deficit of \$164.4 million in 1991/92. The Corporation which provided this forecast had been placing increasing emphasis on accurate and realistic financial planning which led the Commission to consider this forecast reliable and we leave it to the reader to contemplate the impact upon the Corporation and its finances that can be expected when the third channel takes up one-third, more or less, of the television advertising market.

126. As the Corporation's non-commercial activity and capital expenditure programme had been increasingly dependent on its ability to generate positive cash flows, this trend towards large deficits is a principal concern of this Commission which we consider will urgently require to be addressed and rectified. Parliament will now be aware that forward projections show a deteriorating position for several years which has been reported to it in the Corporation's annual *Report* for the year to March 1986³³ presented to Parliament in September 1986 just before this Commission's reporting date.

127. The Commission does not however believe that the question of adequate funding represents a structural difficulty, nor do we believe that it justifies a major reorganisation of the methods of funding public service broadcasting. We believe that the capital of the Corporation should be increased and that the licence fee should be increased. We believe that at the same time the Corporation must clarify its accounting and priorities so that it can point not only to the clearly public broadcasting elements in its activities which it supports with licence fee funds but also so that the public in general and private warrant holders can see from the accounts that no competitive advantage is being derived from the licence fee contributions of the New Zealand audience

as a whole. While of course it is the Corporation's relationship with its listening and viewing public, who after all pay the fee, which is of paramount importance, it is also clear to us that the Corporation's lack of clarity in this matter has caused difficulties in the management of the Corporation's relationships with The Treasury and in the opinion held of it by its competitors.

FINANCIAL EFFICIENCY

128. The following tables and graphs are based on figures taken from the Annual Accounts, as appended to the Annual Reports, for the years 1981 to 1985.

TABLE 10

Statement of Changes in Financial Position

Year ended 31 March	1981	1982	1983	1984	1985
			\$000		
<i>Funds were provided from:</i>					
Surplus before non-operating income	446	6,191	16,400	13,267	23,600
Depreciation	6,205	7,044	8,669	9,448	11,507
Capital profit on sale of fixed assets	353	331	37	399	480
Prior period adjustment	(121)	..	..	..	..
	<u>6,883</u>	<u>13,566</u>	<u>25,106</u>	<u>23,114</u>	<u>35,587</u>
<i>Funds were applied to:</i>					
Increase in fixed assets	8,898	6,643	10,514	17,278	17,385
Increase in working capital	(2,015)	6,922	14,592	5,836	18,202
	<u>6,883</u>	<u>13,566</u>	<u>25,106</u>	<u>23,114</u>	<u>35,587</u>

129. From 1982 to 1985 there was an improving situation with sufficient internal cash flow to fund the purchase of fixed assets. However the large increases in working capital in 1983 and 1985, based upon increased stocks and debtors, and the large cash surplus in 1985, indicate that there either may have been a substantial change in purchasing policy or that there may be a need for stricter financial control over stocks and debtors, which would result in more funds being available for the Corporation's capital expenditure programme. The need for stricter control of debtors should be examined bearing in mind that this may have been done since all these figures are to March 1985. But, looking to the future, it is a feature of competitive television organisations that they need to hold larger stocks of programmes purchased from outside than a single purchaser is able to do, so any improvement in this area may be shortlived.

130. The following table provides an analysis of the balance sheet data in the form of various ratios which provide a basis upon which to assess the financial soundness of the Corporation.

Ratio	Year ended 31 March				
	1981	1982	1983	1984	1985
1. Working Capital Ratio (Current Assets/Current Liabilities)	2.3	2.7	3.4	2.9	2.9
2. Stock and Debtors/Operating Income (%)	22.4	24.6	24.4	28.0	30.1
3. Net Return/Public Equity (%)	0.6	7.9	13.2	9.6	14.6
4. Public Equity/Total Liabilities	5.5	5.5	7.7	5.9	5.0

131. An analysis of the balance sheet, as evidenced in the ratios, shows an improving situation over the five years, with the Corporation in a reasonably strong financial position. The balance sheet reflects the growing working capital position over the period (ratio 1) which would be considered more than safe in any private sector business.

132. However ratio 2, which can be used as a measure of management efficiency—a lower ratio indicates tighter financial control—shows the disturbing increase in the ratio of stocks and debtors to total income.

133. The net return on public equity (ratio 3) shows an improving situation over the period. It is to be noted that the return is after deduction of non-commercial losses. Given the fact that one of the primary purposes for which surpluses have been generated in the Corporation's case has been to cover these deficits, the Commission considers that it is reasonable that they be taken into account in calculating this ratio.

134. Ratio 4 reflects the structural efficiency of the Corporation. This ratio of public equity to total public liabilities would, in the private sector, be the basis for a company's ability to borrow and to maintain a balance between the equity cost of financing and outside borrowing. A low ratio would indicate a high risk factor and a poor ability to borrow. The Corporation's high ratios indicate a low risk factor and in that respect a substantial ability to borrow. Such ratios may also indicate an inefficient allocation of resources between equity capital and outside borrowing.

135. As regards the income and expenditure of the Corporation, the earnings of the BCNZ increased dramatically between 1981 and 1985, and this came almost exclusively from operations while capital profit on the sale of fixed assets contributed only a small amount to the overall surpluses. While this increase in earnings offset the increasing non-commercial deficit which had resulted from the lack of increase in the licence fee, it overwhelmingly represented an increase in advertising revenue to March 1985. The expenditure pattern indicates good control on labour costs in the five year period under review, no doubt assisted by the wage and salary freeze. Annual reports also indicate either stability or decline in staff numbers. Other costs increased, but generally in line with revenue increases.

136. We have not included comparisons of BCNZ results with statistics from other sectors of the economy because we do not believe that such comparisons between an entity as specialist in its nature as the BCNZ with averaged statistics from a range of other enterprises is a valid approach. Another approach to measuring the performance of the Corporation has been suggested which involves splitting the Corporation's published capital and expenditure accounts into commercial and non-commercial. We do not believe that that would contribute to a better understanding of the Corporation's performance because it would only be meaningful if the Corporation itself and television in particular were in fact to be split entirely into commercial and non-commercial operations. Given the Corporation's statutory goals

we remain unconvinced that this is justified. Rather we are concerned that it would be to the detriment of public service broadcasting both structurally and financially and especially so should the third channel arrive and broadcasting standards on television be placed under common pressures.

137. However, the Commission has concluded from the foregoing analyses that the BCNZ achieved a reasonable level of financial efficiency over the five years considered if we neglect to take into account the growing backlog of replacement, the current need to upgrade facilities and the deferred rationalisation of properties and buildings. This as we have observed in part grew out of the inability to get the necessary consents although the precise part played by other factors is unknown. Nevertheless, the growing buoyancy of the surpluses during the five years was in part artificially induced by a deferred and insufficient capital expenditure programme. As soon as a fresh approach was adopted by newcomers and the consents where they were necessary were forthcoming, the costs of the capital expenditure programme were reflected in the forecasts for the period after our five years end and the years of surplus seem set to end abruptly.

138. One further matter of accounting and accountability which in the Commission's view requires to be addressed is that the Corporation in future must be able to state precisely what its public service activities are which we believe is for the Governors themselves to initiate. But it must also endeavour to state what they cost to achieve so far as they can be translated into money terms. This is more difficult than to state precisely the non-commercial services to which the licence fee is devoted. A selection of the more obvious public service activities including the non-commercial undertakings are enough to absorb the licence fee even if further increased. But there will still be a residual group of activities and effects which are public service in nature but often qualitative and difficult to quantify.

139. We recognise that this will involve a different and indeed more difficult ongoing responsibility for the Corporation. In television in particular, but also in radio, the public service function permeates the whole range of programming and determines its structure, including the range of programmes broadcast on the two channels, and the times they are scheduled. In the last analysis one cannot separate out the public service element from the television service as a whole. The non-commercial activities of the system clearly form the most easily identifiable part of these public service functions, and must be costed accordingly, but we do not believe that public service broadcasting costs can be equated with the non-commercial costs. We consider that the public service elements are greater than that and it is expenditure of public monies on these activities, whether by way of capital or licence fee, that must be separately accounted for.

140. Information provided to the Commission by the Corporation shows the allocation of licence fee revenue both in dollar and

percentage terms over the five years to March 1985. In 1983/84 a policy was adopted of allocating the revenue on a 50/50 basis between Radio New Zealand and Television New Zealand, after providing for the deficit on managing the New Zealand Symphony Orchestra. We were advised that the *New Zealand Listener* is self-sufficient.

TABLE 11*Allocation of Licence Fee Revenue*

			\$				
			1980/81	1981/82	1982/83	1983/84	1984/85
TVNZ	..	..	16,501,475	17,348,907	17,324,079	15,509,486	15,889,988
RNZ	..	..	9,302,239	9,779,954	9,765,959	15,509,486	15,889,988
NZSO	..	..	2,032,043	2,136,398	2,133,340	3,787,382	4,323,048
Resource Services	..	..	4,418,885	4,645,817	4,639,169	..	..
Total (Net)	..	..	32,254,642	33,911,076	33,862,547	34,806,354	36,103,024
Collection Charges (to NZPO)	..	..	3,149,544	4,172,678	4,710,101	5,216,034	4,568,701
Total	..	..	35,404,186	38,083,754	38,572,648	40,022,388	40,671,725

Allocation of Licence Fee Revenue

%

			1980/81	1981/82	1982/83	1983/84	1984/85
TVNZ	..	..	51.16	51.16	51.16	44.56	44.01
RNZ	..	..	28.84	28.84	28.84	44.56	44.01
NZSO	..	..	6.30	6.30	6.30	10.88	11.98
Resource Services	..	..	13.70	13.70	13.70	..	..
Total	..	..	100.00	100.00	100.00	100.00	100.00

141. While these figures show in very broad terms where the licence fee has been allocated, the public is entitled to know more than this. In that regard, in our hearings and correspondence with the Corporation our concern was twofold. First, we considered that divisional accounts should be produced by the Corporation in order to assist its Board and senior management in the management of the enterprise. When we were advised in Mr Cross's letter of 5 December 1985³⁴ that divisional balance sheets were not prepared by the Corporation, the Chairman of the Corporation wrote to us again on 19 December to say:

"I have been advised by counsel that the Commission has been concerned at aspects of our reply to Question 12 (page 4 of our letter of 5 December) which appeared to indicate refusal to provide information in a particular form.

I immediately asked for a report on this point, and having received it, consider I should make the full report available to the Commission. It is enclosed accordingly.

When I first saw your request on this matter, I knew that we were unable to provide information in the form required, and minuted your letter to executives with a note that the best possible details were to be provided. I regret that in the reply it was not made clear that we had provided all the accounting information that was available.

We are making substantial progress towards a more sophisticated reporting system which would provide service profitability statements. Even when completed, this would still be an indicative reporting tool, not an auditable accounting procedure. I have enquired as to whether this process could be accelerated, but the introduction of new software, the establishment of new asset allocation criteria, and a major task in the subsequent reallocation of assets and a review of data collection processes cannot be further abbreviated.

I would emphasise that we believe our present systems provide adequate reports for our management purposes and the new system will be an enhancement rather than the remedying of a deficiency.

I would be available myself, or would require executives to be available, to meet with the Commission if this would assist."³⁵

142. While we were somewhat reassured by this, the second reason why we had been pressing the point regarding accounts showing the breakdown of expenditure was that it was becoming apparent to the Commission that the provision of current divisional accounts is a necessary first step towards full accountability.

143. This matter too is now being addressed by the Corporation in a way that it has not been in the past as was indicated by the Chairman of the Corporation, Mr Rennie, again in his evidence towards the end of our hearings on 28 February 1986:

"...It must be acknowledged that the structure of the accounts and the reporting systems which presently exist do make the management task of those divisions difficult. Certainly it is possible for costs to be generated, most particularly but not always, in resource services which then come to impact on the programme divisions afterwards, when in fact transfer of the costs arises. That is an unsatisfactory situation.

When I first gave evidence before the Commission I said that I was satisfied with the accounts, or the accounting systems, because of the progress that was being made and the direction in which it was headed, but in fact we were in a status quo situation and I would not be satisfied with that; and it was exactly that kind of problem I was thinking of at the time.

We are in the course of moving to a situation where each division would have much fuller control over its assets, would have more direct control over its pricing, and will in that sense have a simpler management task. We also will be slightly altering the upper end of the executive structure, so that the Chief Executive will be supported by a financial person who is able to draw out the overview of the Corporation's total position."³⁶

144. As regards accounting for expenditure of the licence fee, Mr Rennie went on to say: "I think that if the proposition is that it should be possible to see what the allocation of the licence fee monies is, so that the public can understand that, I have no difficulty with that. Indeed, as I indicated a little earlier in the evidence, we are in the course of moving towards, in fact very near, indeed a matter of days I would think, to the adoption of a procedure which will enable that information to be identified. Whether in fact it is practical to state that in the financial statements to which you are referring is a different matter altogether."³⁷

145. On 15 April 1986 the Corporation wrote to us providing on a confidential basis a Scheme for Allocation of Revenues³⁸ deriving from the public broadcasting fee which will in most respects do so to the level of particularity sought by this Commission. But the allocation of the fee in this precise manner must in future be accompanied by a public statement of all the public service broadcasting activities towards which the licence fee is to be put and the expenditure of the licence fee on these activities must, in the Commission's view, be accounted for as a separate part of the published accounts if necessary.

146. While, for example, Radio New Zealand does not use any licence fee revenue in supporting the commercial community network stations, the licence fee is used to support the two non-commercial radio networks, to extend transmission into uneconomic remote areas and to support specialist production in radio.

147. The difficulty is of course that the overwhelming percentage of broadcasting, when one takes television into account and aspects of radio also as, for example, the extensive network and community news coverage, is commercial in the sense that advertisements are carried but is public service in character when one examines the elements of coverage and programming quality and range in particular.

148. In the following term of reference we recommend that the licence fee be set independently and in this term of reference that it be set at a commercially fixed level using the nearest possible analogue, the annual subscription to a metropolitan daily newspaper in one of the four main centres. A newspaper represents a combination of daily information, daily education and an element of entertainment which is supported by a mixture of its cover price set commercially plus advertising revenues. The newspaper is thus well able to be compared with the public broadcasting system especially television both as a resource for families and in terms of its mixed funding base.

149. As regards the fee being set independently, here again there is no possibility of this being satisfactorily achieved if accounts are prepared and presented solely in the way that they have been. A precise accounting and projection of licence fee expenditure will be even more important when the Corporation is seeking an increase in licence fee as it will then have to lay out its future plans, and the associated costs of carrying them out, and delineate the public service elements of those projected plans and costs.

150. Section 59(2) of the Act states that the Corporation should in its annual *Report* provide such other Statements of Account as may be necessary to show fully the financial position of the Corporation and the financial results of its operations during that financial year. It may be that the requirement to show divisional accounts and certainly the public service broadcasting activities, costs and the public broadcasting fee contribution to them should be added to this section.

151. In particular the Commission believes that the BCNZ should be able to state explicitly the cost of the following public service broadcasting activities: maintaining radio and television coverage in areas of the country that a purely commercial broadcaster would consider uneconomic and even of extending that uneconomic coverage; the cost of funding completely non-commercial radio activities including intensified news coverage and national current affairs; the costs of additional in-depth current affairs programming on television and the costs of stationing correspondents overseas (where these are greater than a commercial broadcaster would consider economic to provide); the costs of specialised programming such as nature films and minority programming; the costs of educational programming and the costs of pushing support for New Zealand production, whether made by the Corporation or independently, from 30 percent towards 37 percent of television content; and the costs of supporting additional local dramatic productions where commercial criteria would favour importing overseas programmes, not to mention the cost of funding the Orchestra. As regards local programming, a project by project assessment of local productions may well be called for as not all can be regarded as being public service programmes requiring licence fee support.

152. The Commission is in no doubt that the cost of part of these specific activities will fully account for the licence fee income and any foreseeable increase in it. As a practical matter it is only when this question has been properly addressed and answered by the Corporation that some of the past difficulties surrounding the level of the licence fee will be resolved. We would make the point however, that it is to the Corporation itself and not to the Government that Parliament has delegated the responsibility for carrying out the task of public service broadcasting. We are aware that any third channel warrant holder may have imposed upon it programming requirements pursuant to section 80 of the Act and that all broadcasters are subject to the basic requirements of section 3. But it will be all the additional public service activities of the Corporation in radio and television for which the fee will be a contribution.

PROFITABILITY

153. It can be seen from the foregoing that, while the Corporation has recently been generating substantial revenues, that must be set against a projected expenditure in the region of \$200 million over the next four years on capital items and equipment³⁹ much of which has been long deferred. In those circumstances we do not consider that an overriding

purpose of the Corporation should be to return a monetary dividend to the Government on its investment in the Corporation. There are three reasons. The first is that the Corporation plays a leading role, undoubtedly the leading role, in the popular cultural daily life of the country. The public has paid monies, directly by way of licence fee and indirectly via the commercial community in the cost of advertised goods and services, to the Corporation and its predecessors over many years for the specific purpose of building up the transmission system and the range of programmes.

154. The second reason is that any dividend declared by any purely commercial company can only properly and legally be made from a genuine profit after proper provisions. The dividend required by the Government is not of this kind however, but rather is in the nature of an economic disciplinary measure. Its quality is shown by the fact that, soon after it was set at \$9 million in the statement on Government Expenditure Reform,⁴⁰ the requirement was reduced to \$4.5 million.⁴¹ As a Commission we do not consider that this overall approach is appropriate in the case of the Corporation: rather we believe that the dividend that the Corporation should be providing is an ever-widening range of programmes.

155. In that regard the provision in the Act for the Minister of Finance to call for dividends might, as a decision, be shared with the Minister of Broadcasting. Assuming current difficulties are overcome, and public service elements properly delineated and largely met by the fee, then thirdly, true profits after proper provisions could then either be paid to the Government as shareholder in the normal way or reinvested in the Corporation to speed up the attainment of the public service goals. This again is something the two Ministers should consider with the purposes of the Act in mind.

156. As regards taxation, it is to be noted that the reason the Corporation has not paid income tax in recent years is because it has substantial accumulated tax losses, although we understand that income tax payments will be required of the Corporation in future years. In the meantime the Corporation is engaged in correspondence with the Commissioner of Inland Revenue in relation to certain unresolved matters, and just as we consider that the matters of capital structure, borrowing and the licence fee should be addressed, so we would urge the Corporation to endeavour to reach a speedy resolution of these questions including, if necessary, the urgent question of an adequate provision for depreciation.

157. At present section 60 of the Act provides that the income of the Corporation is exempt from income tax except insofar as it is derived from the operations of television stations and commercial radio stations, the *Listener* and the Symphony Orchestra. The Corporation is liable for the payment of land tax. Television activities involving advertising are thus assumed to be commercial whether they are public service activities or not. If the Corporation is required to define and account for its public service activities reasonably and fully up to the limits of

quantification, as we suggest it should, this would also in our view provide a sounder basis for isolating those other parts of its income not to be exempt from income tax. Section 60 presumes a split between commercial and non-commercial activities which is, as we have pointed out, both descriptively inadequate and quite inappropriate to the Corporation's role.

THE CAPACITY TO COMPETE WITHOUT LOSS OF PROGRAMME QUALITY

158. This question rests on whether or not profitability is possible under conditions of third channel competition. It is generally acknowledged that the Corporation will lose significant television advertising revenues immediately a third channel is introduced and it follows from what has already been stated in this paper that that will have a very serious impact on the Corporation's surpluses let alone profitability. The Corporation's ability to recover this lost revenue thereafter will however depend to a very considerable degree on whether the amount of money spent overall on television advertising in New Zealand will grow when a third channel is introduced, and if so by how much.

159. The new Chief Executive of the Corporation, Mr N. A. Dick, commented in evidence to us⁴² on the estimates made by the applicants for the third channel as to the amount of the Corporation's television advertising that a third channel would take and the likely size of the market with three commercial channels.

160. Mr Dick did not consider that additional outlets for advertising necessarily led to increased rates of advertising growth. Commenting in his Brief of Evidence on statistics relating to the introduction of second radio stations in particular areas of Australia he concluded:

"... that additional media outlets in a market of any size do not create additional advertising growth. The larger markets suffer less from competition than the smaller ones, indeed they appear to take revenue from them. However, real growth rate has nevertheless declined.

In my opinion, it is a fact of marketing that there are only a certain number of dollars to be spent in each market. The addition of media outlets will, as a generalisation, lead to reduced growth not increased growth."⁴³

161. Mr Dick noted that advertising growth rates as a percentage of GDP had flattened out in both Australia and New Zealand since 1981. He cautioned that in comparing the two economies, a similarity should not be assumed, when they are in fact very different.

162. In particular, Mr Dick considered that:

"In my opinion Australia with three cities as large as Auckland (Perth, Adelaide and Brisbane) and two cities three times the size of Auckland (Sydney and Melbourne) by sheer weight of population and density provides a competitive impetus for the spending of larger advertising budgets. The larger cities

contain more retail and service outlets in all areas of marketing. Product distribution is wider and more advertising is logically required to gain and maintain share of market.

The perception that larger more dense cities are more attractive to advertisers and that they attract a disproportionate share of advertising dollars... is borne out in the New Zealand context. Figures for 1984/85... show that the main population centre (Auckland) generates a far higher level of regional advertising revenue in relation to its coverage population...

In 1983 advertising as a percentage of GDP in the U.K. with an approximate population of 60 million people was 1.39 percent against Australia 1.44 percent with New Zealand 1.2 percent.

The question must be asked: Can New Zealand with a population of only 20 percent of Australia and 5 percent of the U.K. ever expect advertising as a percentage share of GDP to be as high as countries which contain many more people and many more larger markets? In my opinion it is unrealistic to believe this can be the case. It would be a serious gamble indeed to assume that it will or can be. For what is at stake is commercial viability of the electronic media...⁴⁴

163. The contrary view was summarised on behalf of the Association of Accredited Advertising Agencies by the Association President, Mr H. J. Mackley, who in his written evidence stated:

"As an Association we have to have regard to the well-being of our industry and the members we represent. Therefore it is of concern to us that the investment level in New Zealand is not as high as that of our nearest neighbour and competitor—Australia. This point is clearly highlighted when comparing the following key industry indicators (1984 financial year):

	<i>New Zealand</i>	<i>Australia</i>
Advertising Expenditure as a percentage of GDP	1.34	1.50
Advertising Expenditure Per Capita (\$NZ)	139	263

The difference, in many respects, is a reflection of the difference in the level of maturity of the media between the two markets...

We are aware that comments have been made that the establishment of a third television channel could result in advertising revenue being re-allocated at the expense of existing media—especially newspapers and radio.

This would be true if advertising spending was static, but it is not. For example, in New Zealand advertising expenditure has grown over the period March 1979 to March 1984 by 127%—from \$196m to \$444m. Over the same period the Consumer Price Index moved by 84%.

Had a third channel been in place three years ago, and had television been commercial six days, we estimate that by now it would have generated up to \$214m in *additional* advertising revenue across all media. Not all of this would have gone into television." [The Association estimated that the \$214.5 million would have come from the sixth commercial day \$63.5 million, the third channel \$79.5 million and flow on across other media \$71.5 million.]

"Experience shows in immature media markets the introduction of a new, or the extension of existing, commercial television services generates extra advertising dollars not only for television but also for other media. . .

Our estimation is based on the difference between actual advertising expenditure in New Zealand against potential advertising expenditure using as our benchmark, Australia's advertising expenditure as a percentage of its GDP. We believe Australia's advertising percentage level is both realistic and attainable for N.Z."⁴⁵

164. The impossibility of predicting the outcome in respect of advertising revenues available for television is highlighted by the fact that the Department of Communications in Australia is now contemplating a policy whereby, in the less populated regions of Australia between the big cities and the outback, three regional stations will compete in markets of one million people or less. The kinds of costing on which this policy is based have been prepared within that Department but have been formulated only after several years of heated debate in Australia about all the ways that have been suggested of providing these services to the regions concerned. This may or may not prove in practice to be a viable policy but to a degree it indicates a viewpoint midway between the pessimistic and the optimistic which predicates viability of a sort for a three-channel competitive advertising system in New Zealand.⁴⁶

165. It is unlikely that a third channel will be operating before 1988 and so the real challenge to the Corporation will not develop until 1989. The economic background against which this will take place is unknowable.

166. Term of reference 2(a) enjoined us to examine the independence and role of the Corporation in providing a range of programmes which inform, educate and entertain and, in investigating the structural and financial efficiency of the Corporation with an eye to its profitability without loss of programme quality, our approach is tempered by this earlier term of reference. Revenues are granted to the Corporation by Parliament in the form of the Corporation's right to advertise on two channels and certain radio services and receive additional revenues provided by the public broadcasting fee.

167. In radio, the total costs including non-commercial costs are covered by all commercial radio revenues plus radio's share of the licence fee.

168. Setting aside radio therefore, television public broadcasting will be supported after November 1986 by revenues earned in the following approximate proportions:

- Three-sevenths TV1 net advertising.
- Three-sevenths TV2 net advertising.
- One-seventh net public broadcasting fee.

169. Even this estimate may well overstate the proportion represented by the fee allocated to television notwithstanding the approved increase to \$65 from 1 November 1986.

170. It may be argued that, in view of the doubt about the total television advertising revenue, there is therefore room only for two channels of advertising and that public broadcasting should give up one of its two channels in favour of a programme after the fashion of BBC2. The costs of running such a service would be less, but not markedly less than running a full public service broadcasting advertising channel as at present. Costs would decline only insofar as overseas programmes were substituted for programmes of local relevance made locally but cost reductions would not begin to equate with the sum of revenue foregone. To adopt such a policy would therefore be to strike at the present basis of public service broadcasting especially in respect of New Zealand production.

171. Let us assume that it was not the new channel whose right to advertise was removed but instead the revenue support of public service broadcasting was to be truncated. The whole cost of adding the new channel would then have been borne by public service broadcasting for the benefit of the newcomer.

172. It is clear that the right to advertise is insufficient for the Corporation as matters stand and that is why a mixed system of funding is employed and in our view should continue to be so. Such a drastic reduction, even if hours of transmission were cut, would effectively eliminate that channel's particular relevance to New Zealand. In fact, the system of public service broadcasting would become unviable. In the Commission's view the basic problem is not one for which the BCNZ alone should be asked to bear the brunt—it is a problem for all three channels.

173. The new Chief Executive of the Corporation canvassed before us two strategies to deal with this problem.⁴⁷ The first strategy involved retaining the two present channels with their existing programming mix and then trusting that, between late 1986 and early 1988, economic changes are such that all three channels would survive by maintaining their reasonable programme range even if they do not all prosper markedly. In favourable conditions the present kind of programming prescribed by the Act would continue and the new channel would show the programming which the applicants for it have expressed the intention of presenting.

174. The Chief Executive's second suggested strategy is to make a greater differentiation between the two public service channels in a

situation involving third channel competition and that a simple segmentation of the market would allow one of the two public service channels to go up-market to a degree while the other two channels divided the more unremittingly mass-appeal programming between them. This is in fact a far more practical version of the suggestion that one of the two public service channels should be entirely cut out of the competition and its share of the market. Again this would be riskier than continuing with the present kind of programme mix in that it would have to be a very precise and fortunate adjustment which returned as much on a more up-market channel than is returned by the careful mixture of qualities employed at present. Moreover, the presence on the up-market programme of a higher proportion of public service elements would be an encouragement for the two mass-appeal competitors to depart from the objectives of the Act and struggle at the level of American or Australian commercial stations.

175. Besides these considerations, which are basically financial in nature, there are other ways to enhance the Corporation's capacity to compete without loss of programme quality. These relate primarily to the Corporation's human resources, and we consider them in this section concerning the capacity to compete because the staff of the Corporation will in such circumstances play an important role at the point when organisational change and unprecedented uncertainty concerning advertising revenues will meet. The Corporation staff will then be called upon to convert the finance available into programmes of quality in a make or break situation.

176. The Corporation's role to produce, acquire and broadcast a wide range of radio and television programmes and its fulfilment of that task rests on the good will, competence and creativity of the individuals working at every level in the Corporation and on the quality of management. The skills required are highly specialised and in short supply. In broadcasting the need for well-trained, well-motivated and well-managed personnel with the attributes of character, intelligence and understanding is as fundamental as the workability of the structure itself.

177. The evidence before the Commission has led us to the view that, certainly up to the time the Commission began its hearings in 1985, industrial relations within the Corporation had been less than happy and there were signs of poor communications and even loss of morale. Some production staff within Television New Zealand in particular pointed to sudden policy changes on the part of management and these appear to have been prime reasons for the problems amongst creative staff from time to time since the late 1970s.

178. There were linked causes to these problems. The first appears to have arisen because the erratic economic climate of the late 1970s and early 1980s, coupled with approaches and rebuffs on the question of licence fee increases, resulted in the management having to pass on a fluctuating level of financial support to the producers in the form of hopeful schedules followed by cuts.

179. In those circumstances, the failure of the Corporation to communicate adequately to production staff its programming requirements and associated production objectives in the context of a strategic plan can be understood, but more might have been done in the areas of agreed pre-planning and subsequent assessment procedures and by the management making plain its legitimate expectations regarding the producer's responsibility for the control of expenditure. The technical resources required by production staff have, it seems to the Commission, too often had to be battled for by producers. However caused, there was a failure to set stable and attainable goals, clearly delineate producers' responsibilities and, at the same time, facilitate production by the planned provision of resources and services in a consistent way. These were all factors in the degree of tension generated between production staff on the one hand, and programming and financial staff on the other. It is a case in point that when a paper on Corporate Objectives⁴⁸ was written, the generality of what was said left day-to-day objectives unstated and unsolved.

180. We have already alluded to the problem of multiple reporting lines and the excessive number of layers of management in the Corporation. The Commission considers that, just as the Governors have a dual trustee and directoral role, and the Directors-General have a dual role as managers and editors in chief, so the problem of dual production and management responsibilities cannot be solved within the Corporation and Television New Zealand in particular by the maintenance of an excess of upper middle management positions.

181. The modern television producer is expected to have considerable financial management expertise as well as a primary function of originating, arranging for and controlling the production of programmes. He or she must be wholly accountable for the costs of production. It follows that producers and directors are middle managers as well as creative leaders of production. They should be reporting directly to Heads of Department who carry wide authority to deal with the problems that producers encounter and to give firm directions.

182. It has been suggested in evidence that Controllers (to whom Heads of Department in turn report) are taking this sort of leadership and decision making but doing so through the Heads of Department. As one result it was suggested that the Controllers were dealing with too much detail concerning matters at a level with which they were only remotely in touch. Again, a clarification of authority and responsibilities appropriate to each level would both simplify and open up the lines of communication.

183. The *Report by the Committee of Review of the Australian Broadcasting Commission* in 1981 stated as follows:

[One]. . . "implication of introducing a system of output budgeting and the supporting costing systems that accompany it. . . is that while it has the potential to make available to managers, network controllers, department heads and program producers alike, a great deal of valuable

information about resource use, priorities and budgeting, it places greater responsibility on department heads and (especially) program producers for the management of program budgets. We consider that that is where the main responsibility should lie. . ."⁴⁹

184. The *Report of the Commission of Inquiry into Contractual Arrangements* put it this way:

"Either the production people are given more administrative and financial training or administrative/accounting people are trained in the ways of television production. Either way, the communication between production and financial control areas has to be improved."⁵⁰

185. We would comment that, in our view, the overriding need is for the production people to have administrative and financial training and responsibility as should their managerial superiors. Accounting staff are unlikely to be fully versed in the ways of television production, but certainly the situation described in the Commission of Inquiry's *Report* whereby "...within television there are certain 'no go' areas which the accounting and personnel systems cannot penetrate'..."⁵¹ must be eliminated and we understand that such changes are being proceeded with. A normal way to facilitate such changes in well managed structures is to make production personnel fully accountable to their 'line' (Departmental Head managers) and to ensure that production personnel use the services and take the advice of specialist 'staff' (accounting and personnel officers). This reform is essential for accountability.

186. The Assistant Director-General of Television New Zealand in evidence acknowledged that:

"There is always room for improvement. . . In terms of the general financial management and the accountability for expenditure, yes, I am satisfied. In terms of being able to use the information that we have as a greater management tool, then I believe there is room for improvement—the costing of production for example. I believe we will be in a position to make better decisions on resource allocation if we move to a form of total costing for production rather than the existing above and below the line costing structure that we have. However. . . it's a very simple concept to put forward, but it is a very detailed procedure to implement and we do have a general concern that we don't swamp ourselves with an enormous increase in manpower, simply to administer a system. . . [Nevertheless,] it is going to be implemented. . . We have assigned a senior accountant to the production area for a period to become properly familiarised with all details of and requirements of the production area. . ."⁵²

187. These problems may well have arisen from the seemingly longstanding practice in the Corporation of promoting broadcasters with production experience straight into middle management positions in the

Corporation without adequate preparation. It is plain that in any broadcasting institution not all production or specialist broadcasting personnel could be suited for administrative and managerial roles and some do not desire them but should continue and be promoted within production where their value to the organisation could be greater. But those who are selected for the transition will require more and better training for it than was the case in the past.

188. The Commission considers that in delegating responsibility the Corporation should ensure more consultation with and on-site supervision of production staff so that there is less reference upwards of difficult decisions and a greater assumption of responsibility on the spot for middle management decisions by the middle managers concerned.

189. The Commission considers that the problem goes deeper than that, however, in that the Corporation must have the flexibility to be in a position to recruit specialist managers at a series of levels in an increasingly competitive situation. This will necessarily involve an increased proportion being recruited in the future for varying terms of service on contract from outside the country. In the world of broadcasting a variety of techniques are advancing so rapidly that staff members would welcome specialists experienced in their use.

190. In this regard, while the Commission recognises that the Public Service Association has generally played a constructive role in representing the interests of its members within the Corporation, the Commission is most strenuously opposed to the provision restricting recruitment of contract employees to 7.5 percent of total staff agreed to with the PSA in 1974 and confirmed more recently. The agreed limit formed part of a larger agreement entered into in late 1974 after the 1973 Committee of Inquiry's *Report*⁶³ but before the BCNZ, as it is now constituted, came into existence. It ran counter to the general line of the 1973 Committee's thinking which advocated placing senior management and a proportion of producers, directors and senior production staff on contracts. In addition it was plain from our hearings that this particular part of the agreement has been an area of dispute as to whether the exact numbers employed had fallen below or risen above the limit. The Commission regards the limitation as being harmful in both respects at present and insupportable in a competitive situation.

191. All employees are appointed pursuant to the general power in section 38. The contracts concerned are those entered into under section 39(3) of the Act. Permanent employees are appointed under section 39(1) and their terms and conditions are, generally speaking, those established under the State Services Conditions of Employment Act 1977, which by section 40 of the Broadcasting Act is made to apply to employees of the Corporation.

192. The Commission recognises that this career structure as it applies to the great majority of its employees has served both them and the Corporation well, but there is a critical body in the upper levels of both management and production whom the Corporation needs to have placed in a contract situation if it is to take proper advantage of the

international market in television management and production personnel. To do so is also part of the Corporation's duty as a public service broadcaster and as a contender in a commercially competitive arena. By the same token, making provision for early retirement and voluntary severance agreements are normal provisions in any competitive industrial structure confronting continuous rapid technological change and faced with possible congestion in its senior ranks.

193. For the Public Service Association to insist in the face of the funding basis of the Corporation that what applies to the mass should also apply to the minority is to carry career civil service principles into a realm where quite different incentives and qualities are the *sine qua non* of success. Indeed, while the Commission did not feel called upon by the terms of reference nor by what it was told in evidence about the bulk of appointments under section 39(1) that it should recommend the substitution of the provisions of the Industrial Relations Act for the State Services Conditions of Employment Act, it did consider that a continued insistence by the PSA would almost certainly require this substitution as a condition of efficient survival.

194. In 1973 the Committee of Inquiry urged:

"...not only the freedom to promote specialists on merit, but the extension in the higher echelons of contract employment. The Committee draws attention to the Minister of Broadcasting's expectation that a Broadcasting Union would be formed to provide broadcasting staff with its own voice in discussion and negotiation, and hopes this will be realised."⁵⁴

195. This was not followed, but the contracts provision was expected to safeguard the special needs of the Corporation. This has not happened, but the need for public service broadcasting to have this safeguard for contract has grown and not diminished. A recognition of this by the Public Service Association will be a pre-condition of a more successful future for the industrial negotiations between the Corporation and its traditional union.

196. Another matter which the Commission believes requires urgent consideration is that, just as the training of managers has not been sufficient, in both radio and television an insufficient number of young people are being trained in production. That is not to say that recruits are not taken on every year in large numbers, but the majority of them are technicians. Training to replace long-serving programme production staff members in the Concert Programme and the National Programme on radio and for television has been cut back in recent years. Again financial restraints are given as the reason.

197. The Commission accepts that much of what the Corporation would wish to undertake in this as in other areas has not been able to be done for budgetary reasons. However, as a Commission we must question the priorities of the Corporation to date if training has been sacrificed to the degree that we believe it has. It is important for training to be kept up because no new production in Maori, educational or any

other area of special interest broadcasting can be achieved without the trained production staff to be moved into it. Training should also be stepped up to compensate for the inevitable loss of some personnel to the third channel.

CONSIDERATIONS IN CONCLUSION

198. In the Commission's view adequacy and reasonable certainty in the funding of the Corporation are the pre-conditions of its being able to continue to produce, acquire and broadcast a range of good programmes which inform, educate and entertain, and of widening that range and improving the quality.

199. As the *Report of the Committee on Financing the BBC*, chaired by Professor Peacock, has recently put it: "...in all the European studies finance was found to be the key influence in determining the range and quality of programmes."⁵⁵

200. The Commission does not believe that the unfettered play of market forces in broadcasting would satisfy the range of public demands which were made clear to us throughout the submissions. Nor would it be in the public interest generally, any more than a rigidly controlled system centralised within or around the state would be so.

201. It is for these reasons that we have concluded that the alternative approach suggested to us by Treasury would be unworkable in terms of achieving the aims set out in the Act. Treasury suggested the abolition of the licence fee, the total separation of purely public service programmes, the direct subsidy of public service programme production by the State and its commissioning on an individual programme or series basis by interested departments. This would be necessary because the wholly commercial part of the Corporation's operation and other competitors would determine their programming on the basis of indirect consumer preference with advertisers acting as representatives of the consumers.⁵⁶ Treasury acknowledges that this system may not produce public service programming but this Commission was asked how public service programming might be sustained and improved.

202. Not only would this introduce elements of uncertainty to both the commercially and publicly funded bases of the Corporation's revenue, but as a Commission we have very grave doubts as to whether it would in fact provide true and effective choice. Our conclusions in this regard are based on our own observations abroad and the comparisons between different kinds of broadcasting systems in different countries made under the preceding term of reference 2(a) and more particularly described in the study conducted by the Centre for Television Research under Professor Blumler at the University of Leeds, a copy of which is annexed to this *Report*.

203. We believe that one of the greatest advantages, indeed probably the greatest advantage of public service broadcasting as it now exists in sensibly regulated environments, is that when functioning properly it immediately displays to all viewers over even a limited number of

channels a range of programmes which, if it were not for the required elements of range and balance, the viewer simply would never see and so would not be in a position to make a choice about in the first place.

204. In that regard it is to be noted that, in the United States, television advertising rates which have been growing by more than 10 percent a year are now growing at only 4 percent at best.⁵⁷ There is also more intense competition between the big three networks and other television stations which have proliferated as a result of changes in technology.⁵⁸ The result has been in respect of one network the elimination of its morning news programme and its replacement with a more entertainment oriented production.⁵⁹ There are pessimistic predictions that "network news and associated documentaries and magazines will soon disappear altogether."⁶⁰

205. We make this point to show that, at a time when television advertising revenues everywhere are coming under pressure from other forms of advertising ranging from glossy magazines to grocery coupons, and potential viewers are being presented with an ever-widening choice of alternative leisure activities, the public service elements of quality and range should be underwritten and not undermined. As *The Economist* puts it in its article on television in the United States: "For news and documentary programming in any quantity, the networks are the only hope. . . How odd it would be if the demand for quality television peaked just when the networks no longer had the capacity to supply it."⁶¹

206. In New Zealand the same trend is becoming quite apparent as the very recent annual *Report* of the BCNZ shows. The sixth day of advertising on both channels⁶² introduced in 1985 which was the Corporation's last hitherto unexploited resource and to be the means of significantly increasing revenues, had not been accompanied by the increase in revenue expected by some in the industry. Instead, there has been at the end of the year a decline in the surplus from broadcasting trading of 22 percent.⁶³ Notwithstanding the introduction of the sixth day of advertising, the results were seriously affected by a rapid rise in wage costs during the year to March 1986. Further pressure on wages and salaries and on all costs will arise when there is fresh competition for audiences and skilled personnel. We therefore conclude that the third channel in itself will prove challenge enough to the Corporation's ability to maintain standards without its having to cope with the additional pressures that any implementation of Treasury's proposals would bring to bear.

207. The Chairman of the Corporation stated in evidence:

"One matter which is becoming increasingly clearer is that developments in technology will blur the distinction between radio and television. In BCNZ they are established and will be further developed as separate semi-independent trading divisions. But television is drawing increasingly on skills, information and other services from radio; and some of radio's most promising developments involve using elements of television technology. The inter-relation of these activities,

supported by our own engineering and transmission services, can provide an exciting new economic base for public broadcasting in the future. I have no doubt that the visible external efforts to attack and split that base (coming largely from organisations organised on a similar integrated basis) are a tactical attempt to defeat the future development of public broadcasting."⁶⁴

208. We would comment that in our view the changes already being initiated by the present Chairman, Deputy Chairman, Chief Executive and Directors-General of the Corporation are such that there is being created the best opportunity in many years for the Corporation, given adequate support, to bring about over time very real improvements in broadcasting for the benefit of all New Zealanders. The calibre of even more recent appointments is a further indication of this.

209. Nevertheless, the prospect of third channel competition in an uncertain market, the requirement to pay dividends, and the very modest approved increase in the licence fee are all factors in the immediate future which must give rise to caution about the Corporation's present ability to achieve its goals. However, if a proper system for determining and an appropriate level of public broadcasting fee are implemented that will contribute greatly to the provision of a firm foundation for the Corporation to continue with the changes it already has in train. We would also urge reconsideration of the decision to call for dividends until the long deferred capital expenditure programme is complete.

210. In that regard it is clear that in the area of strategic financial decision making, the Minister of Finance's powers in Part IX of the Act, in particular, should be reviewed. These powers are such that the Corporation's independence is circumscribed. We refer in particular to the Corporation's inability to subscribe for shares, set aside revenue as reserves, borrow with or without giving security, or deposit with particular banks, without the Minister's consent. We also consider that the powers of the Minister of Broadcasting in respect of property in Part VIII and capital expenditure in Part IX should likewise be reviewed.

211. One submission we received suggested that the Corporation should be managed to the level achieved by any large public corporation in New Zealand. But it is apparent that few, if any, corporations public or private with attributes even vaguely similar to the Broadcasting Corporation are expected to operate under these constraints. A review of these constraints would be consistent with current Government policy to give statutory corporations greater independence in financial decision making.

212. At the same time that the Corporation's independence in financial decision making is increased, at the very least it will be necessary in the Commission's view to review the capital structure of the Corporation to achieve a better balance between true equity and total assets. This also appears to be a prerequisite to the Corporation's being able gradually to undertake a borrowing programme for capital

purposes and it is a necessary feature of the whole programme for structural and financial survival and growth which we have outlined.

RECOMMENDATIONS

1. That the BCNZ should continue as one Corporation but with far stronger emphasis within the structure on the divisions and on the delineation of cost and profit centres.
2. That section 10 of the Broadcasting Act 1976 be amended to provide for standing as well as ad hoc committees of the Corporation to be established.
3. That the number of members of the Corporation be fixed at nine and that in future they be appointed as the Governors of the Corporation.
4. That the Corporation continue with the process of simplifying its structure to achieve clear lines of responsibility and areas of accountability and, in particular, that it actively examine ways of further simplifying the middle management structure of the Corporation and of Television New Zealand.
5. That fresh equity be introduced by the subscription of additional capital to the Corporation by the Crown.
6. That the Minister of Finance's powers in respect of the Corporation be reviewed, with the particular object of giving the Corporation independence in its borrowing programme.
7. That as part of such a review the power of the Minister of Finance to approve the Corporation's subscribing for or disposing of shares in any company (section 49(2)(b)), the power to approve the setting aside of revenue as reserves (section 52b), and the powers to approve banks for the deposit of Corporation funds and to approve investments in other securities (section 55(b) and (c)) be transferred to the Corporation itself.
8. That the Minister of Broadcasting's powers in respect of capital expenditure and the sale of land be reviewed so that the Corporation is able to invest in replacement or new capital equipment up to a level of at least \$2 million without reference to the Minister and to facilitate the Corporation's being able to sell land where that is necessary to consolidate its holdings in an economically and operationally efficient way.
9. That the public broadcasting fee be increased to a level not less than the average annual subscription price of New Zealand's metropolitan daily newspapers.
10. That the Corporation be required to report annually to Parliament on those of its activities which are defined by it as being public service broadcasting activities and to account clearly and in detail for the expenditure of the public broadcasting fee monies on those activities.
11. That section 60 of the Broadcasting Act 1976 be amended so that the exemption of the Corporation's income from income tax

- is fully effective in respect of its public service broadcasting activities and that any necessary associated amendment be made to the Income Tax Act.
12. That section 52c of the Broadcasting Act 1976 be amended so that, in considering whether to exercise the power to call for a dividend or not, the Minister of Finance shall consult with the Minister of Broadcasting to consider whether or not, if a dividend is decided on, the revenue be put to the further attainment of the Corporation's statutory public service broadcasting goals.
 13. That the provision agreed between the BCNZ and the Public Service Association restricting contract employment be abandoned by the parties.
 14. That section 40(1) of the Broadcasting Act 1976 be amended to specifically enable the Corporation to provide for the early retirement of its employees and to enable the Corporation to enter into voluntary severance agreements as a "necessary modification" as mentioned in the existing Act.
 15. That the Corporation pay special attention to the training of senior production staff in financial management and that increased numbers of young people be trained in radio and television production.

Term of Reference 2(c)

"2(c) The means by which a broadcast receiving-station licence fee should be reviewed and fixed at an appropriate level:"

INTRODUCTION

213. It follows from the immediately preceding term of reference that the traditional New Zealand system of funding the Corporation's activities by a combination of income from the public broadcasting fee and from advertising should be retained. While it was recommended to the Commission that the licence fee component be abolished, this was a distinctly minority view and the weight of evidence including evidence received under this particular term of reference 2(c), favoured its retention.¹

214. In that respect, there was a presumption in much of the evidence that the broadcasting system had been built in considerable part using resources made available by the licence fee as it has been known until now. Indeed it was the payment of the fee over the years that gave many of the interested parties making submissions a sense of direct participation in the public broadcasting system and entitled them, as they saw it, to an improved service from it.

215. The present BCNZ had its origins in the New Zealand Broadcasting Service, which became the New Zealand Broadcasting Corporation in 1962. A major change followed in 1973 with the establishment of Radio New Zealand, Television Service One and

Television Service Two as separate bodies under the Broadcasting Council of New Zealand. In 1976, these were merged back into a single structure, the present Broadcasting Corporation of New Zealand, which became a fully state owned corporation in the modern sense in 1977, when its current capital structure was established. This arose from the cash-flow crisis of that year, following the putting into place of the two colour channels with wide coverage. Notwithstanding all these changes the public perception of the Corporation remains to a major degree that of their broadcasting service organisation to which the licence fee has continued to be payable throughout.

216. Further, it was widely recognised in the submissions made to us either explicitly or implicitly that the difficulty lay not with the combined system of funding itself, but with the current level of the fee and the lack of any provision for its regular and impartial review. This was seen as having led to an imbalance in the Corporation's funding base, as between licence fee and advertising revenue, and to the Corporation's inability to provide the range of programming which the Corporation itself acknowledged is essential for a healthy public service broadcasting system.

217. It is against that background that this term of reference deals with the means by which the fee should be reviewed, the public broadcasting matters referred to in the preceding term of reference taken into account and the fee fixed accordingly. We also deal here with related practical matters which were raised by the evidence in the context of this term of reference concerning the way that the fee is collected and how this system may be improved, the suggestion of a reduced fee for the elderly, and whether the lower rate for monochrome television receivers should be retained.

THE LICENCE FEE

218. The Corporation in its submissions provided factual background details concerning the licence fee itself.²

219. Television licence fees are governed by the Radio Regulations made under and pursuant to the Post Office Act 1959. The Radio Regulations 1970 provide for classes of licences and fees payable. A licence for a television set in a family residence covers all sets in the residence other than those owned or used by tenants or lodgers, and it also covers sets the licence holder operates in a holiday home. A single licence also covers hospitals, schools and shops, but not private rooms used by guests in hotels, motels and guest houses.

220. Under section 52 of the Act all fees are paid into the Post Office Account and from there into the Broadcasting Account. The BCNZ pays out of that Account to the Post Office the costs incurred in issuing licences and investigating interference. The Post Office and the Corporation agree on the basis for the determination of these costs, with provision for the Audit Department to make a binding award.

221. Licence fee levels since the introduction of a fee have been:

							\$
1. 1.23	Radio	..	..	..	..	..	0.50
1. 4.25	Radio	..	..	..	..	..	3.00
1. 4.35	Radio	..	..	..	..	..	2.50
1. 4.54	Radio	..	..	..	..	..	3.00
1. 8.60	Television (Auckland only)	..	..	..	..	..	8.00
1. 1.61	Television (Auckland only)	..	..	..	..	..	13.00
1. 7.61	Television (extended to Sth. Island)	..	..	..	..	..	13.00
1. 8.61	Television (whole country)	..	..	..	..	..	13.00
1. 4.68	Radio & Television combined	..	..	..	..	..	16.00
1.10.71	Radio abolished; Television	..	..	..	..	..	20.00
1. 1.73	Colour licence	..	..	..	..	..	35.00
1. 1.75	Monochrome	..	..	..	..	..	27.50
	Colour	..	..	..	..	..	45.00
1.11.86	Monochrome	..	..	..	..	..	35.00
						plus GST	3.50
1.11.86	Colour	..	..	..	..	..	65.00
						plus GST	6.50

222. The Corporation noted that soon after its introduction the fee became a means of assisting the financing of publicly owned broadcasting and is still seen in the Corporation's submission "as being provided for the provision and expansion of transmission services, and the provision of programmes",³ while a proportion of the fee has always been retained by the Post Office.

223. It is also to be noted that, when the separate fees for radio and television were combined in 1968, there was no increase in either fee as such, both of which had been last set many years earlier. The separate fee for radio was abolished in 1971 for a number of reasons including the costs of its collection and the spread of transistor radios which made avoidance detection impossible. It was thought that there would be compensation arising from the continuing growth in the number of television sets and increases in the level of the television fee.

THE PURPOSE OF THE FEE

224. The submissions we received under this term of reference showed different attitudes towards the existing fee. The Independent Broadcasters Association⁴ representing private warrant holders, while supportive of the fee, considered that it should be restricted to non-commercial broadcasting, excluding commercial television. Similarly interested third channel applicants agreed that it should be used for the non-commercial purposes of both radio and television.

225. If the fee were restricted in its uses and purpose largely to the support of non-commercial radio, that might encourage a mistaken belief that television has few if any public service obligations, whereas Television New Zealand also has wide public service obligations under the Broadcasting Act. We have already stated our view that these

obligations in television cannot be funded by advertising revenue from television alone. As to the broader but essentially similar contention that the fee should be used only for non-commercial services but of both radio and television, the Commission believes that this too shows a misunderstanding of the degree to which all programming is influenced by public service considerations, whether that programming includes commercial advertising or not and whether that advertising is on radio or television.

226. In the submissions, there was also considerable and widespread support for the view that the purpose of the fee is and should remain to fund the public service broadcasting aspects of the BCNZ both in radio and television, and this approach to the definition of the purpose of the fee is the one with which the Commission strongly agrees. What is more, this use of the fee can be shown to Parliament and public alike and should be shown to them by furnishing the appropriate costs which have been incurred to achieve these public service objectives. It is possible to list these objectives but to do so would still not account for all the public service aspects of broadcasting and those being supported by licence fee revenues.

HOW SHOULD THE FEE BE SET?

227. Public service broadcasting like every other activity, is married to the general flow of economic realities. It is in fact an already well established if poorly adjusted example of "user pays" and, in the Commission's view, quite properly so given the widespread use of and enjoyment derived from the public service broadcasting system in modern New Zealand, and given that there is very little likelihood, in the Commission's view, that any similar service would in fact be provided by any other mixture of funding which excluded the licence fee. The Commission believes that it would be appropriate if economic fluctuations were automatically reflected in the price paid for this service as for any other.

228. We consider that because of the clear and pressing financial requirements of the Corporation described in the preceding term of reference 2(b), the level of the public broadcasting fee should be reviewed urgently, and we have recommended that it be set at a level not less than the annual subscription to a metropolitan daily newspaper. We note that the Government itself regarded the recently approved adjustment in the fee to \$65.00 plus GST to be effective from 1 November 1986 as an interim measure.

229. Once this initial review has been carried out, the Commission considers that the fee should be adjusted annually either in accordance with movements in the Consumer Price Index or in line with the average movement in the annual subscription to the metropolitan daily papers although this latter method needs further investigation. We received no evidence opposing the proposal by the Corporation for indexation to the CPI. Indeed there was considerable support for review of the fee and not letting it fall behind in future. We note that this solution has been

recommended for a period of time by the Peacock Committee in the United Kingdom.⁵

230. It may be argued that the index-linking alone should be sufficient, but the Commission believes that a regular review of the fee, also recommended by the Corporation, is likewise required. The purpose of the review, to be conducted every five years, would be to ensure that the changing costs of various elements of the public service component of broadcasting and the costs of improving and expanding that component are closely and impartially examined and that the level of the fee be re-set accordingly. We also see this as one of the principal means of ensuring much greater accountability by the Corporation.

231. We have concluded earlier, in term of reference 2(b), that it is essential that the Corporation finds and implements improved means of delineating and costing the public service broadcasting component in its overall activities and publicly accounting for its expenditure of the fee on them. As noted, the Corporation is already taking steps to ensure that it is more precise in its allocation of the fee to these activities.

232. Apart from its utility to the Corporation itself in setting objectives and priorities, the review will be a positive process because it will place the Corporation in the position of having to give an account to the public of its public service broadcasting activities and objectives in broadcasting and economic terms, what they have cost and will cost, and the progress it is making in achieving the goals generally laid down in the Act and determined in particular by its Governors. If this is to be done, figures will have been available as a matter of course not only progressively to the Executive Committee and to the Governors month by month and to Parliament and public annually, but also in surveyed detail to the body conducting the five-yearly review and to the public at that time.

233. In this respect we cannot wholly accept the Corporation's argument that the licence fee review process should not be "another 'audit'"⁶ of the Corporation's activities. We agree that it is for the Governors to determine the precise activities that the Corporation undertakes, but it is unrealistic of the Corporation to expect that such a hearing would be confined solely to the means of financing these activities though it should be largely so. It is to ensure the attainment of those very public service objectives that the fee is paid to the Corporation by the public. We consider that the Corporation was being unnecessarily defensive in this regard. The review would give the Corporation the opportunity to publicise and explain its plans and justify any increase in the fee applied for accordingly.

WHO SHOULD SET THE FEE?

234. At present the fee is set by the Government on the advice of the Corporation.

235. The National Council of Women submitted to the Commission:
 "NCW finds it extraordinary that the setting of the licence fee is at the politicians' whim, allowing for no forward planning."

Several branches supported the licence fee being set at regular intervals by an independent body."⁷

236. The Energy Source Television Project Team, while favouring the view that the fee be restricted to funding only non-commercial activities, considered that the fee should be fixed after the recommendation of an independent body such as the Higher Salaries Commission with the advice of the Broadcasting Tribunal.⁸

237. Mr F. T. Walker submitted that:

"An independent commission could be set up to evaluate and recommend a realistic licence fee. This commission should be non-political, and be accepted as such by the government."⁹

238. The Corporation itself recommended that legislation be enacted which would allow the appointment of a special Commission for the purpose of reviewing the licence fee, with provision for the Corporation to take a case to the Commission in the intervening years in appropriate circumstances.

239. These and other submissions and our own deliberations have led us to consider whether the fee could continue to be set by the Government as at present or by a Parliamentary Select Committee on the one hand, or independently by the standing Broadcasting Tribunal or by an ad hoc Commission of Review established from time to time for this specific purpose.

240. It will be apparent from a reading of term of reference 2(b) in relation to the Corporation's finances and this term of reference 2(c), that we do not believe that the existing system has worked well. Indeed it could be said that one of the reasons why the BCNZ was unsuccessful in persuading successive governments to adjust the fee to an adequate level over the period has been that the BCNZ as the party most interested has approached Ministers of Broadcasting seeking a review and yet at the same time was required by section 49(1) to advise the Government on the level at which the fee should be set. We have concluded that this kind of difficulty was unlikely to be effectively overcome by the first two options considered but more pressing, it was the fact of the collapse of revenue from licence fees not in gross terms but as a proportion of the Corporation's operating revenue from 42.6 percent in 1974/75 to 16 percent in 1984/85 and currently 13 percent, which in particular has helped to persuade us to recommend that the fee be reviewed independently and regularly in future.

241. In making the recommendation that the fee be set independently, the Commission is fully aware that it is recommending that Parliament delegate its power to set the level of an impost which might be regarded as being in the nature of a tax (though we are not of course recommending that Parliament delegate the power to impose the levy itself). We would point out however that in doing so, Parliament would be recognising that the fee is not part of general taxation but a unique fee which is one of the two permanent bases of public service

broadcasting funding. It would also make clear that the public broadcasting system, while owned by the State, was independent of the government of the day.

242. Under term of reference 4 we have recommended the broadening and strengthening of the structure and functions of the Broadcasting Tribunal, and in that context we have considered whether or not it would be appropriate for this body to be delegated the responsibility by Parliament of setting the fee to enable the Corporation to better attain the goals established by Parliament under its own Act.

243. While the advantages of passing the responsibility to the Broadcasting Tribunal are fundamentally that it is already apprised of many aspects of the broadcasting situation and that it is required to act judicially, the disadvantages are that for the most part the Broadcasting Tribunal is dealing with matters relating to applications for private warrants, though it does have the function in doing so of balancing the private with the public broadcasting system in such a way that it heeds the requirement of section 80(c) of the Act regarding the effect the establishment of a station may have on broadcasting services provided by the Corporation in the public interest.

244. This additional responsibility, to set the fee, would be putting the Tribunal in a difficult position in that many of its decisions already will have an impact on public broadcasting and this particular kind of decision would place the basic funding ratios of the whole of the public service broadcasting organisation in the recommendations of an organisation co-ordinate with but different from the Corporation itself. There can be no doubt that it would encroach upon the independence of the Corporation at a most fundamental level, as was evidenced by the statement of the Chairman of BCNZ as follows:

"It is essential that the body striking this economic balance is *not* the same body that fixes public broadcasting's licence fee. To combine the roles is to place key elements of public broadcasting's economic management in one place, external to the Corporation. Such a body would then become the de facto manager of the BCNZ."¹⁰

245. Under these circumstances the case for Parliament providing for the periodic establishment of a quite independent body with full Commission powers to fix the licence fee has an advantage which the Broadcasting Tribunal solution cannot rival.

COLLECTING THE FEE

246. Considerable evidence was given about the costs and difficulties the Post Office incurs and encounters in collecting the fee, acting as agent for the Corporation.¹¹ No useful evidence however, was put before us as to how the system of collection could be improved.

247. The cost of collection at 13 percent of the gross was criticized in the Treasury submission.¹² Treasury compared this with the 1 percent cost of collection of other forms of taxation, and gave this as one reason for the abolition of the fee and its replacement by a Government grant

on an annual basis. While we have strongly opposed this approach under term of reference 2(b) above for other more important and fundamental reasons, the costs of collection are clearly very high.

248. In addition, upon reviewing the evidence, we have concluded that the overriding objective in this area should be to provide the most cost efficient and convenient means of paying the fee to the overwhelming majority of viewers who already pay it. This is not to make light of the considerable cost of non-payment, but this particular difficulty needs to be seen in proper perspective. We consider that the Corporation should be free to appoint any responsible agent or agents including the Post Office that it considers suitable to collect the fee and that it should be able to undertake collection itself should it wish to do so. The fee should, if possible, be able to be paid by instalments, possibly two-monthly or quarterly and half-yearly, as well as annually.

249. In referring to the Corporation's submissions, Mr Rennie in his brief of evidence stated as follows:

"It is estimated that 95 percent of households operate licensed sets. Actual penetration is estimated to be 98 percent, and increased revenue from those now avoiding the fee would be very small even if all were detected.

Mention is made in the submission that from time to time alternative methods of collecting the licence fee have been investigated (such as using bank transfers) to reduce costs. An investigation is currently under way, in conjunction with the Post Office. Any system which might reduce collection costs or which will decrease avoidance will, of course, be welcome. But neither of those developments would resolve, in the long term, the basic funding issue. . ."¹³

250. One practical problem appears to be that the Post Office is unable to sue those who do not pay the fee in civil law, or at least it believes that it is unable to do so. The only remedy available is a criminal prosecution which is difficult for the Post Office to bring successfully and, even if it is successful, results in a fine, often small, which the Corporation does not receive. The costs of mounting these prosecutions may contribute towards the high collection costs.

251. Accordingly, the Commission recommends that the law be changed and clarified to enable the Post Office, at least in its capacity as agent for the BCNZ, and any other agent duly appointed on behalf of the Corporation and the BCNZ itself, to sue those who should but do not pay the fee and recover the debt. This would also entail proof to the civil standard in a matter which is in this day and age as much, if not more, of a civil or commercial character as it is criminal. We do not recommend greater powers to Post Office inspectors in this regard but consider that the criminal action for non-payment should remain as a last resort as opposed to being the only resort which is what it is now.

252. If the Corporation employs agents other than the Post Office, they of course will have none of the powers of the Post Office

Inspectorate, nor should they have. That raises an issue as to who should instigate a prosecution if the Post Office is not the agent for collection from the particular defaulter concerned. Likewise it may be necessary and appropriate for the fee now to be imposed under the Broadcasting Act and regulations made under that Act rather than the Post Office Act and associated regulations. Section 52 of the Broadcasting Act whereby all fees are paid first into the Post Office Account also may require amendment. But again we consider these questions secondary to the provision of convenient means of payment and encouragement to do so by much greater publicity than has been undertaken in the past. The recently announced reorganisation of the Post Office structure may also assist it in providing this agency service to the Corporation in a more efficient way.

253. The Commission also discussed the proposition that the licence fee should be reduced for superannuitants and possibly beneficiaries. While sympathetic to this view, we consider that this is properly a question for the Government to determine as a matter of social policy. It may well be an appropriate use of the concept of a direct payment or subsidy by the Government, as a rebate from the Department of Social Welfare to its own clients, if a reduced level of fee was considered desirable for certain categories of beneficiary. In this regard, we note that 9 percent of sets are still black and white and we recommend that a lower fee for monochrome receivers be retained. This is another matter that should be reviewed five-yearly.

REVIEW

254. To summarise, we concur with the view that for the foreseeable future the combined system of financing is in practice the only way that the public service broadcasting obligations imposed on the Corporation set out in the Broadcasting Act can be properly achieved. We believe that, once set, the fee should be indexed and suggest the annual averaged movement in the price of metropolitan daily newspapers or the consumer price index, although the latter does not have the parallel character to daily broadcasting that newspapers have. This indexing would avoid the erosion and accumulated shortfalls which have occurred and would pose the independent Commission of Review a more reasonable task of placing a generally maintained fee in relation to the index on grounds unique to the public service broadcasting function.

255. Since the general situation of broadcasting can alter rapidly with technological change we believe that the fee should be regularly reviewed, and that the review should be carried out independently of the Government by a Commission of Review of one qualified person to be appointed every five years for the purpose. The review should be a major way in which the Corporation accounts to the public for its expenditure of public funds directly provided to it by the public. We do not intend that the independent Commission of Review usurp the Governors' functions of determining precisely which public service

broadcasting activities should be undertaken subject to and pursuant to the Act, but that the review process should be confined largely to financial considerations. This accounting would be in addition to the Corporation's annual *Report* to Parliament. We believe that the process of reviewing and setting the fee proposed in this term of reference would be a significant step in demonstrating the independence of the Corporation from the Minister and Government.

RECOMMENDATIONS

1. That the existing situation whereby the Public Broadcasting Fee is fixed, collected and paid separately from general taxation should be maintained but improved.
2. That the Public Broadcasting Fee be put towards the public service broadcasting services and activities of the BCNZ.
3. That the Public Broadcasting Fee be reviewed urgently by an independent Commission of Review and in the manner recommended below.
4. That the Broadcasting Act be amended so that, every five years, an independent Commission of Review of one qualified person shall be appointed by the Governor-General on the recommendation of the Minister of Broadcasting so that the Commission of Review, having reviewed and considered the financial support of the Corporation's public service broadcasting activities, shall determine the initial level of Public Broadcasting Fee payable for the next five years.
5. That at every five-yearly review the Corporation shall account fully for its expenditure of funds deriving from the fee since the last review and as part of the review process shall set out its proposed public service broadcasting services and activities, their cost and the projected expenditure of the licence fee on them.
6. That, between reviews, the Public Broadcasting Fee be adjusted in accordance with either the average movement in the annual subscription charge for metropolitan daily newspapers or the movements in the Consumer Price Index, after investigation into the most suitable method, on an annual basis beginning immediately following the initial urgent review recommended in 3 above.
7. That the Corporation be empowered to approve and appoint an agent or agents of its own choosing instead of or as well as the Post Office for the purposes of collecting the fee in the most convenient and efficient way or ways available and that it be empowered to collect the fee itself.
8. That provision be made for the fee to be payable by instalments where possible and that the requirement and available methods of payment be fully publicised by the Corporation.

9. That the Post Office in its capacity as agent for the Corporation and any other agent appointed by the Corporation to collect the fee on its behalf and the Corporation itself be given power to sue in civil law for the fee which is owing and unpaid.
10. That the related legislative issues of whether fees should now be imposed under the Broadcasting Act rather than the Post Office Act and whether the Post Office alone should continue to initiate prosecutions for non-payment of the fee be considered by Government.
11. That fee concessions on pensioner or welfare grounds be a matter for consideration and direct grant by way of rebate to the beneficiaries concerned by the Department of Social Welfare.

Term of Reference 2(d)

"2(d) The purchasing by the Corporation of overseas programmes, including, the success achieved, the difficulties encountered, and the opportunities to tap services infrequently or never used:"

THE PURCHASING OF OVERSEAS PROGRAMMES

256. The degree to which broadcasting in New Zealand relies on programmes from overseas sources is reflected in the fact that, notwithstanding increased local programming, 70 percent of Television New Zealand's programme material is not made in New Zealand.

257. The vexed question of what should be regarded as New Zealand content is dealt with under term of reference 2(i). The cost per hour of locally produced programmes is compared with the cost of purchasing programmes made overseas under terms of reference 2(f) and 2(g). While we have evidence that TVNZ's actual production costs are low compared with overseas producers of a similar programme, it is also the case that it is often far cheaper for the Corporation to purchase a programme as one of many purchasers, than to produce such a programme itself.

258. "The round figure of 70 percent overseas content represents, in last year's schedules, around 5,500 hours of imported programming. Of that number, 50 percent (2,750) hours was from the USA, 35 percent (1,925) from the United Kingdom and the remaining 15 percent (825 hours) from all other overseas sources, including other European countries, Australia and Canada."¹

259. That the public wants to see such programmes is "still reflected in the many suggestions received each year for overseas programme purchases."² The purchase and transmission of overseas programmes is and in all likelihood will remain an important means of achieving television's goals of informing, educating and entertaining the people of New Zealand, and providing "a range of programmes which will cater in a balanced way for the varied interests of different sections of the community."³

260. The question of overseas purchasing is accordingly fundamental to the Commission's brief of reporting desirable changes to widen the choice and improve the quality of programmes.

261. In its submission to the Commission the Corporation set out its well-established procedures for the purchase of overseas programmes whereby in radio's case, programmes are acquired generally in packages, and in television's case, by attendance at organised markets overseas with previews and extensive sampling.

RADIO

262. In Radio New Zealand's case, overseas purchasing is made up largely of bulk contractual purchasing from the BBC Transcription Service, such material being used principally by the two non-commercial radio networks. Other material is made available gratis to the Corporation through the European Broadcasting Union, other European broadcasting organisations, and from the Canadian Broadcasting Corporation. Special radio programmes bought outside the blanket BBC contract are kept to a minimum because of budgetary considerations.

263. The Commission received fewer submissions, in the context of this term of reference, on the purchase of overseas programmes for radio than were received for television. The University of Waikato suggested in its submission that an opportunity may exist for the exchange of stories, readings of books, and plays produced for radio in New Zealand in return for music and current affairs programmes broadcast by National Public Radio in the United States. The Music Federation of New Zealand Inc. submitted that Radio New Zealand should have the financial resources to facilitate greater purchasing of programmes of recorded live musical events from Europe. Generally however, the submissions the Commission received regarding the purchase of overseas programming for radio were satisfied with the quality of programmes currently being acquired, but called for more. Indeed, when one considers the international language of music or the wealth of programming in Australia, Canada and Europe, relatively small sums could extend these services in radio disproportionately compared with television. Further, the opportunities presented by purchasing from parallel public systems may well be greater in radio.

264. While we do not deal again until the end of this term of reference with the purchase overseas of radio programmes, that is not to imply that we regard acquiring additional overseas radio programmes of quality as being unimportant.

TELEVISION

265. Television in New Zealand has relied heavily on overseas programming material from its inception. This has been both inevitable and desirable, given limited production facilities and the high costs of local production relative to the cost of purchased programmes, and viewers' expectations.

266. The Corporation has built up strong ongoing relationships with major overseas suppliers. An agent in England co-ordinates most British and European purchases. In addition, "suppliers from throughout the world continually provide up to date information to the Corporation about programmes that can be purchased and senior Television New Zealand programming executives attend customer screenings and television programme markets in Europe and the USA each year to view and assess new programmes. In this way it is possible to build up a comprehensive inventory of supply contacts and available and suitable programmes for showing in New Zealand."⁴

267. "It has always been the policy of the public broadcasting system in New Zealand to pay a fixed per-minute price for all self-contained programmes or series and feature films bought overseas. This is regardless of the country of origin or the time of day the programmes will be broadcast in New Zealand. This means that the same standard price is paid for a top rating high quality period drama as for a low-budget afternoon soap opera. Currently the standard per-minute rate is US\$25."⁵ The exceptions are special events, mainly sports but also cultural events, where a price is negotiated.

THE SUCCESSES ACHIEVED

268. In its submission the Corporation took the view that adherence to the standard per-minute rate policy has proved to be, on balance, a successful way of acquiring overseas programmes, from both the programming and budgetary points of view. The Commission agrees that, in general, this policy has been successful in television, notwithstanding the occasional delay in the acquisition of some major series that the policy has entailed and that it has sometimes proved unacceptable to suppliers. "The rate is too low to interest suppliers of outstanding mini-series and major feature films."⁶ Here, too, the BCNZ made the point that the growing practice of hiring the latest films for VCR viewing was relieving the pressure on this upper limit in price.

269. In addition, the Corporation has developed a system of purchasing programmes when they are needed rather than first offered, known as PWS, meaning "purchase when scheduled". This system enables Television New Zealand to hold lower stocks of programming material than are held by some broadcasting organisations overseas. This system has achieved savings in both working capital and by avoiding stock write-offs, which can arise when television broadcasters acquire material (sometimes to deny it to competitors) which turns out not to be required. Evidence suggests that PWS is unlikely to survive the onset of third channel competition and that stock write-offs will result. A related consideration is that, if there was a New Zealand competitor ready to pay a premium for unlimited repeat broadcasts, then the BCNZ practice of buying for a specific one or two repeats may be jeopardized. Connected matters are dealt with under term of reference 5.

270. The Corporation submitted that "in the search for television programmes all available English language sources are used".⁷ This claim was, certainly, made in the context of their written submission on foreign language programme purchasing. As to programme purchasing generally, "almost all worthwhile and procurable overseas programmes are in fact purchased and screened by TVNZ. . ."⁸

271. The Corporation stated that from April 1984 to May 1985 it negotiated with 966 programme suppliers from 54 different countries and, while adhering to the standard pricing policy, was able to purchase almost every programme in which it expressed an interest.

272. The Association of New Zealand Advertisers Inc. was supportive of the Corporation as regards the level of success that it had achieved, but only one or two submissions indicated an appreciation of what may not be readily apparent to all New Zealanders: namely that, comparatively, impressive standards have been maintained by Television New Zealand in its overseas programme purchasing. The National Council of Women submitted:

"NCW members with experience of TV overseas confirm that, NZ is well served in the range and standard of programmes the Corporation buys.

As a Board member [of the National Council of Women] says 'I think some commendation is due to the Corporation on the standard they have managed to sustain, all things considered, especially in comparison with some other countries.' "⁹

THE DIFFICULTIES ENCOUNTERED

273. Apart from the difficulties which have arisen from adherence to the Corporation's per-minute pricing policy already referred to, the Corporation has also encountered copyright and residual difficulties occasionally preventing programme acquisition.

274. These difficulties have been encountered in an acute form in the case of the Public Broadcasting Service programmes in the United States. The whole PBS system is highly decentralised and programmes are made by specific stations which may or may not have cleared performers', musical and scripting copyrights with a view to subsequent foreign sales. All too often, fine programmes are lost to us because either the cost of copyright clearance would now be too high, or the likely receipts of sales were always considered too small. This attitude is now changing we were assured when the Commission was in the United States. The purchase overseas of relevant and appropriate educational programmes of good quality, including BBC educational programmes which are fully charged, is desirable but again not always without obstacle principally in the area of copyright clearance.

275. Further difficulties have arisen with foreign language programme distributors, many of whom are not used to dealing with English language purchasers. On the other hand, there is such a variety of production in the Netherlands, West Germany and Scandinavia which has not penetrated the language barriers to our television screens, that

we wonder whether visits to European markets might not be more searching. One has only to think of the subtitled series *Derek*, a particularly fine West German detective series without "hard action", to know that there are still series out there.

276. The Corporation considers only those foreign language programmes which have already been subtitled or translated into English as it does not have the facilities itself to undertake translating and subtitling. The Corporation has met the need to cater to the limited but appreciative audience for foreign language films, while at the same time ensuring that the programmes are comprehensible to the vast majority of viewers, by entering into a satisfactory arrangement with the Australian Special Broadcasting Service for the supply of foreign language films already translated by way of subtitling. The particular multi-cultural make-up of modern Australia has called forth the SBS which has set up a very complex and efficient subtitling organisation on which New Zealand can draw and which is rightly relied on to give this extra diversity to our programmes.

277. The problem of translation is not, of course, present to the same degree in music programmes, but the Commission generally endorses the Corporation's attitude that certainly in the New Zealand context, programmes in foreign languages must be at least subtitled.

THE OPPORTUNITIES TO TAP SOURCES INFREQUENTLY OR NEVER USED

278. That the Corporation is nevertheless not always seen to be catering for the varied interests of the community to a sufficient degree, despite its efforts, was apparent to the Commission from submissions of the following kind. The New Zealand Public Service Association submitted:

"We do however want to emphasise the point as firmly as we are able that we do not think that the present structure draws as much upon alternative sources of programming as it might. For example, it is rare to see a programme deriving from the public network in the United States. Equally we seem to draw very rarely upon a very strong tradition of cartoon making in Eastern Europe in childrens' programmings. And we rarely see Canadian programmes, although it is widely recognised that the Canadians have one of the strongest indigenous documentary and other film making traditions in the English speaking world."¹⁰

The National Council of Women submitted:

"Few of our members commented on this section except indirectly when it was stressed again and again that most wanted *fewer American programmes*. One Branch summed up by saying: 'Urge the Corporation to broaden the BCNZ's buyers' options and move away from buying American programmes. It is these programmes which offend most, not only with physical violence but also verbal aggression.

Investigate more Scandinavian, West German and East European programmes'.

There was general agreement that many enjoyed and were interested in 'foreign' programmes. They decried the fact that so many were shown at too late an hour. One Branch mentioned that 'Germany records operas which it cannot give away' and 'Superb children's programmes of the calibre of "Spot On" are produced overseas'—could we exchange or barter for these our 'natural history programmes.'"¹¹

279. Other parties making submissions also suggested sources or programmes, for example, more Australian programmes, Open University programmes from the U.K., and museum-based programmes from the United States. One submission referred to the screening of quality music programmes on Sunday afternoons as being in "cultural ghetto" time.

280. Two other written submissions on overseas programme purchasing referred to the question of violence. The New Zealand Federation of University Women (Inc.) in its written submission stated that:

"We recognise that the purchasing of overseas programmes is limited by:

- (a) what is available
- (b) the need for programmes which will attract advertising revenue. However, we believe that BCNZ should not buy programmes containing gratuitous violence, regardless of their popularity."¹²

The Auckland East Federation of the New Zealand Country Women's Institutes (Inc.) considered that:

"... more care should be taken when purchasing overseas programmes.

Too many programmes put emphasis on violent and criminal behaviour. They portray such behaviour as normal thus influencing our young people to copy what they see."¹³

281. While not wanting to trench upon term of reference 8, it is plain that one of the motives for desiring a wider range of overseas programmes, was to avoid what is regarded as the American penchant for undue violence.

282. In a supplementary letter supplied at the Commission's request, the Corporation listed the considerable number of programmes that it acquired in the period from April 1984 to September 1985 from the Special Broadcasting Service, Australia, (SBS), the Australian Broadcasting Corporation (ABC), Channel 4—United Kingdom, the Canadian Broadcasting Corporation (CBC), and the Public Broadcasting Service in the United States (PBS). However, as noted above, the Corporation pointed out in its letter that it has sometimes encountered rights difficulties, and a lack of interest in or an uncoordinated approach towards overseas sales. Such problems have been addressed and

largely overcome in some directions, but difficulties can be expected to continue in others.

283. The number of programmes listed in the Corporation's letter were as follows:

TABLE 12

	<i>Programmes purchased</i>	<i>Totalling— Hours</i>	<i>Programmes— interested, but decision on purchase deferred</i>	<i>Programmes awaiting audition</i>	<i>Programmes rejected</i>
SBS					
Australia	73	153	8	2	1
ABC					
Australia	74	90	16	14	2
Channel 4					
U.K.	19	36½	11	16	9
CBC					
Canada	16	34½	26	18	1
PBS USA	24	254	33	12	13
TOTALS	<u>206</u>	<u>568</u>	<u>94</u>	<u>62</u>	<u>26</u>

284. The Corporation advised us that difficulties in programme acquisition could be expected to continue with PBS, and to a lesser degree but for similar reasons relating principally to diversity of production sources, with Channel 4 U.K. The Corporation's ability to purchase from the ABC and CBC has been greatly enhanced by the ABC's employing a private distributor and the CBC's establishing a strong sales department. Access to programmes via SBS is excellent.

REVIEW

285. The evidence presented to the Commission suggests that there may be a perception in the community that, overall, fewer sources of quality programmes are utilised ranging from the BBC to the so-called "alternative" sources than is in fact the case. This conviction may arise from the strongly negative impact that some popular programmes screened in prime time make on those who do not enjoy them. But whatever public perceptions may be, this Commission strongly favours the purchase of further overseas programmes of quality because in themselves they are of great value.

286. Generally, the Commission has formed the view that continuing to widen the range of programming, using materials from all sources, local and overseas, should remain an important goal of the Corporation.

287. The Commission does not believe that overseas programme material, or any one source country of itself, should be regarded with disfavour. On the contrary, a widening range of quality programmes purchased from abroad will, in the Commission's view, significantly enhance viewers' opportunities to have the benefit of entertainment, subject matter and perspectives otherwise unavailable to them. This has always been an important element in public service broadcasting.

288. Accordingly, we are in sympathy with the general tenor of submissions calling for an increasing use of sources such as the CBC, the Public Broadcasting Service in the US, the Australian Broadcasting Corporation, and European sources, notwithstanding the difficulties outlined above and the general financial constraints under which the Corporation operates. In this respect, encouraging guidance by the Corporation Board itself will be of assistance to management as representing the wider public view in the area of overseas purchasing.

289. In addition, in making a further review of overseas programme purchasing policies, the Corporation should, the Commission suggests, address the following matters:

- (i) Whether or not a higher priority can or should be given to funding the purchase of radio and television programmes for "minority" listeners and viewers, bearing in mind that some minorities can be large and that mass audiences can represent the overlapping of minorities;
- (ii) Whether opportunities exist for more exchange of programmes;
- (iii) Whether or not adequate prominence has been given in terms of scheduling to the special interest overseas programmes that the Corporation has purchased and broadcast.

290. It may be appropriate for the Corporation to consider its relationships with its major overseas suppliers and agents and its sister organisations overseas, from the perspective of ensuring that no over-dependence on any one set of sources should arise. The direct contacts the Corporation has always enjoyed have been of the utmost benefit to it and must remain so, yet no opportunity for their supplementation should be lost in a world of sharpening competition for a limited supply of worthwhile programmes. In any event the Corporation should, in the Commission's view, ensure that the improving opportunities to buy material from other public service broadcasters are exploited to the full. This will help correct any tendency, of which the Corporation is certainly mindful, for financial pressures to unduly favour mass-appeal programming.

291. To summarise, the Commission believes that, while the Corporation has in practice achieved and maintained considerable success and range in its overseas television programme purchasing, if the Corporation's policies in this area can be further developed, this will contribute materially to the attainment of an improved range of quality programming generally.

RECOMMENDATION

1. That the Corporation review its overseas purchasing policy for both radio and television with the purpose of further strengthening the range of quality programming from regular and occasional sources and from overseas countries generally.

Term of Reference 2(e)

"2(e) The sources, scope, staffing, and intended development of the Corporation's news and current affairs programmes, including—

- (i) The extent to which and the manner in which officers and employees appointed under section 38 of the Broadcasting Act 1976 are used; and*
- (ii) The extent to which and the manner in which persons who enter into contracts under section 34 of the Broadcasting Act 1976 (including persons commissioned to provide comment) are used, and the terms and conditions of the contracts entered into with those persons."*

292. This term of reference deals with the development of news and current affairs programmes for both radio and television. Section 22(b) of the Broadcasting Act enjoins the Corporation "to establish a system for the gathering of news for television, and a system for the gathering of news for radio; and to make such news available for the Services." The Corporation has accordingly established two news services, in Television New Zealand under the Controller of News, Current Affairs and Sport based in Auckland and in Radio New Zealand under the Controller of News, Current Affairs, Sport and Rural Broadcasts based in Wellington.¹

RADIO—SOURCES, SCOPE AND STAFFING

293. Radio New Zealand operates the largest single news agency in New Zealand primarily for its own purposes, but it also supplies from its General News Service news to Television New Zealand. Journalists are employed on all Radio New Zealand stations as well as in the Network News Centre in Wellington which includes Parliamentary Press Gallery staff.²

294. The sources of radio news are very wide ranging within New Zealand and externally consist of wire services from Australian Associated Press, Sydney, Reuters News Agency, London and *Agence France Presse*, Paris. The BCNZ contracts with the New Zealand Press Association, which holds the New Zealand rights, for the AAP and Reuters Services. Radio New Zealand does not operate overseas news bureaux but receives voice reports from regular correspondents and has access to a large number of other part-time international correspondents. A selection of audio news from BBC correspondents around the world is regularly received six days a week, and the Corporation monitors ABC and BBC news bulletins and other broadcasters according to events.³

295. The Commission regards Radio New Zealand's news service which is highly developed in its structures, sources of news and professionalism as being an almost taken-for-granted but very valuable public service, within the framework of public service broadcasting within New Zealand and world wide.

296. The use of radio news is primarily for National, Concert and commercial networks. Radio New Zealand station centres also originate their own original and local bulletins. As well as the continuous supply of news to Television New Zealand, Radio New Zealand also supplies news to Teletext and sells it to a videotext operator.⁴

297. On weekdays the National programme broadcasts 24 network bulletins and two Maori bulletins. Stations broadcast four local bulletins. On Saturdays 21 bulletins plus local and one Maori bulletin are broadcast but fewer on Sundays. The Concert Programme carries 10 weekday bulletins, including some relayed directly from the BBC.⁵

298. Community stations broadcast news every day on the hour and some broadcast Maori news. The ZM stations carry up to 16 bulletins a day. In one month more than 1,400 bulletins are broadcast on the two main networks, National and commercial.⁶

299. Radio New Zealand current affairs group supplies material to the two main networks also. The Current Affairs programme is centred on the National network which is the basic way that Radio New Zealand discharges its obligation to inform and educate. *Morning Report* and *Checkpoint* in the evening, Monday to Friday, together with *Insight*, *Money Matters*, *The World This Week*, *Sunday Supplement*, *Focus on Politics* and the news and current affairs *Midday Report* are the main programmes.⁷ The two hour *Morning Report* programme is a major contributor to news and current affairs in New Zealand, together with the new one hour *Eye Witness News* programme on television at 10.00 pm. In the Commission's view the length and quality of *Morning Report* is a significant achievement in the face of limited resources.

300. In May 1985 news and current affairs staff in Radio New Zealand numbered 164 plus a further 19 working on rural programmes and 22 in Sports. This totals 205 journalistic staff and as well a number are employed on a temporary, or part time, or contract basis.⁸

301. While all Radio New Zealand news and current affairs staff are employed under section 38 of the Broadcasting Act including permanent, temporary, casual and contract staff, only relatively few are employed under section 39(3) on contracts other than "State Services" contracts and conditions of employment of staff are largely determined by the State Services Conditions of Employment Act 1977. Contract staff sign standard contracts and their rates of pay are related to outside journalists' scales.⁹

302. Section 34 of the Broadcasting Act is not used for the employment of staff but for the payment of stringers and commentators. Different stations contract varying numbers of individuals under letters of appointment and agreements.¹⁰ Besides providing a contractual basis for stringers' services this section is the one under which contracts are entered into with experts in the community who provide comment.

TELEVISION—SOURCES, SCOPE AND STAFFING

303. The demands of television news are different from those of radio in immediacy and frequency of bulletins and of course, presentation. New technology will greatly enhance the immediacy of television news. Television New Zealand's news staff is based in the four main centres and the Controller is based in Auckland, as is the Editor, who delegates responsibility to regional editors in the four main centres. Besides receiving the Radio New Zealand General News Service (GNS), Television New Zealand has access to the same general sources of news ranging from private individuals, companies, local authorities, Government Departments and pressure groups. The GNS service Radio New Zealand provides to Television New Zealand includes overseas material inserted by Radio New Zealand from its sources and Television New Zealand also receives the AAP-Reuters wire service.¹¹

304. In addition, Television New Zealand receives daily satellite transmission of the VISNEWS international television news agency.¹² (The Corporation gave a joint guarantee with other public service broadcasters around the world of a five year term loan made in 1981 to VISNEWS in the United Kingdom, VISNEWS being the agency for BBC Television News).¹³ Television New Zealand also has access to CBS news and other direct satellite services from Canada, the United States and the United Kingdom. Through them, Television New Zealand has access to the resources of major news gathering organisations throughout the world. As reported by the Corporation in its recent annual *Report*, coverage has been greatly improved by an agreement giving Television New Zealand 24 hour access to a satellite transponder across the Pacific Ocean.¹⁴ Like Radio New Zealand, Television New Zealand news department's reporting is directed mainly at the local scene.

305. However, a number of overseas assignments each year are undertaken to cover stories in the Pacific and Australia as well as major international events of significance to New Zealand. The Commission acknowledges the difficulties encountered by reporters sent on assignment from New Zealand as they are not always able to spend long enough overseas to come to grips with the complexities of the countries they are reporting from. For that reason the Commission considers that a start ought to be made in posting journalists overseas from New Zealand, even though this will be very expensive. This is one way that a New Zealand perspective can be given to the major events of the day and we would suggest that appointments might be made initially in one or two of London, the United States or Australia.

306. The main news of the day is placed on TV1 at 6.30 to 7.30 pm and includes sports and a regional section on weekdays. The total television news output is approximately 540 hours per annum.¹⁵ On TV2 *Eye Witness News* from 10.00 to 11.00 pm is regarded as a current affairs programme beginning with a news summary of items originally prepared for the *6.30 News*. It pursues a different approach from the traditional view that there should be a distinct separation of news and

current affairs into separate programmes. News and Current Affairs are placed in the same programme and the Commission believes that this distinction is easily recognised by viewers. We agree with the view adopted in the *Report of the Annan Committee*¹⁶ in the United Kingdom that there is a very real place for particular viewpoints and perspectives in current affairs, provided that it is clear to viewers from the title of an item or some other device that a particular viewpoint is being adopted, and provided that the required statutory element of balance is maintained by showing different viewpoints where necessary and appropriate within the relevant time frame of popular interest in the matter under discussion.

307. A principal concern of the Commission in current affairs is the tendency for current affairs items to grow shorter though we note that this problem is now being addressed. Too much compression means that a story can no longer be regarded as a current affairs item.

308. In both radio and television the proportion of local to international news is roughly 75 percent to 25 per cent though of course regional bulletins are 100 percent domestic news. A gradual increase of international news should be aimed for so that the proportion becomes not 3 : 1 but 2 : 1 local to foreign news.

309. Television New Zealand's current affairs is based in Wellington under the Head of Current Affairs who reports to the Controller. Programmes and staff based in Auckland are responsible to the Northern Editor of current affairs and staff in Wellington are responsible to the Southern Editor of Current Affairs.¹⁷

310. International material comes from the principal English-speaking television organisations' current affairs units and daily information is received from Australia, the United Kingdom, the United States and Canada on material available. Australian current affairs programmes are used. Crews are also sent overseas for current affairs assignments. The main programmes are:

<i>Eye Witness News</i>	Monday to Friday
<i>The Crosbie Report</i>	Weekly
<i>Close Up</i>	Weekly
<i>Video Dispatch</i>	Twice weekly (for young people)
<i>Foreign Correspondent</i>	Weekly
<i>This Week</i>	Weekly during summer

The total output is approximately 280 hours per annum.¹⁸

311. Television New Zealand news and current affairs staff are employed on the same general basis as Radio New Zealand staff.¹⁹ So much turns on the high performance and indeed occasional excellence of lobby and specialist journalists that the Corporation in our opinion would be well advised to consider the use of contracts where the qualifications and merits of the correspondents justify them, along the lines we have set out in term of reference 2(b).

INTENDED DEVELOPMENT

312. Radio New Zealand, Television New Zealand and the *Listener* have arranged to purchase and install an electronic news processing system known as ENP. This is essentially a computer based communications storage and retrieval system which will allow news production on word processors and virtually instantaneous transmission to news rooms and studios. It will greatly reduce paper work and speed up the production process. This is an essential step as Radio New Zealand's system is now out of date and cumbersome in some respects. In a letter²⁰ to the Commission dated 10 July 1986, the Corporation informed us that:

"At its meeting on 25/26 June 1985 the Board of the Corporation approved the implementation of an electronic news processing system and replacement of an existing message switching computer system. The Corporation had for some time been planning the introduction of a computer-based system for information storage and retrieval in the news services of RNZ and TVNZ. The process, known as Electronic News Processing (ENP) is, in part, an urgently needed replacement of an outdated message system which is inadequate for a modern newsroom. The ENP system will provide significantly improved productivity in handling of material by journalists, improve ability to meet news deadlines, a reduction in staffing and staff turnover, and a significant reduction in overall ongoing operational costs. Following a world wide survey the Corporation selected a system from a company known as BASYS. This is a wholly-owned subsidiary of ITN (UK). The system is in use in RAI (Italy), ITN and BBC, Radio (UK) [sic] and NBC and ABC (USA).

Implementation of the BASYS Newsroom System started early in December 1985, and phase one of the project is projected to be completed in August 1986.

The BASYS System comprises three separate "non-stop" computer systems, at Auckland, Wellington and Christchurch. Each is duplicated, and is supported by uninterruptable power supplies to ensure a high level of availability. The three systems are linked together with high speed data communication circuits to facilitate the exchange and sharing of information.

Separate ENP systems are now operating in Auckland, Christchurch and Dunedin for both Radio and TVNZ. Installation in Wellington is proceeding, with 130 staff undergoing training.

It is planned to introduce a full ENP operation in Wellington from mid-July. A nationwide BCNZ message communication system is planned for introduction, on the same equipment, in mid-August, and will serve all local and regional radio stations,

TVNZ administrative and production centres and BCNZ corporate offices.

Once implemented the BASYS system will—

- Replace a computer system presently running the BCNZ message switching system.
- Provide 173 visual display units for journalists in RNZ and TVNZ news, current affairs and sports operations in Auckland, Wellington, Christchurch and Dunedin, and to the *Listener* in Auckland and Wellington.
- Provide a single telex operation to replace five separately addressed machines in use in the BCNZ.
- Provide 8 portable terminals for use by journalists to “dial up” and enter stories into the ENP system.
- Redesign and replace the message switching data network with a network capable of carrying high speed transmission.
- Provide links to new wire services (eg, Reuters, AAP etc) directly interfaced to the system.
- Provide full electronic news processing functions, including contact lists, diary information, and on air presentation functions to 81% of news and current affairs staff.”

313. In television, the recently introduced midday news programme has been made possible by the arrangement with Channel 9, Sydney for their full service by satellite transponder. Like Radio New Zealand, Television New Zealand will benefit from the ENP system, and already uses electronic news gathering equipment. The more this on-location equipment is used, the greater the opportunity for immediacy and live or very rapid coverage. The overall system to be introduced will be of particular benefit to television.

314. As mentioned in term of reference 2(b) above, approval has now been obtained to build a Network Centre containing a news complex in Auckland. The Commission considers that the Corporation is properly directing a large amount of its limited resources into news and current affairs as this is the fundamental service that a good public service broadcaster provides.

315. The Commission considers however, that the Corporation will need in future to place increased emphasis on hiring staff already expert in particular areas of current affairs, increased training of existing staff, and because it is so expensive to post correspondents abroad, the Commission considers that more use should be made of local experts as commentators to put the New Zealand viewpoint.

OVERVIEW

316. The Commission did not receive extensive submissions from parties completely outside broadcasting under this term of reference, but those that were received displayed considerable disquiet about certain aspects of television news in particular. Amongst the concerns expressed were assertions that:

1. Too much prominence is given to "bad news" with a tendency to emphasize the sensational and violent.
2. There is a tendency to give too much prominence to the viewpoint of minorities, or at least not enough prominence to the viewpoint of majorities.
3. The quality of interviewing is declining.
4. Newscasters and interviewers are becoming over exposed.
5. Too much foreign news is from an Anglo/US viewpoint.
6. Stories about the Middle East are biased in favour of Israel or, from another set of witnesses, are angled to put Israel's actions in a poor light.
7. The socio-economic background of those involved in news and current affairs is unrepresentatively white and middle class.
8. There should be more Australian and Southeast Asian news.

317. Whatever the validity of each of these claims may be, and some were backed up by more argument than others in their presentation to us, they do show how important the news and current affairs on television is to the public and how sensitive the public is to every aspect of it. The Commission notes that the Corporation places great emphasis on its statutory obligation to be editorially independent as encapsulated in section 24(d) and 24(e). These require the Corporation to have regard to "the accurate and impartial gathering and presentation of news, according to recognised standards of objective journalism" and "the principle that when controversial issues of public importance are discussed, reasonable efforts are made to present significant points of view either in the same programme or in other programmes within the period of current interest".

318. Further, the Corporation's editorial independence is enhanced to a degree by the fact that the Minister, in giving directions to the Corporation under section 20, is specifically not authorised by Parliament to give a direction in respect of the gathering or presentation of news or the preparation or presentation of current affairs programmes. The Corporation does not have an editorial viewpoint of its own in the way that a newspaper does,²¹ but seeks to present a variety of viewpoints on a topic. Ultimate editorial responsibility rests with the Directors-General. The Editor of the *Listener* writes editorials of course—the role of the *Listener* is further explored under term of reference 2(j).

319. The Commission believes that, as always, there is some room for improvement in the news and current affairs programmes of the Corporation. Electronic News Processing and the new building for television will be major steps, and we are mindful that news and current affairs in television has been given increasing priority to date, perhaps more so than current affairs in the radio context. Moreover we concur with the policy thrust towards the establishment of the BCNZ's own correspondents in key posts overseas, which we recognise will be limited to one or two correspondents in the first instance.

320. Yet there is also an opportunity especially in television news and current affairs, for a sustained effort to increase the depth of reporting and hence its quality. There is no doubt in our mind that, as in so many other matters pertaining to broadcasting, the British news networks and current affairs programmes set a standard in this respect which is already recognised here. Likewise the Public Broadcasting Service in the United States has a nightly news and commentary hour which is the envy of its commercial competitors. Their wealth of resources are not to be matched here, but the British services are drawn on as is the CBS and ABC from America and it depends on the editorial attitude to item length and on the time-frame of the programme as to how illuminating the extracts are.

321. Equally, in home reporting of news and especially for current affairs, to follow the best precedents and concentrate on rather fewer items, would bring out the quality of reporting we do have. In this important pursuit we hope that the lengthened *Eye Witness News* will start a trend even within other and shorter programmes. A great variety of sources have now been contracted for both in and beyond New Zealand. The next challenge, it would seem, is to utilise them to their greatest advantage.

322. In doing so much will depend on intensive training within the services and on the recruitment and retention policies adopted in the face of third channel competition. For it is plain to all concerned that news and current affairs will be a major arena for the battle to draw and hold the early evening peak audience. In the United States recent trends on the big three commercial networks have been towards ever shorter bursts of a scene, a sentence or perhaps two, and on to the next moving headline in colour. One result has been to contribute towards a general shaking of the hold television has on a better educated audience than in the past. Because New Zealand has generally leant towards British examples, professional standards put a brake on such tendencies. But it will be a test of the public service motivation in news and current affairs to see whether competition proves to mean fuller and better news and current affairs or more fragmentation and brevity.

323. Certainly the activity of the Corporation in its investment policies and its programming design increasingly over the last year—and even months—has demonstrated its regard for news and current affairs as an immediate priority in television and radio. In consequence several questions with which we began our hearings have now been answered by actions which promise well for the future and this aspect of the statutory duty to inform and educate.

RECOMMENDATIONS

1. That while approving of the accelerated investment in the news and current affairs area, the Commission suggests to the Corporation that it will require to be matched by equally vigorous policies in training, recruitment and retention to utilise the new

sources which have been tapped and meet the competitive staffing situation in prospect.

2. That the quality of depth in news and especially current affairs programming be pursued and defended.

General Introduction to New Zealand Content and Production

324. The next four terms of reference deal with the production and broadcasting of New Zealand content on radio and television in respect of the Broadcasting Corporation of New Zealand and, under term of reference 3(a), private warrant holders. These terms of reference attracted a great deal of attention and we read and heard a large amount of evidence on what many saw as a central purpose in a New Zealand broadcasting system—that the system should reflect and develop New Zealand's identity and culture. There is no dearth of reference to this in the statutory and regulatory instruments governing broadcasting in this country.

325. Section 3(1)(c) of the Broadcasting Act 1976 establishes one of the general purposes by which broadcasters are to be guided in fulfilling their responsibilities under the Act as that of ensuring "that programmes reflect and develop New Zealand's identity and culture; . . ."

326. Section 24(1)(b) of the Act establishes "the need to ensure that a New Zealand identity is developed and maintained in programmes" as a responsibility of the Corporation in respect of programming standards, and section 95(1)(b) establishes the same responsibility in respect of private broadcasters as defined under the Act.

327. Part I section 4(2)(c) of the Broadcasting Regulations 1977 states that the Broadcasting Rules Committee "may, from time to time, prepare and promulgate rules in respect of . . . providing that the matter broadcast during a specified period shall contain a prescribed proportion of items produced in New Zealand, and encouraging the inclusion in broadcasting schedules of as much matter produced in New Zealand as reasonably possible".

328. The *Standards and Rules* prepared by the present Broadcasting Rules Committee in respect of both radio and television require broadcasters, in the preparation and presentation of programmes, "to encourage and try to increase the production of New Zealand programmes."

329. The benefits to be gained from this, it was argued, are both cultural and economic. The broadcasting of a significant proportion of New Zealand material will help to develop, maintain and enrich a sense of cultural and national identity. Many witnesses including the new Director-General of Television New Zealand spoke of their belief that a strong national identity in broadcasting would make New Zealand radio and television, and especially the latter, less susceptible to cultural overlays in the present form of overseas programme imports and imported video-cassettes and, in the future, in the form of direct satellite

transmissions and a possible proliferation of channels as a result of new technologies including ISDN and cable transmission. Indigenous programming is important as a counter to the effects of imported material and may be the only bulwark for retaining a New Zealand component in a broadcasting future with a multiplicity of sources and forms.

330. The production of New Zealand content provides employment opportunities for New Zealanders—for writers, actors, dancers, musicians, composers and for producers and directors and a whole range of technical personnel. It supports and develops the film and television production industry and the recording industry. Furthermore it develops a higher profile for New Zealand overseas and helps generate external funds.

331. The four terms of reference which follow look at the ways in which public and private broadcasters acquire New Zealand productions, and we include records in that term, and the extent to which they provide employment opportunities for New Zealand writers and artists.

Term of Reference 2(f)

"2(f) The benefits, the relative costs, and the staffing implications of extending in-house production of drama, nature, science, religious, and cultural programmes, light entertainment programmes, quiz and game shows, and sports programmes:"

RADIO NEW ZEALAND

332. Radio New Zealand defines in-house production as radio productions which are either made by Radio New Zealand staff or commissioned by Radio New Zealand from outside producers to a production design already established, though not necessarily using Radio New Zealand facilities. This is, of course, a wider definition than that used by Television New Zealand and therefore this term of reference can be interpreted differently for radio and television. Most Radio New Zealand in-house productions are broadcast on the National and Concert Programmes.

333. Radio New Zealand's Controller of Programmes told us that in-house production "fosters the ordered development of programme directions; the professional training and development of appropriate staff; the development of a supportive environment for programme-making. It allows for innovation and experimentation in programme-making. . . It ensures an adequate supply of programmes produced by New Zealanders, written and performed by New Zealanders on New Zealand issues and culture."¹

334. We were told that Radio New Zealand has had difficulty in obtaining independently produced New Zealand programmes. Apart from the occasional music special, commercial serial, religious or other

one-off programme, no local independent production is bought by Radio New Zealand. New Zealand content on public radio is, therefore, produced almost totally in-house.

335. There has, however, been a "steady decline" in the level of in-house production in Radio New Zealand over the last decade and more. Production in drama, for example, has decreased from 400 hours in 1976 to only 94 in 1984/85. The Director-General of Radio New Zealand, Ms Beverley Wakem, gave us further examples when she appeared before us on 2 and 8 August 1985. "We used to have report programmes on the weekend. . . We haven't had those for some years. *Midday Report* was a full report. It's only half of one now. We used to have an *Evening Report*. We don't have it at all now. Religious programmes. . . ten minutes have shrunk to four. . . *Spectrum* has a series of three lots of ten now, instead of every Saturday throughout the year."² Ms Wakem also told us that there had been a reduction in the number of studio recitals of serious music, in the number of documentaries produced, in light music programmes and in the output of the Continuing Education Unit.

336. The nature of the medium of radio has altered since the introduction of television in New Zealand. No longer is it a 'mass' medium and "the fare that was once the mainstay of radio programming is not sought or produced to the same extent now."³

337. The Corporation pointed to financial constraints which have necessitated a "reassessment and rationalisation of radio's in-house production output."⁴ In-house production, we were told, is much more expensive than similar types of programmes available from independent New Zealand and overseas sources. The amount of funding Radio New Zealand has been able to allocate to in-house production has not, because of the lack of increase in the licence fee since 1975, kept pace with inflation or with the increases in rates paid to actors, writers, singers and musicians which are major factors in the cost of programme production.

338. The trend of declining funds is, we were told, a "cause of serious concern" for Radio New Zealand executives. Evidence given to us on other terms of reference reinforced this concern over financial and staffing constraints on in-house production in respect of a wide range of programme categories including Maori programming and news and current affairs. Radio New Zealand expressed a desire to counter effects of this declining trend by extending in-house production to increase the level of New Zealand content on radio with the aim of ensuring the maintenance of a New Zealand identity on that medium.

339. A substantial increase in the level of Radio New Zealand's in-house production would require the employment of extra producers. Radio New Zealand expressed dismay at the decline in the number of production staff employed by the service and noted the implications in this for the future availability of qualified programme makers as well as the effect on staff morale.

340. We note that other organisations who expressed concern at the decline in Radio New Zealand production were also aware of the reasons for this. The Public Service Association noted that "it must be said in defence of Radio New Zealand that they are doing their best in the face of a considerable shortfall in necessary resources to do the work which is required of them by their legislation."⁵ PEN supported this sentiment, submitting that "the [drama] section staff have done their best under increasingly adverse conditions."⁶

341. Radio New Zealand provided us with per-minute transmission/production costs for 1984/85 and estimates (based on 1985 figures) of budgetary increases required to extend production in various departments, notably drama, light entertainment and cultural programmes. We have appended a summary of these at appendix 4 and appendix 5.

342. Increasing the financial resources available to the Radio New Zealand Drama department would allow the service to increase the cast size of plays and enable a greater use of creative resources. Additional budget allocations would assist with expanding production in the sphere of music, using New Zealand composers, as well as expatriate New Zealanders and visiting artists in concert with local performers.

343. We have discussed, in our introduction to this section, the benefits to be gained from an increase in New Zealand production on radio and television. In the light of evidence about the decline of in-house radio production in all areas, and given the general benefit that the entire body of evidence saw in the development and extension of New Zealand content on radio, it would seem that there are serious funding problems. Radio New Zealand is, in our opinion, an efficient user of the resources it has to hand. To enable an increase in in-house production to take place would require extra funding, not merely a reorganisation of existing resources. This reinforces the arguments put to us for an increase in the licence fee which we have discussed in greater depth in terms of reference 2(b) and 2(c).

TELEVISION NEW ZEALAND

344. The benefits of in-house television production identified by the Corporation included the ability to provide a broader range of programmes than that currently available from independent production houses because of the greater expertise and larger resources available within Television New Zealand, the ability to experiment with different formats and the opportunity to exercise closer editorial and quality control during production. The Corporation also noted that it was able to provide to the independent sector experience in television production by contractual employment of producers, directors and other staff.

345. Television New Zealand's total production from eight production departments in the 1984/85 year was 2,450.64 hours, although it was stressed that this would not necessarily equate with transmission. In-house production provides approximately one-third of peak time viewing (6.00 pm to 10.30 pm).

346. Production output has remained approximately the same for the past four years, in spite of increased production costs. The Corporation provided us with estimates of average production costs on a per-hour and per-minute basis for each of its production departments and these are reproduced in appendix 6.

347. The Corporation stressed that these were average costs only and that a range of production costs apply. The Corporation's estimate of the range of relative production costs for the programme areas specifically referred to in the term of reference are also included in appendix 6. Our own calculations on the average production costs in appendix 6 show that the average cost per hour over all production departments is \$33,016 which is approximately \$550 per minute.

348. To achieve an increase of, say, 10 percent (245 hours) across all areas of local production would require what the Corporation estimated as an extra \$8,085,000 with an increase in staff of approximately 78. Investment in additional equipment such as videotape machines and remote cameras would also be required.

349. The Public Service Association pointed out that the Corporation is a very efficient producer of its own programmes when costs are compared with averages for British and American productions. Nevertheless it acknowledged that when the Corporation's production costs are compared with relative purchase costs (US\$25 per minute for overseas programmes and \$NZ150 per minute for independent locally produced programmes), in-house production is an expensive means of acquiring programmes. The PSA contended, however, that while these financial considerations were important they should not be the overriding consideration in programming. The \$150 per minute purchase price for independent productions is a contentious issue and we will discuss this further under term of reference 2(g).

350. Most studio and outside broadcast resources of Television New Zealand are, the Corporation submitted, fully used to the extent that staff and financial resources permit, and extension of in-house production would require the employment of additional staff. The Controller of Programme Production pointed out that audiences now expect more sophisticated methods in all areas of programme production because of increased exposure to overseas production and that this requires more staff to produce a better quality production.

351. Within the constraints of present staffing levels and finances, the Corporation conceded that it would be possible to increase production levels by reducing production quality, but submitted that "such a move would be unacceptable to both the Corporation and its audiences".⁷

352. In-house production could be increased within the present level of staff and resources by moving production from the staff and resource intensive areas into those which are less demanding, but that could "ultimately lead to a narrow range of production output"⁸ and we would consider this to be an unsatisfactory outcome.

353. The Television Producers and Directors Association stressed that it would be "totally opposed to any reduction or further reduction in in-house local production"⁹ and it was their view that increased production should involve the independent outside industry and the in-house industry working together.

354. The Corporation stated in its submission and in evidence that, while it wishes to extend the total amount of New Zealand content broadcast, it intends holding in-house production at its present level. This policy was originally announced by the then Controller of Programmes at the December 1984 GOFTA conference.

355. Growth in New Zealand productions will be achieved through commissions, co-productions and purchases from the independent sector if the Corporation's standards and programme requirements can be met and provided sufficient funds are available for the purpose. We will discuss this in greater depth under term of reference 2(g) but note, once again, the phrase "provided sufficient funds are available". It is the belief of this Commission that, given the objectives of the Act, funds should be available to the Corporation and its services for an increase in local programming taken from a variety of sources.

356. There appeared to be some indications that Television New Zealand had not always used its production resources with the same economy and efficiency as Radio New Zealand. We hope that the restructuring currently under way will provide a better use of those resources. As Television New Zealand brings its production equipment up to current technological levels, opportunities will increase for shorter production times. We also note that Television New Zealand sends much of its film to Australia for processing at greater costs than could be achieved if the National Film Unit were used and we would suggest that this is another area that should be considered by Television New Zealand executives in a bid to make better use of resources available to them. We received no convincing explanation from Television New Zealand as to why this change should not be negotiated. Considerable success has already been achieved by BCNZ Enterprises in selling overseas and there should be further benefits to be gained from increased marketing of New Zealand productions overseas. We were likewise interested by the suggestion that, to reward marketable production, the returns from such sales should as far as possible be returned directly to the appropriate production department.

PRIVATE RADIO AND TELEVISION

357. Under term of reference 3 we are required to address the question of in-house production as it applies to the holders of warrants in respect of private broadcasting stations. It seems to us that this can be best dealt with here as part of the discussion on New Zealand content, of which this term of reference is but one area, and we have done so accordingly.

358. Private radio stations follow broad based music-intensive formats targeted to specific audiences and do not, therefore, engage in the

production or broadcast of programmes specified in the term of reference. Production of such programmes is, on the whole, beyond the operational capacity of individual stations which do not have the expertise in terms of writers and other allied production staff. Most have a limited sports coverage, which may be syndicated, and may produce programmes or station promotions in the form of competitions. Some radio stations, such as Radio Waikato, broadcast short religious programmes which are prepared by groups outside the station. The establishment of a Private Radio Resource Centre to undertake the production of such programmes was a possibility mentioned to us and we would suggest that private radio operators might well consider this further with an eye to contributing in the form of jointly-produced programmes with a New Zealand reference.

359. At this stage television programming schedules and in-house production levels with their attendant costs and staffing levels have been submitted by the applicants for the third channel but are projections only and have been discussed in greater depth before the Broadcasting Tribunal. In respect of local production, applicants submitted varying levels of commitment, discussed more fully in term of reference 2(i), with differing balances between in-house and independent production to meet that commitment.

360. We would hope that the successful warrant holder in respect of the third television channel would, through its production policies, foster and support the further development of employment opportunities and expertise in the television production industry. In the absence of a fully fledged production infrastructure it may be that the opportunity exists for a third channel to rely less on in-house production and the capital investment in plant and equipment that this requires and take for itself more of the role of an "electronic publishing house". The BCNZ has existing investment in both people and equipment and rapid change of this sort is less possible for the Corporation. Veering so far towards outside production as to under-utilise its own production facilities would cause production costs to rise and it is economically essential that the Corporation use its existing resources to the fullest.

RECOMMENDATIONS ON 2(f) and 3(f)

1. That any increase in public broadcasting fee receipts be fully reflected in increased support for restoring as much as possible of past levels of in-house radio production for National Radio and other non-commercial radio services.
2. That the Broadcasting Tribunal extend recognition to the value of the private radio warrant holders' proposals for a Private Radio Resource Centre for the production of specialised programmes for purchase and broadcast on private stations.
3. That the Corporation place as high a priority as its funds permit on a programme for steadily raising the level of their in-house television production in economic balance with their programme for drawing on independent production.

Term of Reference 2(g)

"2(g) The extent to which the Corporation draws on the products of independent television production companies and the New Zealand film industry and the conditions, benefits, and costs of doing so:"

361. There is a limited market environment for domestic television production, although this will alter with the advent of a third channel. Presently the Broadcasting Corporation of New Zealand controls the extent to which independent producers have access to the television market. The Independent Producers & Directors Guild defines 'independence' in terms of the degree of ownership of a product. Independent programme makers who initiate and make their own programmes derive their earnings from their own efforts, have control over their own budgets and take a share in the risks of production. Work done by freelancers for Television New Zealand, on contract, is not considered by the Guild to be independent work.

362. Programmes are acquired by the Corporation from the independent sector in three ways—commissions, co-productions and purchases—with certain conditions applicable to all categories. "Programmes must be of a suitable standard and appropriate for programme schedules; they must complement TVNZ productions; costs must be within acceptable limits, and they can be funded from approved budgets."¹

363. The CIP scheme (commissioning independent productions) was established by the Corporation in 1978 with the intention of providing partial funding to independent producers for the development and/or production of television programmes of an indigenous or regional nature for showing by Television New Zealand. Assistance could be given for programme research, script development, production or post-production work. An annual budget is now allocated each year with a maximum allocation of \$60,000 per project, recently increased from \$50,000. By mid-1985 61 projects out of 300 applications had been supported, to a total financial value of \$2,009,415. Several conditions were attached to CIP productions to guarantee a return to the Corporation on the original investment (but not to exceed that investment).

364. The intention of the CIP scheme was to assist new programme makers without a proven track record, rather than provide a financial boost to the feature film industry. However, many involved in the independent industry perceived CIP as little more than a gesture towards fulfilling the responsibility of the Corporation to encourage and present the works of creative people outside its own production group.

365. Co-productions require a higher Corporation involvement in production than do CIP projects. Co-production may be with independent production companies in New Zealand or with major overseas organisations such as the ABC, BBC, or Thames Television and involves a combining of resources in finance, equipment,

production and post-production work in some form. While conditions are more flexible than those for CIP projects, they do ensure that the Corporation gains a return of some sort such as playing rights, marketing rights or a financial return. In the financial years 1983/84 and 1984/85 the Corporation entered into 14 co-productions with a financial value of \$2,752,049. These co-productions covered a range of programme areas—drama in both single plays and series, documentaries, entertainment and children's programmes. There has been an increased use of co-productions because of the high cost of in-house production, especially drama. Some projects for which CIP funding was requested have been taken up as co-productions with their originators.

366. Purchases may be "off the shelf" (completed programmes) or a pre-purchase contract for screening rights once a programme is completed. In 1984/85 Television New Zealand purchased 29 independent productions at a total cost of \$554,713 including screening rights to a number of New Zealand films.

367. We were told that at present the Corporation pays a maximum of \$150 per minute for indigenous production. For example Television New Zealand pay \$7,500 for an independently produced 50 minute documentary which would cost, according to Television New Zealand's own official estimates, between \$90,000 and \$120,000 to make in-house. The Corporation's average per-minute costs for television production have been included in appendix 6. In all cases average costs are well in excess of \$150 per minute and, in the case of drama, the production costs for a long-running series such as *Country GP* are at least \$1,000 per minute.

368. Where programmes are made for television—as opposed, for example, to New Zealand films whose primary medium is the wide screen—we believe that the Corporation should pay a far more realistic purchase price. The Television Producers and Directors Association noted that, while remuneration should reflect the real costs of production, the BCNZ should not use these costs as an argument to retrench or diminish its own production.

369. Television New Zealand has recently appointed a Commissioning Editor, responsible to the Director-General, whose task is to identify and acquire programmes made by independent New Zealand producers which are suitable for Television New Zealand's programme schedules. The Commissioning Editor's specific responsibilities as outlined to us by the Corporation are:

1. Negotiation with independent producers to determine format, price and content of programmes. Provision of script advice to producers when necessary.
2. Establishing a management system involving liaison with programming production departments, and programme purchasing.

3. Responsibility for development of policy relating to the acquisition of independently produced programmes.
4. Responsibility for the presentation of independent production companies' interests to Television New Zealand, and vice versa.
5. Setting and monitoring the acquisition budget in conjunction with programming management.

370. The independent industry welcomed such an appointment but were, nevertheless, cautious in their expectations. They expressed concern that the incumbent may not have an appropriate amount of decision-making responsibility and that the position may turn out to be "window dressing".

371. We do see problems in a single position dealing with a range of programme areas. Few publishing houses of any size would confine themselves to one publisher for all areas of publishing. Channel 4 in the United Kingdom has adopted a structure of editors for different subject areas. The concentration of power focussed on a single point of entry to the BCNZ for outside producers has potential for difficulties and we would see further commissioning editors to assist the Editor as important to broaden the range of the single Commissioning Editor.

372. Representatives of independent producers and directors appearing before us requested that the Corporation be required, under its new commissioning editor scheme, to commit 5 percent of Television New Zealand's net advertising revenue to acquiring productions from the independent sector, and that the amount that this constituted should be made known to them. This, they argued, would ensure continuing support for the independent industry as well as enabling independent programme makers to plan production schedules and assess their chances of having programmes, at various levels of production, accepted by the Corporation for inclusion in programme schedules.

373. We cannot, however, support the arguments for making known the budget for acquisition from the independent sector and do not believe it would constitute good business practice were the Corporation required to commit and publicise a set percentage of its revenue in this way. We would instead prefer to see the proposed commitment by the Corporation to increase its use of the independent sector being used as a firm indication of intent for both the Corporation to retain as a priority and for private television to adopt and improve upon since commissioning is more open to them as a mode of New Zealand production.

374. Independent programme and film makers have hitherto been able to look only to the Corporation in order to get their product on to the airwaves and into people's homes. The independents submitted that the Corporation had, through its control of the medium of television for transmission, established a monopoly on production of programmes, and that this constituted, at its extreme, "restrictive business practice".

375. The Independent Producers and Directors Guild argued that a "licence to transmit programmes should not confer upon [the Corporation] a monopoly on the production of material that is broadcast on television".² *The Report of the Committee on Financing the BBC* (The Peacock Report) noted in this respect, "the three functions of: making programmes, packaging them into channels, and delivering them to the viewer or listener are distinct, and it is merely a historical accident that links them together."³

376. Indeed the Corporation itself stated in its submission that it did not have a lien on production. Drawing on the products of independent television production companies and the New Zealand film industry provides programming from a wide range of sources using a wide range of talents.

377. The Corporation perceived a number of social and economic benefits from the use of independent productions. "The use of outside productions extends the range of talent that might be seen on television... The interchange of ideas among professionals helps maintain creativity within Television New Zealand; and the production standards of both Corporation and independent producers are improved."⁴ There is no doubt in our minds that these are worthwhile benefits for all concerned including, of course, the audience. The Board of the Corporation has, as we have noted elsewhere, agreed to a policy of maintaining in-house production at its present level and extending New Zealand content by utilising the resources of the independent sector as funds permit, and referred to this policy as "enlightened self-interest".⁵

378. Representatives of the independent sector argued that increasing their access to television screens would enable alternative viewpoints to be seen and allow audiences to have the chance to see programmes made from a variety of sources using a variety of skills. The IPDG submitted that viewers had the "right to see the widest possible range of variety, information and opinion reflected on New Zealand television."⁶ They stressed that in many other countries television is a major outlet for the local production industry.

379. Arguments about creativity and the best environment in which to foster this are, of course, subjective. The independent sector felt that working with the Corporation was stultifying and encouraged a "civil service" mentality. There is, they stated, a "fixed level of competence, imagination and ability. The programmes are inescapably locked into this closed circuit of creativity."⁷ Interestingly, the TVPDA felt that the independence of a Corporation producer was more secure, and encouraged greater creativity, because he/she was not subject to commercial and especially budgetary and schedule pressures.

380. These arguments ultimately lead to no sure conclusion but they are, perhaps, indicative of a 'them and us' mentality which has characterised the relationship between Television New Zealand and the independent industry and which is, in the long run, counter-productive for both.

381. We were given evidence of ongoing problems in the relationship between the independent sector and the Corporation. Many of these related to pre-production contracts and funding deadlines, and we would hope that the appointment of a Commissioning Editor will go far towards improving the lines of communication between the two parties as well as streamlining the commissioning and purchasing processes.

382. We have already discussed in more depth, under term of reference 2(b), some of the management problems we feel exist within the Corporation and Television New Zealand in respect of programme production, and producers and directors working within the Corporation expressed concern to us on this point. There are problems relating to management structure and lines of communication and we see a need to get away from a "top down" control of the production process while acknowledging that management and production are two interlinked parts of the same process. Clearer guidelines need to be given to producers and directors in terms of financial commitment and overall production and programming philosophy. Increasing involvement of the independent sector in the production of programmes for Television New Zealand requires better communication. The Corporation needs to make clear its programme philosophies and objectives and to give more specific guidelines on acceptable standards.

383. We were given evidence on the operation of Channel 4 in Britain which was established to innovate and experiment in programming and is required under its Act to take a substantial proportion of the programmes from non-ITV sources. Channel 4 acts as an 'electronic publishing house' and commissions or purchases approximately 50 percent of the programmes it broadcasts from independent production companies. A copy of Channel 4's Independent Productions Terms of Trade was provided to us and it seems that such a document may well be of use in New Zealand for public and private broadcasters.

384. We were told that the independent sector is able to make programmes more cheaply than Television New Zealand, and, indeed, the Corporation's own evidence seemed to support this. Evidence from overseas also points to the fact that independent production companies can be more cost efficient. The Independent Programme Producers Association in England reports that programmes made by independents for Channel 4 have been produced on average 30 percent more cheaply than those made by established television companies. The Peacock Committee also noted that "there is suggestive evidence that BBC costs are higher at least in some cases than those of small independent producers (allowing as best we can for non-comparable elements). . ."⁸

385. We also are aware of the problems of making direct comparisons between programme costs, given differential accounting systems, cost structures and budgeting requirements that apply in respect of Television New Zealand and independent producers, and the difficulties in identifying above and below the line costs. However, we note with some regret that representatives of the independent sector in New

Zealand were unable to respond to our request for detailed information on their production costs.

386. Nevertheless we feel that, if the Corporation is to increase its level of New Zealand programming, and this is discussed further in term of reference 2(i), using the resources of the independent industry appears to be one economically efficient way of doing so. We would strike a note of caution here. We would be concerned if increased use of the independent sector, especially for drama and documentary production, led to a contraction of the range of programmes produced in-house whereby Television New Zealand production staff were concentrated in less "creative" production fields.

387. We commend the Corporation's decision to widen its range of programme sources by using the independent industry and believe that New Zealand content should be based on as wide a range of production sources as possible. However, we do not believe this can, or should, be subject to regulation. Our reluctance to recommend regulation in this matter should not be taken by the Corporation, or by any private warrant holder, to indicate any lessening in our support of the independent sector. By the end of the decade we would expect that at least 15 percent of New Zealand content broadcast on each channel would be derived from the independent production industry and that, as local content increased beyond that time, so would the percentage of independently produced programmes. We envisage this as a minimum requirement and would expect the Broadcasting Tribunal to keep this in mind in its evaluation of local content. We support the Writers Guild's call for a "more realistic and co-operative involvement with independent producers and private production houses"⁹ on the part of the Corporation. Creative intervention from independent production companies and the New Zealand film industry will increase the vigour of material broadcast on television. We were impressed with the enthusiasm and commitment of witnesses for the independent sector who appeared before us.

388. The submissions made to us by the third channel applicants contained varying commitments to the use of the independent production industry, through co-productions, commissioned programmes and purchases. Nevertheless all contended that they would not be relying solely on in-house production for their New Zealand content. With the advent of a third television channel we anticipate some form of co-operative approach to resource and production planning to make quality New Zealand performances available to a much wider audience.

389. We have already noted, under term of reference 2(f), that the third channel operators will not have full production capacity and suggest that their use of the independent industry to provide New Zealand programming would be of benefit to both.

RECOMMENDATIONS ON 2(g) AND 3(g)

1. That the Corporation's actions in appointing a Commissioning Editor and announcing an active programme for increasing its use of independent New Zealand television production be given continuing support and future extension.
2. That Television New Zealand consider the appointment of an assistant commissioning editor to allow of some specialisation and in recognition of the need to clarify the objectives, standards and terms of the commissioning programme and improve communications with independent producers in general.
3. That the Corporation review the terms of its financial support for the CIP scheme and the rates of payment for co-production and purchase of independent production for television with a view to equity and viability for all parties and in the light of the competitive market which is in prospect.
4. That the successful applicants for third channel warrants implement the proposals generally advanced for a strong sector of independent production in their programming and that the Tribunal give consideration to this matter.
5. That Radio New Zealand and private radio warrant holders adopt policies directed to encouraging and using independent productions of a satisfactory standard and worth.

Term of Reference 2(h)

"2(h) The manner in which and the extent to which the Corporation commissions individual writers and artists, and the manner in which and the extent to which the Corporation, in commissioning individual artists and writers, co-operates with the Queen Elizabeth the Second Arts Council, the New Zealand Film Commission, the National Film Unit, and relevant voluntary bodies."

390. Section 34(a) of the Broadcasting Act 1976 establishes that the Corporation may "Enter into such contracts and make such arrangements as it thinks fit with any person who, subject to the terms and conditions of any such contract or arrangement, will produce programmes or parts of programmes to be broadcast by the Corporation."

391. While the Corporation did not specify to us that it is this section under which artists and performers are contracted, we note from reference to the Act and the *Report of the Commission of Inquiry into Contractual Arrangements entered into by the Broadcasting Corporation of New Zealand with its Employees and certain matters relating to Advertising* (known, in short, as the *Jackson Report*) that "contracts negotiated under section 34 were for services to be provided over short periods (e.g. related to the production of a single programme) and were normally non-renewable."¹

392. Radio New Zealand and Television New Zealand commission and employ on contract writers and artists, individually and in groups, for a wide range of productions in accordance with programme requirements and the acceptability of their performance standards. The Corporation noted that using writers and artists in this way encourages a healthy cultural life and that it regards its responsibility as a patron of the arts associated with broadcasting as an important part of its activities.

393. Under section 34(b) of the Broadcasting Act 1976 the Corporation may "negotiate with organisations representing persons who are not officers and employees of the Corporation in respect of terms and conditions of contracts for the provision of services or the performance of work by those persons in programmes". Accordingly, Radio New Zealand and Television New Zealand have negotiated agreements with the Musicians' Union, Actors Equity and the Writers Guild. These agreements specify the terms and conditions under which writers and artists are engaged as well as minimum fees payable for various categories.

394. Both services maintain comprehensive files of writers and performers and told us that producers and directors "maintain contact" with appropriate sectors of the writing and performing community. Performers or writers may be approached directly or they may be engaged as a result of auditions. Performers or their managers or agents also approach Radio New Zealand or Television New Zealand directly. Both services told us they also consider unsolicited scripts.

395. As well as commissioning and engaging writers and performers Television New Zealand also provides assistance for New Zealand talent by way of dance, voice and music workshops.

396. The manner in which the Corporation deals with writers and performers contracted to provide services in the production of a programme was dealt with to some extent by the *Jackson Report*.

397. Various of their recommendations 1 to 20, which were subsequently referred to the Corporation by the Government, dealt with staff employed on contract under relevant sections of the Act, and therefore have some bearing on the topic addressed by our term of reference. The Corporation subsequently provided us with information on the extent to which these recommendations have been implemented.

398. We received a number of submissions from individual writers and artists, from performing groups and from organisations representing those writers and artists. They noted that changes in contractual procedure have been effected since the *Jackson Report* but nevertheless expressed concern at some continuing problems.

399. The general tenor of their submissions and evidence was that there is still some room for improvement in both the manner and the extent to which the Corporation engages their members. While not condemning the Corporation out of hand, they perceived a "cavalier"

attitude on the part of the Corporation towards their members, and the PSA submitted that the Corporation had a "less than enviable record".²

400. Actors Equity identified problems with the auditioning process, occasioned by an apparent lack of understanding of the actor's or dancer's craft and of requirements in this situation. Poor rehearsal and performance facilities were also mentioned, although we doubt this is a charge of which the Corporation alone is guilty.

401. Submissions also drew attention to poor management practices in the Corporation's dealings with the artists and writers it commissions or engages on contract. We were told of delays in issuing contracts once offers of work had been made, or of offers being withdrawn at the last minute (often with some inconvenience to the performer), of problems with payments, royalties and residuals. We were told of problems in communication between the Corporation and performers in respect of schedules, starting dates and, in extreme cases, cancellations of productions. Our attention was also directed to past problems in respect of writers and copyright. We were told that performers and writers often have to deal with two or three sections of Television New Zealand and Radio New Zealand to ensure that contractual obligations are fulfilled or to have queries answered.

402. Actors Equity, for example, told us of problems that had arisen in respect of royalty payments with the sale of *Children of the Dog Star* to Denmark by Television New Zealand's co-producers, Thames Television, and an apparent lack of consultation between BCNZ Enterprises and the Personnel and production departments. Another organisation, PEN, gave us the example of a writer who had heard his work being broadcast on the radio without his prior knowledge or permission, despite his being the copyright owner.

403. One would assume that a centralised computer would take care of automatic royalty payments. No reputable publisher could afford to make errors of this kind or they would not attract creative people in a competitive situation. A publisher's first duty is to pay for intellectual and creative property or performing rights.

404. We note that recommendation 10 of the Jackson *Report* stated "Contracts under section 34 of the Act for short term services to programmes be negotiated by producers, as at present, but not be effective until approved and countersigned by the Controller of Personnel Services of the relevant Division or his or her delegate."

405. Recommendations 16, 17 and 19 of the Jackson *Report* also seem to us to have some bearing on this general situation.

These recommendations were:

"Recommendation (16)

Liaison between producers and senior management officers in BCNZ be improved by establishing clearer lines of communication between such officers.

Recommendation (17)

While producers should retain their responsibilities for the selection and control of entertainers and other short-term employees contracted for specific productions, greater responsibilities for the oversight, direction and control of subordinate production staff be placed on executives in the more senior positions.

Recommendation (19)

Directors-General within BCNZ be responsible for ensuring such systems are put in place and tested regularly."

406. Given the concern expressed to us by individuals and representative groups, we wonder whether the Corporation has attended to those recommendations sufficiently to ensure that they are being applied to the Corporation's dealings with writers and performers.

407. There may be good reason temporarily to assign a senior executive to take responsibility for liaison between writers and artists, producers and the management staff, production departments and the Personnel Department in order to identify the characteristic problems in short-term contracts and contract work and find ways to ease them. Establishing better lines of communication and exchanging information on problems and solutions would be early steps. But in the long term it would be a measure of the Personnel Department that such problems not recur, let alone persist.

408. Various witnesses referred us to the problem of fees and agreements negotiated under section 34(b). Witnesses noted that negotiations in the past have been hampered by a lack of knowledge on the Corporation's side as to the reality of the performer's or writer's craft.

409. Submissions from those bodies representing actors, writers, musicians and composers expressed dissatisfaction with the level of remuneration paid to their members. Actors Equity, for example, noted "the rates of pay. . . reflect the attitude that the Corporation is generous in employing us at all. . ."3

410. The Music Federation submitted that the fees paid by Radio New Zealand have been declining in real terms for many years and that there are "some musicians who are no longer prepared to perform for that level of fee."4

411. The Composers Association submitted that "commissioning fees from broadcasting should be increased to realistically reward the time and skill applied by composers in all styles and mediums of composition activity."5 The range of fees paid by Radio New Zealand is included in appendix 7.

412. Television New Zealand told us that, while the rates paid to artists are based on clauses 13 and 16 of the Actors Equity Agreement, the final determination of fees is flexible and includes a loading for top performers. A range of fees paid by Television New Zealand as

established by those clauses is included in appendix 8. Also included in appendix 8 are examples of fees paid to musicians and writers.

413. There is something of a "Catch 22" situation for both the Corporation and the writers and artists involved. As the Controller of Programmes for Radio New Zealand told us, "...Radio New Zealand is forced to drive the hardest bargain possible at craft union negotiations, knowing that increases in rates mean further reductions in the level of output."⁶

414. This is not a satisfactory situation, yet it is one that is not easy to rectify with funding as it is. We do not feel that this is an area in which we can do more than call attention to a problem for the matter is in part an industrial relations problem and in part a managerial habit of making savings where resistance is less and managers believe media exposure is of countervailing benefit. Nevertheless we would draw the Corporation's attention to our concern in this area. The development of New Zealand talent in all writing and performing professions is a laudable objective and the Corporation's use of writers and artists at fair fees cannot but assist this.

415. We would certainly recommend that realistic fees be paid to writers and performers contracted to the Corporation. In this respect we were also told that the Corporation does not recognise PEN for the purposes of negotiating agreements as a body representing some of those writers it puts under contract and especially so for radio. The Corporation was unable to give us any sound reason for this and, as there is only a partial overlap in the membership of PEN and the Writers Guild, it would seem sensible for the Corporation to negotiate with both.

416. The number of artists or groups that can be engaged and the level of remuneration are governed by financial constraints. As a result there has been an increasing tendency for writers and performers to direct their efforts elsewhere. Mr Craig regretted that "if the title 'Patron of the Arts' could ever have been applied to broadcasting, it is no longer apt for Radio New Zealand", and that this has had a negative effect on "the nurturing and development of New Zealand talent in all fields of artistic endeavour."⁷

417. The extent to which the Corporation uses the services of writers and artists also relates, of course, to the level of in-house production. We have already discussed this under term of reference 2(f). Both services referred again to the financial constraints under which they operated in respect of local production. Radio New Zealand has indicated that it would wish to extend its local production, especially in the fields of drama and music of all types and we have indicated our support for this. We are aware of the financial implications and our considerations on this basic constraint on all positive recommendations are addressed at length under term of reference 2. Nevertheless, Television New Zealand has stated and the Board has accepted a policy of maintaining its in-house production level and extending local production as funds permit by using the local production industry. So

radio and television policies, as given in evidence, both incidentally support the use of New Zealand talents.

418. The Corporation can also vary the ways in which it uses the skills of various groups, such as regional orchestras for example. It was suggested to us that the Corporation might purchase an appropriate number of orchestral calls per year to be used for the recording of soundtracks, possibly with multiple playing rights which would also help to increase the amount of New Zealand content on the Concert Programme.

419. We do not believe it is our task to instruct the Corporation by what proportion to increase the number of artists and writers it uses. Nevertheless we would again repeat our support for increasing New Zealand production using as wide a range of programme sources as possible and the development of New Zealand talent in all spheres of production and on both sides of the camera.

420. Broadcasting, especially though not exclusively public service broadcasting, has a positive role to play. Furthermore it seems to us that increasing experience is one way to ensure quality, and our ultimate aim is, of course, quality New Zealand production.

421. This term of reference also requests us to consider the relationship the Corporation has with bodies such as the Queen Elizabeth II Arts Council, the New Zealand Film Commission, the National Film Unit and relevant voluntary bodies.

422. The Corporation has a representative on the Queen Elizabeth II Arts Council though not, we understand, with voting rights. The Corporation also has formal contacts with a number of other bodies including the New Zealand Film Commission. Liaison with various bodies enables the Corporation to maintain contact with the multi-faceted arts world. In respect of the Corporation's work in the area of ballet and opera production, as well as in commissioning compositions and especially with regard to the work of the Symphony Orchestra, continued contact and co-operation with various bodies such as the Arts Council is to be recommended.

423. The Corporation believed that formal representation on the Film Commission would be advantageous, while noting that liaison with the New Zealand Film Commission and the National Film Unit are, perhaps, more relevant in the area of co-production and in commissioning of productions from the independent sector.

424. If the Corporation is to have a role to play in the cultural affairs of New Zealand and in the development and expansion of New Zealand talent and expertise, then forms of consultative machinery should be useful. They should involve among others the Commissioning Editor, and persons appointed in the production and personnel fields to act as liaison with writers and artists.

PRIVATE RADIO AND TELEVISION

425. Private radio stations tend, as we have noted, to be oriented towards specific music formats and to have little call upon the talents of individual writers and artists or groups. Some stations use artists or writers not on their permanent staff for specific programmes or for commercials, but we received little evidence on this. Indeed organisations such as the Writers Guild expressed a lack of faith in the ability or desire of private radio stations to involve themselves in producing creative programmes. Where station formulas and style allow for variations on record-playing as a mainstay, we would encourage them to use the services of New Zealand writers and artists.

426. Private radio stations do tend to be involved in the organising and sponsoring of community events such as concerts and events concerned with theatre and it is in this field that indirectly they use the talents of New Zealand writers and, more specifically and directly, of performers.

427. The future involvement of private television in this area is difficult to anticipate. But we feel that any warrant holder should take careful note of the problems identified in the Corporation's relationship with writers and artists and take steps to ensure these are not duplicated. Again we stress the value of using New Zealand writers and artists.

RECOMMENDATIONS ON 2(h) AND 3(h)

1. That the Corporation temporarily assign a senior executive to identifying the problems in short-term contracts and contract work and making changes and setting up procedures to improve the situation and fix responsibilities for permanent attention to this area.
2. That the payment of fees for writers, performers and copyrights involved in short-term contract work be made as straightforward, rapid and automatic as well-designed procedures can ensure.
3. That, as more resources become available, especially to the Corporation's non-commercial radio services, the range of fees for writers, performers and the use of original creative work being adapted for broadcast be reviewed to promote the use of talented New Zealanders and the national character of the works presented.
4. That negotiations be opened with PEN so that both associations of writers are included when establishing the relevant fee structures.
5. That representation be sought on the Film Commission and further utilised on the Queen Elizabeth II Arts Council so that liaison with those two bodies and with the National Film Unit is strengthened, particularly in regard to commissioning or otherwise securing broadcast presentation rights for New Zealand writers, artists, producers and their works.

6. That the attention of private warrant holders be given to the problems and benefits encountered in this area and that their procedures be designed to make appropriate provision for them.

Term of Reference 2(i)

"2(i) The cases for and against fixing a quota for programmes to be produced in New Zealand, the appropriate level of any quota, and the desirability of using the Australian points system or a modification of it in applying a quota."

INTRODUCTION: RADIO AND THE NEW ZEALAND ELEMENT

428. The Broadcasting Act 1976 is very clear in section 3(1)(c) that both the Corporation and private broadcasters shall be guided by the general purposes of the Act to "ensure that programmes reflect and develop New Zealand's identity and culture". On radio the Corporation's non-commercial National Radio makes a strenuous if under-funded effort to inform New Zealanders about New Zealand in news, current affairs and talks and, together with the Concert Service, they discuss or present New Zealand plays, poetry, novels and give an idea of what is happening in the concert hall, the theatre, opera and ballet in New Zealand. It is done with style and enthusiasm even if the boundaries of the budget can be sensed on all sides. New Zealand has produced more than its fair share of impressive short stories and poetry. There are symphonies, novels and concertos. New Zealand has what the sociologists term a "high culture" and some sense of that is conveyed on radio.

429. But when one turns to commercial radio, whether it is the community stations of the BCNZ or private radio, and together they are popular radio, there is a gap. The bulk of the programme will be popular music, but overwhelmingly the popular music of everywhere else but New Zealand. America, Britain, Australia are ever present. But the false impression commercial radio gives is that New Zealand has not evolved a busy entertainment industry, musicians, songs and singers. Out in the clubs, the theatres, the dances and the hotels New Zealanders are playing to New Zealand audiences and adding their tempo, their turn of phrase, their compositions to the tidal fashions which wash round the Western world.

430. The problem commercial radio programmes present is to understand why they reflect so little of the New Zealand identity which is growing in our popular music, and in entertainment as a whole. Patently it has to do with the economies and the mechanics of who chooses what is played on commercial radio and why. In turn that depends on how much recording of New Zealand artists is available, for commercial radio overwhelmingly broadcasts records and not live performances. It could well be, however, that this order has to be reversed and, for more to be recorded, more local records have first to be played on air and a 'demand-pull' situation created by stations using what is available and seeking for more.

431. The weight of the evidence before us rested with the argument that a virtuous upward spiral of broadcasting New Zealand popular music, followed by more recording of it, greater familiarity with it on air, more public and station demand, and so to buoyant development of further and better New Zealand recording could only be created if the injunction of the Act was taken seriously and commercial stations took the first step. From there the argument moved quickly to looking for economic returns for the country in the form of more production here, fewer imports and perhaps exports. It was not only a sign of the times, but also a reflection of the commercial context in which arguments on both sides were set. New Zealand's popular music exists in such a context and must survive and grow there.

432. If the proponents of more New Zealand music on air were looking to their own interest in being part of a growing entertainment industry, so those who fought for the status quo were considering the financial safety of keeping to established station formulas and known audience tastes. It was a debate fought out in quantified details but, underneath, there was a larger issue of whether or not the injunction of the Act was to have practical consequences in the form of more New Zealand popular music on public and private commercial radio.

A NEW ZEALAND IDENTITY IN POPULAR MUSIC

433. The evidence did not concentrate on analysing whether a New Zealand popular music existed with its own flavour, reference points and identity. Those who are part of a cultural development feel its existence in what they do, and come to assume its reality. Especially is this so when there was such a distinct and different element contributed by Maori artists. Many parties appearing before us spoke of national identity and the need for New Zealanders to hear music which reflected the community in which they lived. The Hon. M. K. Moore's submission to the Commission presented instances where, he believed, the national identity of other countries had been reinforced by an increase in local music and other national content on radio and television. As he put it "a society does not become a nation until it asserts its own independence and celebrates its own unique and individual culture."¹

434. Certain witnesses did question whether there was a New Zealand identity in music or whether all kinds of music here were simply echoing overseas trends, even if played or composed by New Zealanders. However, Mr John McCready of Radio Hauraki representing the Independent Broadcasters Association said "...when I hear those Australian records, there is very definitely an Australian theme going through them. I think Split Enz have it for New Zealand, DD Smash have it. . . It certainly is there in those artists and it certainly is worth pushing and letting it come through."²

435. The Recording Industry Association of New Zealand put forward its central argument from its 1981 policy document, *A Strategy for Development*. "New Zealand produces and will continue to produce 'original' talent. . . Our record in the field of musical performance is no

less impressive. Consider the international stature and acclaim achieved by Kiri Te Kanawa, Donald MacIntyre, Split Enz, John Rowles, Mi-Sex and Michael Houston."³ Their record industry paper put it thus: "the question is not whether New Zealand artists will continue to succeed. Rather the question is whether the benefits of that success will be retained within the New Zealand economy."⁴

436. This paper and evidence given to the Commission by Mr Chance, Secretary and Chief Executive of RIANZ, estimated New Zealand's current account for overseas royalty payments at between \$8 million and \$10 million. This outflow was the annual overseas royalty payment made by multi-national recording companies in New Zealand to their parent companies abroad on record sales in New Zealand.

437. In 1981 the record industry believed it could increase its locally produced share of the market to 15 percent, which would have saved \$1.2 million in foreign exchange. This did not happen. Mr Chance told us that there was little or no growth in domestic sales of records in this period. Yet the Recording Industry Association believed that not only would increased local production reduce the outflow of royalties, but that from a sound local market base it would be possible to build an export market which would enable the industry to become a net earner of foreign exchange. At present there was a return to New Zealand of approximately \$1 million from overseas sales.

438. The 1981 policy paper estimated that it was in the area of "royalty income" flowing into New Zealand that the greatest growth potential lay. "Already New Zealand artists are achieving both artistic and financial success in the world music marketplace. The tragedy is that, with few exceptions, the foreign exchange earned by those artists is being returned to other countries. That need not and should not be so... Whilst the creativity and success of New Zealand artists has continued to grow it has grown largely as a result of Australian backing with the consequence that there is currently little or no monetary benefit returning to New Zealand."⁵ Split Enz recordings have achieved over a million copies world-wide, though royalties were returned to their Australian producers. It was estimated that New Zealand artists under contract to Australian recording companies earned approximately \$3 million in royalties for Australia in 1981.

439. The remaining national benefit which, it was argued, would be derived from increasing local production of music, is the growth of a local industry involving recording studios, producers, engineers, musicians, designers, the advertising media, and video and film-makers.

440. It would seem that all parties could support the goals of developing national identity, supporting a local industry, and encouraging export earnings. Though much evidence was heard of the dominance of the multi-national record companies on the RIANZ executive, this group also defended strongly the present quality and range of music available and argued for the development of the industry.

441. There was much evidence advanced that the best way to get New Zealand records produced and sold was to have them played on radio, and that the problem for the record industry in New Zealand was that there was not enough local content on radio. Some witnesses however argued that hearing records did not necessarily mean that listeners would buy them.

442. Mr McCready for the IBA gave evidence that of the Radio Hauraki audience approximately 80 percent did not buy records, and he argued that the correlation between record buyers and record listeners is not as great as might be thought. But he added "there is no doubt that radio exposure can influence the buying of a record because it is one of the prime mediums for the exposure of records"⁶ although he believed television was more influential and peer pressure played a part.

443. Mr Craig of Radio New Zealand said that in a 1981 McNair Research Prime Profile Survey of 1,326 Aucklanders over 10 years of age, 93 percent of those interviewed regularly listened to the radio. Of these 65 percent had not bought a long playing record in the last six months and 35 percent had.⁷ A 35 percent share of such a market was nevertheless significant and it would seem that, for the proportion of listeners who do buy records, hearing them first on radio was influential. Mr Cockroft of Netherworld Dancing Toys gave as an example the success of his band's sixth record which was extensively played by radio stations. Their five previous records, which were played mostly on Student Radio, had small sales of 1,500 to 2,000 records each. The increased exposure of their sixth record resulted in increased sales of 400 percent, and attendance figures at live performances increased 200 percent. There seems little doubt that it is more difficult for a potential buyer of a New Zealand record to be aware of a new recording if it is not broadcast, and that although the percentage of radio listeners who buy records may be minor, they are a significant element among record buyers.

444. Given that 'air-time' is an important factor in the development of our local record industry, and that there is a need for warrant holders to develop and maintain a New Zealand identity, we examined the amount of New Zealand content on both public and private radio in New Zealand. The Queen Elizabeth II Arts Council of New Zealand spoke for many parties when it said "the proportion of local content on . . . radio is demonstrably inadequate and fails to fulfil either the letter or spirit of the Broadcasting Act 1976."⁸ Here, statistical information was somewhat limited.

445. In evidence we heard that, on Radio New Zealand's commercial and ZM stations, New Zealand music averages, at best, 8 percent of all music played. More recently the newly formed New Zealand Music Promotion Committee indicated, in correspondence, that a survey undertaken by Radio New Zealand found that New Zealand music content amounted to 6 percent, excluding advertising jingles.

446. On the National Programme New Zealand light music—in the form of studio and outside broadcast productions and commercial

discs—totals 3.64 percent of total broadcasting time and 6.92 percent of all music broadcast. On the Concert Programme New Zealand music constitutes 8.23 percent of total broadcasting hours. Work by New Zealand composers totalled 1.33 percent of the total broadcast hours representing 292 compositions from 55 composers. Mr Craig of Radio New Zealand said that the imposition of a quota for "serious" music would be almost meaningless because of the lack of material. The Composers Association told us that this could be partly remedied by the involvement of Radio New Zealand in the production of records from studio recordings, or by the renegotiation of rights to include multiple playing rights.

447. In respect of private commercial radio Mr McCready of the IBA at first gave a figure of approximately 5 percent but later said it could be as low as 2 percent. His own expressed preference was that it should be higher but he added that it was not possible to give an exact reply as Radio Hauraki did not programme from the base of whether a record was a New Zealand record. Although he felt that a voluntary quota was working, it appeared impossible to prove without adequate statistics. We also heard some evidence that New Zealand records were mainly played between midnight and 6.00 am, but this was denied by the broadcasters.

448. There were two arguments advanced for this rather distressingly low percentage of New Zealand music played on our radios. Mr Douché argued that, in a tightly competitive environment dominated by multinational record companies, a star pop system and an international promotion machine, lesser known New Zealand artists with insufficient financial backing could not compete. He added: "If, for instance, there are something in the order of 20 or 30 top selling international records available to a particular radio station in any one given week, effectively you are asking... a New Zealand artist who might at that point be unknown but who could have potential... to compete with that whole international machine..."⁹ The second argument was succinct. In the words of Mr McCready for the IBA, "There is little evidence that people are saying, 'Hey, we want more New Zealand music'..."¹⁰

449. The latter argument brings us to the question of the type of research used to ascertain audience tastes in radio broadcasting. Though not all radio stations undertake research, we heard evidence of the use of telephone questionnaires to research general trends and panels to look at 'play lists'. The evidence given, however, suggested that panels did not hear New Zealand records nor had they discussed New Zealand music as a topic. Mr Craig of Radio New Zealand said that audiences could ring or phone if they wanted New Zealand music and as they had not done so, he presumed there was no major demand for it. We note, however, that over 200,000 signatures were collected on the New Zealand Music Quota Petition which was launched in April 1986 and which called for a 20 percent quota of New Zealand music on all New Zealand radio stations.

450. The question then arises; how do New Zealand audiences know whether they like music they do not hear? Mr Gardiner, Head of Audience Research for the BCNZ, stated unequivocally that the audience research being done at present would not identify whether people really wished to hear New Zealand music. "You cannot ask public opinion on a matter they do not understand. . . . Adequate survey design would involve getting the audience or potential audience into a place where you can play them the music, let them experience it and then ask them what they think."¹¹

451. Various examples were given to us of possible discrepancies between audience tastes and radio play lists. Mr McCready for the IBA gave an example of DD Smash who have achieved such popularity that 25—30,000 customers may be waiting for a record to appear. "That can in turn force radio stations and television stations to have a closer look at it."¹² It would seem to the Commission a discouraging scene for New Zealand record producers and musicians when an extremely successful band may have to "force" radio stations and television stations to have a closer look at their music. It would also seem to us that none of the research that has been put before us would prove conclusively that New Zealand audiences are not interested in hearing more New Zealand music. We might also question the assertion that there is little New Zealand content available. In 1984 15 percent of singles and 11 percent of albums released in New Zealand were by local artists.

452. Thirteen years have passed since the Broadcasting Authority suggested in 1973 that a music quota might need to be considered. The Authority proposed including in the Programme Rules minimum requirements for the proportion of New Zealand produced music to be broadcast by commercial radio stations. This minimum requirement was to rise from 5 percent at introduction to 10 percent within two years. It was never implemented. Since that time very little has been achieved in stimulating the production of New Zealand music. We were given evidence of the development of the New Zealand Music Awards, which were set up by the Recording Industry Association to provide incentives which would actively aid the growth of New Zealand music. The Awards and the Music Video Contest for Secondary Schools appeared to be the sole attempts by the record industry to reinforce and develop New Zealand music. The record industry clearly felt itself embattled under the 40 percent sales tax but that was removed in 1984.

453. In the interim the Broadcasting Tribunal, in its 1980 annual *Report*, noted that it would welcome moves by the industry to set up a fund to provide work for local singers and players arguing that "...nearly all commercial stations in New Zealand rely heavily on music for programme content. One practical way to build up local content is to build up the standard of performers and technical experience. That may only be achieved if those profiting from the broadcasting of popular music plough some of their profits back into its development."¹³ The Tribunal repeated this proposal in its August 1981 *FM Report*, and proposed a small levy on commercial radio stations to provide a

recommended \$100,000 a year for a New Zealand Broadcasting Fund to be spent on "local composition, song writing, and production for broadcasts". The Tribunal stated, "We are satisfied that there is a great deal of talent in New Zealand in the entertainment industry and in particular in music. In composing, song writing, and performing New Zealand artists suffer from a small market and the need to be provided opportunities. We believe that a fund built up by small levies could greatly increase the opportunities for local talent, for some better programming which would not otherwise be undertaken by stations and, together with the proposals for a power to fix a minimum of local content, would provide strong incentives to stations to capture in their programmes the New Zealand identity required by the Broadcasting Act. There will also be some small saving in overseas funds in payments of royalties to overseas composers and performers. . ."¹⁴

454. Finally, by the end of 1985, towards the end of our hearings, the New Zealand Music Promotion Committee was formed to work towards a voluntary quota for New Zealand music on radio. This Committee consists of representatives from Radio New Zealand, the Independent Broadcasters Association, Television New Zealand, the Recording Industry Association of New Zealand with both local and multi-national companies included, the Musicians' Union, the New Zealand Federation of Recording Studios, the Queen Elizabeth II Arts Council, Student Radio, the Independent Producers and Directors Guild and New Zealand composers.

455. All parties had experienced the fact that the production flow of New Zealand recording had been slow of late, and it was agreed by representatives of the Independent Broadcasters Association and Radio New Zealand that a target would be set of 10 percent of New Zealand music to be played in 1986. The Committee had decided not to take a stand on compulsory quotas but to use the influence of the Committee in working with member organisations to achieve both a higher production of New Zealand recordings and subsequent higher exposure for recordings on radio and television. The formation of this Committee has, in short, acted on one conclusion which could be taken from the evidence given by the Committee's own members to this Commission. Nevertheless there was now clear recognition of the need for more New Zealand music and a recognition that exposure on radio would benefit record sales. At the same time the conclusion rendered many previous objections to a quota for New Zealand music redundant in the light of the stated objectives of the New Zealand Music Promotion Committee.

456. The final issue is therefore whether regulation is required or whether the intentions of this newly-formed Committee are a sufficient guarantee. Some parties felt that the intense competition between public and private broadcasters was the reason why a voluntary quota system had not and never would work in New Zealand. It was argued that the uncertain first step away from familiar 'play-lists' might not be taken for fear that the competition would not also take that first step. The history of radio broadcasting in New Zealand does not provide the

Commission with much evidence of concerted action to improve the quality and quantity of New Zealand music by the recording and radio industries. While we must congratulate these industries on the setting up of a New Zealand Music Promotion Committee, we are concerned that up to and during our hearings in September 1985 this Committee did not exist. Indeed it could even have been our investigations on the matter which to some degree prompted this development.

457. What is not in doubt is that there was general agreement that New Zealand radio could sustain a 10 percent quota in 1986. Indeed it appeared that the target percentage of the New Zealand Music Promotion Committee had been achieved by the middle of 1986. The Music Promotion Committee carried out two surveys to assess the level of New Zealand content on commercial radio as a percentage of total 'needle-time' and the success of the Committee's voluntary quota. The first survey was for the week from 20 January to 26 January 1986. The level of New Zealand music on Radio New Zealand's commercial stations varied from 2 percent to 12 percent, but averaged out at 5 to 6 percent overall. The IBA commercial radio stations averaged 6.1 percent, varying on individual stations from 1.94 percent to 12 percent. Student radio stations were averaging about 25 percent of New Zealand content.

458. The 10 percent target was established early in February 1986. Another survey was made for the week from 23 June to 29 June 1986. In that week Radio New Zealand's commercial stations ranged from 5.83 percent to 18.6 percent in the level of New Zealand content played, averaging 11.9 percent. The figures for IBA stations showed a range from 6.2 percent to 13.7 percent, averaging at 10.1 percent overall, and again Student Radio stations averaged at about 25 percent. In the light of the results of this survey, we have found no convincing argument against a reinforcing quota being specified and then monitored by the Broadcasting Tribunal. Members of the Music Promotion Committee have shown that they were able to meet their own voluntary 10 percent quota in a space of just six months in spite of earlier arguments from the industry.

459. We believe as has been shown elsewhere, that this initial quota will generate a dynamic of its own in increasing the amount of New Zealand music and performance on radio which will accord with the provision of the Act.

460. To make this step straightforward to maintain and even improve in all areas of music, we believe that the definition used for New Zealand performance and music should be inclusive. We received evidence that the success of New Zealand musicians in Australia and elsewhere was an inspiration for local musicians and audiences, and that this was a further reason for including their music in any New Zealand music quota. Certainly if national identity is a major objective, then contributions from New Zealanders wherever they are resident should be included. Mr R. Douché gave us this definition: "if a piece of music is written by a New Zealander, performed by a New Zealander, or

produced by a New Zealander, it will qualify as New Zealand content."¹⁵ It was closely akin to that used by the New Zealand Music Promotion Committee: "New Zealand content shall consist of music, performances, or recordings by New Zealand residents or citizens".

461. A broad definition of this sort encompassing all aspects of New Zealand identity in performance, composition and production, when coupled with the success of the voluntary quota, suggests that a reinforcing regulation would ensure an even spread of performance among the stations. It is to be hoped that gradually, especially in the popular music field, the impetus from this change will carry the proportion of a New Zealand character upwards and that the Tribunal will contemplate adjustments as the recorded resource increases. Should the New Zealand experience parallel the course taken elsewhere, then changing public taste will impel the process forward and regulation can eventually be dispensed with in the light of the Act and after a report and recommendation from the Tribunal.

NEW ZEALAND CONTENT ON TELEVISION

462. In the General Introduction to these four terms of reference which dealt with the production and transmission of New Zealand programming we outlined the requirements under the Act and the Regulations and assessed the benefits to be gained from this.

463. Those who addressed this topic in respect of television were in no way reserved about fulfilling those requirements; indeed they endorsed them. With the exception of some reservations expressed by Treasury, all agreed that New Zealand content on television assisted the development of a national identity and that this was an agreed and worthy aim. Treasury gave examples of game and quiz shows and we would concur that they do not necessarily do much to foster national identity. However, there are other content areas with which we are much more concerned. Furthermore this was an area in which Treasury claimed no particular expertise. The Broadcasting Corporation and the third channel applicants supported the need for New Zealand programming on our screens and accepted their responsibility to provide this.

464. What witnesses could not agree on was what constituted a satisfactory level of New Zealand content and which broadcasters, if any, should be subject to a points system or minimum programming requirement in respect of New Zealand programming.

465. Assessments provided to us on the amount of New Zealand content on television differed according to the definition of a New Zealand programme that was used. The Broadcasting Rules Committee defined a New Zealand programme as "one which has not been purchased from overseas in a finished form" and it was this definition that the BCNZ used. The New Zealand Film Commission and others expressed dissatisfaction with this—the Film Commission called it "lamentable"—because it allowed compilation programmes such as *Foreign Correspondent* and *Our World* to be defined as New Zealand

programmes. The Film Commission put forward a definition based on that for a New Zealand film as incorporated into the New Zealand Film Commission Act. A New Zealand programme, for the purposes of their analysis of local content on television, was one which was "distinctly New Zealand in content and character and [which] uses the services of New Zealanders in its production and presentation."¹⁶

466. The Broadcasting Corporation and the Film Commission provided us with detailed analyses of the amount of New Zealand content on television for the financial years 1983/84 and 1984/85. In 1983/84 the Film Commission estimated total New Zealand content to be 28.24 percent with 40.5 percent on TV1 and 13.3 percent on TV2. Repeats made up 14.43 percent of total New Zealand content and almost half of first release New Zealand content was news, current affairs and sport. New Zealand drama constituted a mere 0.75 percent of total transmission time and represented 2.6 percent of first release New Zealand content while New Zealand produced documentaries and features comprised approximately the same amount. New Zealand children's programmes made up 5 percent of total transmission but over half of that was repeated. Approximately 3 percent of local production or 1 percent of total transmission was provided by the independent production industry. But at least half of that was Northern Television's lunch-time programme which was broadcast for only four months of the year.

467. Television New Zealand provided us with transmission and production figures for the 1984/85 year. The BCNZ's annual *Report* for that year used the Broadcasting Rules Committee definition to estimate local content at 33 percent, which was approximately 2,500 hours. When repeats were excluded, that figure became 2,300 hours and more specifically, 1,720 hours on TV1 and 598 hours on TV2. Excluding compilations reduced the figure to 2,150 hours or a percentage of approximately 27 percent. Of New Zealand production hours that year only 43 hours or 1.75 percent was documentary and 51 hours or 2.1 percent was New Zealand drama.

468. The Film Commission provided us with a detailed analysis of the twelve months from 1 April 1984 to 31 March 1985 covering the time-slot 4.00 pm to 10.00 pm. Their analysis showed that TV1 broadcast 966.7 hours or 44.26 percent and TV2 broadcast 346.8 hours or 15.88 percent, an average of just over 30 percent of 'prime time'. Repeats made up 5.8 percent of TV1's New Zealand content and approximately three-quarters of them were sports programmes, and 6.8 percent of TV2's New Zealand content were repeats. New Zealand drama comprised approximately 6 percent of the New Zealand content broadcast in that time-slot.

469. We were aware that these figures for 1983/84 and 1984/85 related to both production and transmission and were based on different definitions of a New Zealand programme. Nevertheless the pattern seemed very clear. New Zealand content constituted at best one-third of total broadcast time. New Zealand drama, documentaries

and productions by the independent sector comprised only a small percent of total New Zealand content and an even smaller percent of all programmes broadcast. Indeed we were concerned at the apparent imbalance in the production of New Zealand content. Of the 2,450.64 hours produced by the Corporation in the 1984/85 year, and we note this included compiled output, 1,661.5 hours were devoted to news, current affairs and sports or a total of 68 percent. A programme analysis of BBC productions for the 1983/84 year shows that the equivalent BBC figure spread over both BBC1 and BBC2 was only 40.3 percent and that included documentaries.

470. In 1964 the level of New Zealand content was estimated by the New Zealand Television Quota Committee to be 20.39 percent. By 1972 this had increased to 25.05 percent. Figures showed that the level of New Zealand content on Television New Zealand had not increased dramatically over the last decade or more. The Corporation told us that it was their intention to increase local content on television and that any such increase would come, it was hoped, from independent production. We were told that there were plans to increase New Zealand content to 50 percent of prime time on both channels, a total of approximately 1,016 hours of prime time per annum with an overall New Zealand content on the two Corporation channels of some 3,000 hours. This would require, Mr Monaghan told us, an extra 466 hours of production and transmission with, he hoped, an increased emphasis on drama.

471. However Mr Monaghan told us that there had been no Board approval for this figure of 50 percent. There was no evidence from the Corporation that the Board was committed to working towards a definite percentage of New Zealand content or total number of hours, nor were they able to indicate any proportion for the financial resources to be given to increasing New Zealand content.

472. The Broadcasting Corporation maintained that it was fulfilling its obligations under the Act in respect of New Zealand programming. However they also acknowledged that production output had not increased for the past four years and that the Corporation's "achievement in local content is less than what it would seek to achieve."¹⁷ Recent evidence presented to us by the BCNZ suggested that the local content percentage was declining rather than increasing.

473. Third channel applicants gave evidence of their proposed programming schedules, again maintaining that their levels, to be built up over a three-year period in most cases, would meet their responsibilities under the Act. Applicants enthusiastically accepted their responsibility as producers and broadcasters of New Zealand programmes. Their undertakings in respect of this involved transmission, by year three of operation, of local content totalling between 40 percent and 50 percent of total transmission, spread over a wide range of programming categories.

474. Broadcasters contended that public demand was the measure of satisfaction with the level of New Zealand programming and that, in a competitive environment, no broadcaster would not try to provide what

his audience wanted. The Corporation monitored audience ratings but had not carried out research on audience desires in respect of New Zealand programming. Ratings, however, are merely a measure of preferences for the programmes being provided and offer little enlightenment on whether or not the public would prefer programmes other than those being presented. Indeed the Corporation acknowledged that "the real question is the satisfaction of the needs of the audience, which of course is not quite the same thing as what the audience may say it wants."¹⁸

475. Mr Bennet, appearing for the third channel applicant TV3, told us that a "steady diet of imported programmes soon palls and the audience demands quality indigenous programming with which it can identify" and that "competition and the need for commercial viability will demand high quality local programming."¹⁹ However overseas experience would tend to suggest that unregulated competition had led to 'lowest common denominator' mass-appeal programming at the expense of minority interest programmes and experimental and innovative production and, we suspected, in New Zealand's case would lead to lowered production of local content.

476. Witnesses argued that the level of New Zealand content on television was demonstrably inadequate, submitting that a maximum of 33 percent, by the kindest definition of a New Zealand programme, was not a record to be proud of, pointing even to our nearest neighbour where local content comprises about half of the content broadcast on commercial channels. The Public Service Association told us that "if we are serious about producing a system of programming which accurately reflects New Zealand identity then we must be prepared to have a high proportion of New Zealand content on both television and radio and we must be prepared to pay for that."²⁰

477. The arguments went further to call for a quota or points system in the absence of a voluntary increase in New Zealand content. PEN summed up the sentiments of many witnesses when it told us that it did not believe "the warrant holders can be relied upon to voluntarily improve this situation, particularly in the face of growing commercialisation which puts a premium on immediate mass-appeal broadcasting."²¹

478. Opposition to any form of regulation came, perhaps predictably, from the BCNZ and third channel applicants with the exception of Independent Television which proposed a points system. This it has told the Broadcasting Tribunal it would accept, along with other requirements in respect of local programming, as a warrant condition if it receives all four regional warrants.

479. The Corporation argued that, as a public body responsible and accountable to the community through the Board, it should be free to determine its priorities within the requirements made of it under the Act. The imposition of a minimum requirement on the BCNZ would, Mr Rennie told us, amount to a vote of no confidence in the Corporation's ability to meet its objectives under the Act and would

remove from the Corporation its discretion and authority to decide the distribution of its funds.

480. The Royal Commission saw difficulties for the Board in its dual public trustee and commercial roles. Commercial pressure in difficult and competitive times could well push even a public television service towards cheap overseas programmes against a more expensive local product.

481. The Corporation's objection to a points system was to an externally imposed and controlled management constraint, although we note that Mr Monaghan was a member of the 1972 Television Quota Committee which called for such a constraint. From the Corporation's point of view, Mr Rennie said he expected the Board to proceed with an internal points system to be used as an internal management tool to check programme achievements.

482. The BCNZ submitted that the third channel warrant holder should be subject to a minimum programming requirement of 1000 hours per annum to be established as a warrant condition and gave evidence of its intention to request this at the concurrent Broadcasting Tribunal hearings. Mr Rennie noted that "the reality of the economic structure of private media is that in the end the financial considerations prevail over the non-financial objective..."²² and that such a requirement would ensure not only a specified level of New Zealand content but also a breadth and range of programming.

483. It was inconceivable, the Corporation told us, that it "would ever contemplate doing less than that imposed on a commercial broadcaster".²³ However, if the Film Commission definition was used which ruled out compilation programmes then Television New Zealand's 2,150 hours per annum was only 75 hours per annum more on each channel than the BCNZ was advocating for a completely commercial competitor. However, Mr Rennie said that, if a points system were to be imposed on the Corporation, then it should also apply to the third channel warrant holder and that if the choice were to be a quota for all or a quota for none then he would opt for the former. If that were to be the case it should, he said, "...be one of some sophistication which emphasised those kinds of programming which were otherwise uneconomic to make and which emphasised a diversity of inputs."²⁴

484. Applicants for the third channel warrant who opposed regulation, either in the form of a points system or by any other means, contended that self-regulation was adequate and that public demand and the market place would ensure they kept New Zealand content on television at an appropriate level. Imposing a points system, they said, would remove their right to determine programming and financial priorities and was tantamount to artistic interference. Programmers, Southern Cross told us, have a responsibility to operate their enterprises in the way which best uses their own resources and in their judgment best serves the interests of their audience. Applicants also indicated to us their belief that there was insufficient local product produced but evidence received from the Independent Producers and Directors Guild leads us

to the conclusion that the independent industry is capable of providing enough programme material for a substantial increase in New Zealand content on television.

485. Applicants contended that the Australian points system had become complicated and unwieldy. There was a real danger, they said, that establishing a percentage quota of New Zealand content would lead to an increase in the production of cheap quiz programmes to meet the quota at the expense of quality programming and that this would, in effect, be counter-productive.

486. In 1972 the New Zealand Television Quota Committee made submissions to the New Zealand Broadcasting Authority in the context of hearings for the applicants for a second television warrant. They called for a New Zealand content quota and outlined the arguments for such a quota. Many of the concerns expressed then were conveyed to us at our hearings, and have been expressed in various other forums in the intervening fourteen years. It is of concern to us that little has changed in the production and broadcasting of New Zealand content.

487. We have an instinctive reluctance to recommend regulation in this area and believe it would be more desirable if New Zealand television could produce additional New Zealand content as a matter of financial possibility, purpose, and preference. However nothing we have heard has convinced us that self-regulation has been sufficient to achieve this end. The Film Commission presented us with a number of instances in the past where promises had been made by the Corporation prior to Board approval, but had not subsequently been fulfilled usually because of an unpredicted need to cut expenditure. After 25 years of television in New Zealand we do not believe the BCNZ or its predecessors have been able to award sufficient priority to the elastic obligation which the Act placed upon them. Nor did we feel that there was any reason to believe private operators would do better if they were left to their own devices. The Head of Children's and Young Persons Programmes for Television New Zealand told us, "philosophically, private commercial television is no more in the business of broadcasting programmes than a fisherman is in the business of feeding fish."²⁵

488. In a situation where both contenders will rely primarily on advertising we feel there is a strong possibility that competition will have a downgrading effect on quality and the level of New Zealand content. The remarks of the Peacock Committee in this respect are relevant to the New Zealand situation. "The main defect of a system based on advertising finance is that channel owners do not sell programmes to audiences, but audiences to advertisers. The difference between the two concepts would narrow if there were a sufficiently large number of channels, without concentration of ownership. In that case there could well be pressure on suppliers to transmit a varied range of programmes, covering minority and medium appeal programmes. But these conditions do not prevail and are unlikely to for some time. So long as the present duopoly remains in being...the introduction of advertising

on [BBC] television is likely to reduce consumer choice and welfare."²⁶ We would hope, in the future, to be proved wrong in our assessment but we believe that in the meantime some form of external impetus is required. A points system does not interfere with programmes before they go to air. There is no element of censorship or management control imposed from outside other than that a certain amount of local content be aired. There is a minimum of outside interference while warrant holders will be permitted a maximum flexibility in programme choice to make up their share of New Zealand content.

489. We accept the arguments put to us by some of the third channel applicants and witnesses for the Corporation that a simple percentage requirement is unsatisfactory and that it makes no provision for the encouragement of quality programming over a wide range of programme categories. The Public Service Association submitted that "it is insufficient in itself to commit to an overall percentage without specifying within that encouragement particular types of programming." It leads to schedules being filled with programmes which are undoubtedly local but which sometimes raise suspicions that they have been produced to fulfil broad quota requirements and which may be of dubious programme merit."²⁷ The Corporation, in presenting its third channel programming requirements, felt that a quota should encourage a breadth of programming and Mr Rennie, as we have noted, told us that a quota, if there was to be one, should be one of some sophistication. We agree wholeheartedly. The regulatory instrument put in place must embody a greater sophistication than merely providing for a percentage of local content to be met.

490. The extent to which such a system should be based on the Australian example is another matter. The Australian points system began in the early 1960s as a percentage quota and later revisions led to the points system now in place but under review by the Australian Broadcasting Tribunal. The system established target points to be met, calculated on the basis of transmission hours, with various programme points allocated to different programme categories and to specific programmes within those categories. Mr Quaine, of the Australian Broadcasting Tribunal, explained to us that the points value of each programme was directly proportional to its quality as measured by production cost and effort or by its intrinsic cultural value. A station, therefore, had an almost infinite range of options in meeting its target. He also noted that it would be generally agreed that the points system gave an important impetus to the production and broadcasting of local programmes of quality from which the public preference could develop. Australian programmes were rated highly in audience preferences and we noted that Australian drama had increased from 1.7 percent in 1965 to 13.8 percent in 1983. Australian stations now regularly exceeded their target points and it might be held, therefore, that the goals of the points system had been met. That, of course, was for the Australians to decide. The term of reference should not be taken, as some have taken it, to suggest that the Australian points system should be transplanted,

in toto, from one side of the Tasman to the other. Nevertheless Australia provided us with a useful historical perspective and a useful framework upon which to base a New Zealand points system.

491. In Canada the Canadian Radio-Television and Telecommunications Commission has instituted regulations which were designed to display and enhance the culture of Canada. Private television has had to dedicate 50 percent of prime time and 60 percent of off-peak time to Canadian programming. Public television must carry 65 percent of indigenous programming. In the United Kingdom the Independent Broadcasting Authority has specified that a minimum of 86 percent of broadcasting hours on ITV channels should be British, or programmes must be exempted from those regulations for one of a number of special reasons. We are well aware that Canada has seven and a half times and the U.K. seventeen times the population of New Zealand, that population and resources in these countries are related, and that what is possible in a populous country is not in a small one. Nevertheless the expectations in those requirements are instructive.

492. We have had put before us two proposed points systems, one from the New Zealand Film Commission and the other, as we have already noted, from Independent Television, one of the third channel applicants. Both models were based on the Australian points system, modified for New Zealand conditions. The Film Commission requested us to consider qualitative and quantitative guidelines, 50 percent of transmission time to be local content, a realistic "phase-in" period and a "credit" system for particular types of programming. Their points system was designed to "promote desirable programme objectives from a national perspective—i.e. to encourage difficult areas of production by assigning high value points, such as drama and Maori programming, in preference to cheap regular productions [and to] promote flexibility and freedom—i.e. the channel can decide either to have a small number of high value programmes or a large number of low value programmes."²⁸

493. It is not our task to establish a detailed and specific points system here. Nevertheless we think it appropriate to give some clear indication of our thinking on this matter to enable the regulatory body charged with establishing and controlling the New Zealand points system to do so without doubt as to our intentions. That body, we believe, should be the Broadcasting Tribunal and we further consider that the Broadcasting Act should be amended in such a way as specifically to require this body after consultation with warrant holders and others as required to establish a prescribed amount of New Zealand programming.

494. We have received and heard a great deal of evidence on the topic of a points system including, as we have noted, proposals put to us which we believe could be fine-tuned to provide a New Zealand points system. As a result there is a body of accumulated material which we believe the Tribunal could profitably draw on when it considers the details of establishing the system.

495. The purpose of setting up a system of points is to establish targets, a set of minimum requirements for New Zealand content. The warrant holder should have the freedom to meet those targets in a way that accords with its programming philosophy. Therefore the system should have four key characteristics:-

1. It should aim to encourage a range of programming from a variety of sources.
2. It should aim to encourage programming of quality.
3. It should be simple for the broadcaster to implement and for the Tribunal to administer.
4. It should be flexible and subject to review at regular intervals.

496. Although the aim of our points system is to go beyond a simple percentage requirement, we believe that, as a guideline, the system to be developed should aim for local content transmission of 37 percent for BCNZ channels and 33 percent for the private channel by the end of 1993 which is five years after the potential third channel is likely to begin transmission. There should then be a review. We are concerned that an unrealistically high target would incorporate risk for broadcasters but this is well within targets proposed by each of the third channel applicants and by the Corporation itself. There should be a progressive introduction of the system, especially in respect of the third channel warrant holder, and the intermediate targets will be for the Tribunal to decide.

497. There was, as we have suggested, considerable discussion on an appropriate definition of a New Zealand programme. Much of the cross-examination on this somewhat vexed question concentrated on specific programmes. We are concerned to establish a broad definition which can be sensibly interpreted. The present definition, which allows for the inclusion of compilation programmes, is somewhat inadequate in our view. While we do not wish to ignore the editing and presentation input which is involved, it does seem that such compilations cannot be considered to be wholly New Zealand productions. Indeed the Corporation acknowledged that in a competitive environment the definition would need to be reassessed to prevent private broadcasters using such programmes to meet their obligations under the Act. The definition put to us by the New Zealand Film Commission is a useful one.

A New Zealand programme is one which is distinctly New Zealand in content and/or character and which uses the services of New Zealanders in its production and presentation.

498. The system of establishing target points for each channel on the basis of transmission hours including advertising is a simple and easily adjusted one, taking into account as it does the fact that a third channel operator will not be broadcasting at full transmission from Year One. We would suggest that records for monitoring be filed on a monthly basis with evidence, however, of a reasonable spread on a daily and weekly basis. We suggest that the points system should cover all transmission

hours but with a weighting for prime time. This would acknowledge, we believe, the value of New Zealand programmes broadcast for audiences at all times of the day. Appendix 9 gives an indication of programme categories we think appropriate.

499. One of the objectives of a New Zealand points system is to encourage production in certain programming areas by giving those areas higher points than others. The specific points that should be allocated to these programme categories will be a matter for the Tribunal after extensive consultation. However, those categories which we hope to see given higher points are children's programmes, documentaries, Maori and ethnic programmes and drama which in itself encompasses a wide range from long-running series to single productions and films. We have discussed some of these topics in greater depth at other terms of reference: educational programmes at 7, children's programmes at 7(d), Maori programming at 6(a)(i) and other ethnic programmes at 6(a)(ii) and (iii).

500. Our aim is a system that encourages programming of quality. There was a great deal of debate on this and many agreed that 'quality' in respect of programming was a subjective concept. One possible way of establishing "quality assurance" is to institute a scale of production values within each programme category which measures commitment in terms of finance, production and technical personnel, studio or location costs and allocates points within a category accordingly. Therefore a production like *Hanlon* with an average cost of \$500,000 per hour, a large cast and many sets, would score more points than, say, *Country GP*. This acknowledges the financial commitment made by recognising it in additional points fixed after consultation with experienced producers and applied as a production values scale.

501. Such a points system is intended to be a minimum requirement for both public and private television with levels set apart to recognise the additional objectives which public service television undertakes. We are vividly aware that funding is vital to attaining the levels suggested and that, unless the market for three channels is buoyant and the licence fee rises, these levels will represent targets for a better future rather than the immediate present. The levels we have put forward for the consideration of the Tribunal and the parties do, however, take into account recent experience and a quarter-century of operations without targets and only the ultimate and elastic goals embodied in the Act. The points system is intended to make these goals more a part of the priority-setting of the immediate future. Warrant holders and applicants have given confident evidence of attaining forty percent and, eventually, even of fifty percent of New Zealand programming. Regular review will no doubt move the targets according to the times and, at some happy point, the Tribunal can recommend the system's end when it has achieved success in generally recognised terms.

RECOMMENDATIONS ON 2(i) AND 3(i)

1. That a quota of ten percent of all music played by each holder of a sound radio warrant or short-term authorisation should consist of music composed, arranged, performed or recorded and produced by New Zealand citizens or residents.
2. That this ten percent recommendation should be embodied in regulations and become a condition of all radio sound warrants and short-term authorisations.
3. That in view of the general purpose of ensuring that "programmes reflect and develop New Zealand's identity and culture" set out in section 3(1)(c) of the Broadcasting Act 1976, the Act be amended to empower the Broadcasting Tribunal to design, establish and review a system of awarding points for the presentation by all television warrant holders of programmes of a New Zealand character in content, performance or production.
4. That the Broadcasting Tribunal in designing, establishing and reviewing the points system shall consult with the television warrant holders and such persons of qualification or experience as are likely, in the opinion of the Tribunal, to be of assistance for this purpose, and call for or commission such staff assistance and research as are required.
5. That in setting the overall minimum New Zealand requirement of points for each television warrant holder, the Broadcasting Tribunal should consider the financial situation of that warrant holder. Moreover, the Tribunal should differentiate between private and public service warrant holders in consideration of the additional responsibilities of the latter, but not so far as to blunt the general force of section 3(1)(c) of the Act, nor so far as to give an unfair or unjust competitive advantage to either warrant holder.
6. That once the points system has been established and each minimum requirement of points has been considered and determined by the Broadcasting Tribunal, then each requirement of points shall be imposed as a condition of its respective holder's warrant.

Term of Reference 2(j)

"2(j) How the development of the New Zealand Listener may be assured so that it continues both as an independent journal of news and opinion published by the Corporation and as a journal that gives the background to, and lists, all programmes broadcast by holders of warrants:"

INTRODUCTION

502. Section 29 of the Broadcasting Act 1976, which outlines the statutory responsibilities of the Corporation in respect of the *Listener*, requires only that the Corporation "continue the publication of the *New*

Zealand Listener'. In its original submission to the Commission the Corporation indicated that the Board had accepted certain editorial objectives for the *Listener*. These were set out as follows:

- (i) To stimulate, entertain, inform and educate by the practice of high quality journalism.
- (ii) To provide the fullest, most authoritative information about the timing and content of television and radio programmes.
- (iii) To serve the public's interest in people, events and issues in New Zealand and overseas.
- (iv) To provide a forum for informed debate on issues of interest to the community.
- (v) To strive for literary, artistic, journalistic, and technical excellence.

It would be difficult to find fault with those laudable aspirations.

503. The broadcasting environment in New Zealand is a changing one in which existing organisations and structures must adapt to new situations. A parenthetical introduction to this term of reference might be, therefore, 'In the light of the advent of a privately owned third television channel, how may the development of the *Listener* be assured. . . .' The two constituent parts of the term of reference outline the two roles the *Listener* might be expected to fulfil in such an altered environment, without sacrificing those editorial objectives outlined above.

SUBMISSIONS

504. The Commission received seventeen submissions on this topic. Most, however, made only a short comment and did not specifically address the "how" aspect of the term of reference. About half made brief comment on the content of the *Listener*, drawing attention to its role in what the Art Galleries and Museums Association described as "stimulating observation of New Zealand culture"¹ and in providing coverage of, in F. T. Walker's words, "serious and varied topics".² Some, like the Waikato Regional Advisory Committee on Broadcasting, expressed concern that "commercial considerations should not affect the balance in favour of light entertainment articles related to television programming as opposed to articles of a more serious nature."³

505. Others felt the two roles outlined for the *Listener* in the term of reference were mutually exclusive and that the publication ought to be separated completely from the Corporation (although no recommendations on the statutory and/or structural changes required for doing so were suggested).

506. TV3, Independent Television and Energy Source Television submitted that the *Listener* should give "proper recognition. . . to the interests of private broadcasters"⁴ although of these only TV3 suggested that the *Listener* should no longer be a Corporation publication.

507. The Public Service Association, in its submission and evidence, expressed the view that, while the two roles for the *Listener* were not necessarily mutually exclusive, they were definitely incompatible and that, in effect, the premise upon which the term of reference is based is insupportable. The thrust of their argument was that the *Listener*, as part of a publicly owned resource, ought not to be used to provide "free" publicity for a private third channel warrant holder.

508. The *Listener* was described by the Association as a national institution and we would hasten to endorse that sentiment. There were other submissions which indicated their author's perceptions of an emerging trend in editorial policy allowing the journal to become more palatable to a wider audience. In each of these submissions the suggested spectre of lowest common denominator thinking reminds us that that possibility does not end simply with broadcasting itself, but may extend to its service components. However the doctrine of editorial independence must be just that, and it would seem to us that editorial content cannot be legislated for, nor controlled by the Board, without damaging that vital guarantee of independence.

THE LISTENER AS AN INDEPENDENT JOURNAL OF NEWS AND OPINION

509. The editorial independence of the *Listener* is maintained by the Act. Section 29 gives no requirements as to the format and content of the *Listener* and section 20(2)(d)(vi) specifically states that the Minister is not authorised to direct the Corporation on the publication of the *Listener*. It is also asserted by the doctrine of editorial independence accepted by the Board of the Corporation. Both the Corporation's submission and Mr Beatson's evidence expressed satisfaction that, in this situation, the independence of the *Listener* could be assured.

510. On balance, the Corporation's assurances, together with those of Mr Beatson on the objectives as identified by the editorial staff, seem to us to reflect what is required in order to enable the *Listener* to continue as an independent journal of news and opinion. We would add that "independent" here refers to editorial independence and should not be taken to imply a separation of the *Listener* from the Corporation.

511. Perhaps we need do little more than to reiterate the words of the Adam Committee in 1973 that "thanks to its editors, the *Listener* has always been more than a programme paper. Each of them has given it a distinctive character. Under all of them it has remained New Zealand's leading weekly, a forum of good writing and courageous comment. We have been concerned that nothing should jeopardise the renowned independence which its first editor, Oliver Duff, established for it at the outset in his forthright way."⁵

THE LISTENER AND THE PUBLICATION OF PROGRAMME DETAILS

512. In respect of the second function of the *Listener* outlined in the term of reference, the Corporation and Mr Beatson stated their commitment to publishing details and background information on programmes broadcast by the third channel. There would, we feel, be

considerable advantage in achieving a publication which was able to list all programmes broadcast by holders of warrants. We refer here to the holders of television warrants.

513. However, nothing in the term of reference should be read to imply that the *Listener* should be the only publication which is able to publish full programme particulars in advance or that such a position should be established in statute. There is, of course, nothing in statute or convention to prevent the emergence of some other weekly paper in direct competition to the *Listener*. Indeed it is probable that any private television warrant holder may well wish to establish its own publication to present its own programme details and background information, or that a journal unconnected with any warrant holder might appear on the market to perform such a role.

514. At present there are certain statutory requirements with regard to the provision of programme details. We were informed by the Corporation that, pursuant to section 30A(2)(a) and (3)(h), Ministerial directions dated 23 November 1984 required the Corporation to make its programme particulars available to contracted publishers on the day they were made available to the *Listener*. Section 94A outlines the responsibilities of the holders of private warrants in respect of the provision of programme details.

515. The Corporation and Mr Beatson, in evidence, argued that the holder or holders of a private warrant ought to be required to provide programme details under the same conditions as the Corporation, so that it would not be disadvantaged by its programme schedule being made available at an earlier date than that of the private broadcasters.

516. The four week deadline (with a six week advance notice requirement) was explained as being necessary for the *Listener* to meet its printing and distribution deadlines. The six week advance notice enables the *Listener* to obtain publicity material and photographs from overseas programme suppliers, to contact and interview producers, writers, actors and others associated with significant overseas programmes and, if necessary, to obtain rights to reprint articles from other sources. The content plan is finalised four weeks before broadcast week, and completion of assignments by writers and photographers is required by the end of that week. The third week prior to broadcast is spent in preparation of copy and photographs and in the initial stages of printing, which permits printing and distribution during the second week prior to broadcast date, ensuring that the publication is "on the streets" and available to readers one week before the start of the programme week to which the issue relates.

517. Mr Beatson urged that "at the very least section 94A of the Act [which outlines the responsibilities of private broadcasters in respect of the provision of programme particulars] should be amended to require warrant holders operating third channel television services to provide advance programme particulars at the same time as the Corporation, that is in final form (subject to minor amendment) at least four weeks prior to the week of broadcast."⁶

COMPLAINTS

518. The Corporation's original submission states that, as the *Listener* cannot come within the purview of the Press Council under its Constitution, the Corporation will establish a formal complaints procedure for those dissatisfied with the response of the Editor. While the Constitution of the Press Council is outside the ambit of this Commission, it would seem to us that there is a need for an independent arbiter in the area of complaints against the *Listener* and that this is a role that the Press Council might yet fulfil, if the Council were to seek to extend its role and good offices.

STATE OWNED ENTERPRISES

519. Evidence has been presented to us regarding possible commercial objectives which state owned enterprises may be required to meet in the future. Since we consider that public broadcasting under the Corporation's trust does not properly fit or come under this head, we would be concerned that nothing in any future goals of this nature should impinge in any way upon the independence of the *Listener* or the commercial objectives set for it internally by the Corporation.

CONCLUSIONS

520. There seems to be considerable argument for, and virtue in amending the legislation to require warrant holders to provide advance programme particulars at the same time as the Corporation as directed under section 30A(2)(a) and (3)(h). The Corporation is required under those sections to furnish those particulars to any publisher "of any newspaper, magazine or journal published in New Zealand." If the same requirements and safeguards applied to all television warrant holders, the public interest in having comprehensive listings would be secured while the competitive opportunities for publishers would be continued. A matter obviously of concern to any independent private or public broadcaster would be the guarantee of confidentiality of programming details. This matter needs to be resolved and then clear undertakings given by all parties concerned.

521. At the same time, one can easily envisage, in a competitive environment, an aggressive style of programming requiring flexibility which would be inimical to the present four week deadline. In fairness we think that the *Listener* organisation, and indeed the Corporation, should be shown to be making every effort to cut down the deadline times. This would seem, in our view, to have shared benefits and mutual advantages.

522. There are, we are told, already steps in train, outlined in a three year development plan, for the capital investment programme required to enable the *Listener* to take advantage of advanced copy preparation and printing technology which will assist in minimising these deadlines. The continued justification for the association of the Corporation with the *Listener* would suggest that such a capital commitment be accorded a high priority. Nevertheless we are aware that beneath this

beguiling scenario are matters requiring industrial resolution before full advantage can be taken of such technological innovations available to print publishers, and that such matters are not always in the hands of the *Listener* management.

523. We received assurances from the Corporation on the Board's acceptance of the doctrine of editorial independence in respect of the *Listener* and on the commitment of both the Corporation, as a publisher, and the *Listener* to publishing the programme details of any private television warrant holder.

524. Our term of reference 2(j) asks three questions in one. The first is "How the development of the *New Zealand Listener* may be assured so that it continues...as an independent journal of news and opinion published by the Corporation..." The Board's adherence to the principle of editorial independence and its support for the editorial objectives we quoted earlier provide the firmest assurance which can be given in response to the first question in a competitive publishing and broadcasting environment.

525. The second question in logical order concerns the *Listener's* development as a journal that "...lists, all programmes broadcast by holders of warrants". Again both Corporation and *Listener* are willing to give a commitment to do so, given the same means that will be available generally. That would involve all television warrant holders being placed by statute in the same position as the Corporation has already been placed under Ministerial direction pursuant to the Act. They would all have to make their programme particulars available to contracted publishers on the day they were made available to the *Listener*. Besides guaranteeing equal treatment for all warrant holders and publishers, such statutory provision would ensure the public could pay once to read all schedules and have a choice of weeklies in which to do so, besides their subsequent appearance in newspapers.

526. It is in respect to the third question, the development of the *Listener* "...as a journal that gives the background to...all programmes broadcast by holders of warrants", that a conflict of interest appears. There is no evidence before us to indicate conflict concerning the listings, news and publicity about radio stations and their programmes which presently appear in the *Listener*, newspapers and journals. So what follows will solely concern television.

527. For television, especially when being broadcast competitively, features and background articles which promote or "tie in" to programmes are significant and, at times, vital means of publicity to introduce new series and to alert viewers to individual special events or compact mini-series. In the second half of the 'seventies, when TV2 was competing to sell advertising against TV1, the *Listener* even-handedly publicised the offerings of both channels although, of course, the revenues of all three ended in the same Corporation receipts. There was an advantage for readers in handy completeness and a single price, while the *Listener* prospered as both the broadcasting weekly and a general magazine.

528. The situation presented by the advent of a third channel will face the Corporation, the *Listener's* editor and the new warrant holders with choices which, under free competition and editorial independence, only they can decide. If the *Listener* were to offer equal feature and background treatment for all three channels and be accepted, it would retain its appeal of completeness in exchange for conferring on the Corporation's competitor a share of the attention of the *Listener's* own large readership. More probably, on British precedents, either or both the Corporation and the third channel will prefer to publish for themselves, or perhaps the latter will decide to enter into combination with a rival general magazine.

529. In all these cases, and regardless of where or by whom feature and background articles about television broadcasting may be published, the key element of public interest which can still be secured is the non-discriminatory provision that those who contract to list the television programme schedules should do so completely and equitably for all three channels.

530. Here also the amount of information necessary for completeness of listing will need to be established by agreement among the parties or, if required, by arbitration on the part of the Broadcasting Tribunal. In any event, the obligation to list equitably should in no way extend to or imply any further obligation to publish material backgrounding, detailing or publicising some or all of what has been listed. That should be left to the publishers and editors for their decision, just as whether to list at all is a matter for decision by publishers.

RECOMMENDATIONS

1. That the *New Zealand Listener* continues to be published by the Broadcasting Corporation of New Zealand and that the present legislative and corporate guarantees of editorial independence be maintained.
2. That in order not to disadvantage any warrant holder as broadcaster or publisher, alone or in combination, amendments be made to the appropriate sections of the Act to ensure that all warrant holders are required to make programme particulars available to publishers at the same time and that no warrant holder should be disadvantaged in this respect as a result of any Ministerial direction.
3. In order that the public may be informed of all the scheduled choices among television programmes offered by each of the three channels, that there be a statutory obligation on those who publish listings of television programme schedules that they shall do so equitably and completely for all three channels.
4. That notwithstanding the willingness of the *Listener* to publish programme particulars backgrounding the programmes of other warrant holders, there should be no statutory obligation placed upon the Corporation or the *Listener*, or indeed upon any warrant

holder acting as a publisher, to publish background material and articles dealing with the programmes of its competitors.

5. That consideration be given to bringing the *Listener* under the purview of the Press Council.

Term of Reference 2(k)

"2(k) The adequacy of the present arrangements for funding and touring the New Zealand Symphony Orchestra:"

INTRODUCTION

531. Sections 27 and 28 of the Broadcasting Act 1976 outline the responsibilities of the Broadcasting Corporation of New Zealand with respect to the New Zealand Symphony Orchestra. The Corporation is charged with the "control and administration" of the Orchestra and with organising and presenting concerts. It *may* make the services of the Orchestra available to "persons or bodies engaged in any of the performing arts, for the purposes of public performances". The Act, however, makes no specific reference to touring. Section 28 of the Act makes provision for the discretionary appropriation by Parliament of up to two-thirds of the net cost of running the Orchestra, but gives no other guidelines regarding funding.

532. It may not be without significance that we received only 17 submissions on this term of reference. Detailed submissions were received from the Broadcasting Corporation of New Zealand, the Public Service Association, the Queen Elizabeth II Arts Council, the Regional Orchestras of New Zealand and the New Zealand Music Federation.

FUNDING

533. It should be noted that while this term of reference mentions only the Symphony Orchestra, the Corporation also maintains and funds the Schola Musica and the National Youth Orchestra.

534. The BCNZ currently (since April 1983) gives the Orchestra a priority in respect of licence fee income. The allocation is designed to cover the net costs of running the Orchestra. Since 1980 approximately \$14.5 million of licence fee income has been allocated to the Orchestra. From March 1977 to March 1983 the New Zealand Symphony Orchestra was allocated 6.3 percent of the annual licence fee income (which did not always cover net costs—the balance was met from Retained Earnings), an amount which had been set in August 1976 by the Board of the Broadcasting Council of New Zealand. In the 1984/85 financial year the allocation to the New Zealand Symphony Orchestra comprised 11.98 percent of net licence fee income.

535. We were told by the BCNZ that numerous requests have been made for appropriations under section 28 of the Act but that no such appropriations have been made.

536. A major concern expressed by almost all submissions was that there must be a guaranteed source of income for the New Zealand

Symphony Orchestra to ensure that it is maintained as a full-time and full strength national symphonic orchestra and, in the words of the Music Federation, "one of the country's greatest cultural assets."¹

537. It was generally agreed that the source of this guaranteed income should no longer be the television licence fee although the Public Service Association stated "the present system of funding the orchestra is suitable".² The Corporation itself expressed concern over the increasing proportion of the licence fee allocated to supporting the NZSO, especially when the Orchestra is not a "primary broadcasting activity."³ The National Council of Women submitted that the Corporation should not have to fill any deficits from its own revenue.

538. With the exception of the Association of New Zealand Advertisers, who felt that the Orchestra should rely on audiences and private sector sponsorship as well as Arts Council grants, there was agreement that funding for the New Zealand Symphony Orchestra ought to continue to be public funding of some sort in the form, for example, of a "direct grant" or "public subsidy".

539. However, while there was near unanimity on that aspect of funding, submissions varied on recommendations regarding the source of that alternative funding and the administration of those funds and of the Orchestra itself.

540. The Corporation submitted that the New Zealand Symphony Orchestra ought to be supported from the Consolidated Fund, but that the management of the Orchestra and related costs would continue to be a responsibility the Corporation was happy to accept, in accordance with section 27 of the Act.

541. In spite of their recommendations to alter the source of funds, others also felt that the Corporation had the expertise, grown out of experience, to continue to administer the Orchestra as well as providing a more stable financial and administrative base than if the Orchestra were in a less "sheltered environment".

542. Objections to the Orchestra's continuing under the BCNZ umbrella were two-fold. First it was stressed that the NZSO was a performing arts organisation and not a broadcasting organisation. Accepting the Orchestra's leading role, it was considered that a continued attachment to the BCNZ isolated the Orchestra from the arts policy and planning responsibilities of the arts community and the Arts Council which was the Government's principal advisory body on these matters. As a result there was a fragmentation of cultural planning and co-ordination. Some of the submissions which recommended the separation of the Orchestra from the BCNZ looked to placing it with the Arts Council with an increase in the Arts Council grant. Another suggestion made was to fund the Orchestra through an independent arts body established specifically for the purpose of administering the NZSO though it was pointed out that this would need to be guaranteed in some way by a government commitment to the principle of the maintenance of the Orchestra.

543. Any such separation from the BCNZ would require the development of a management structure for the Orchestra which was currently provided by the Corporation, as well as amendments to the Broadcasting Act and either changes to the legislation governing the Arts Council or, for an independent arts body devoted solely to the Orchestra, a separate Act.

544. It should be pointed out that various sections of the arts community who made submissions were not in agreement on the issue of the separation or otherwise of the Orchestra from the BCNZ. The Wellington Regional Orchestra and the Music Federation were adamant that the Orchestra should remain in the BCNZ stable, while the remaining regional orchestras and the Arts Council advocated its removal from that structure. At the very least they wished to see increased liaison between the Orchestra management and the performing arts community to improve co-ordination of planning with regard to touring and repertoire.

TOURING

545. Submissions which addressed the adequacy of arrangements for touring, which is not covered specifically in section 27 of the Act but is established in the Players Agreement (with a current limit of 80 days touring), brought the following concerns to the fore:-

1. There should be an increase in schools concerts, a point with which the representatives of the Orchestra agreed, although preferably within the 80 day limit.
2. There should be an increase in the number of concerts given in provincial centres and in the number of those centres visited. The problem in this respect, as pointed out by the Corporation and the NZSO representatives, is the frequent lack of suitable venues.

546. Evidence indicated, however, that the members of the Orchestra would be reluctant to increase the number of touring days.

547. The increased televising of NZSO concerts, possibly with simulcast, was recommended by several submissions. This is an alternative to an increase in touring days as well as a means of increasing the exposure of the Orchestra to the public, and perhaps encouraging more people to attend live performances.

548. The submission filed by the Public Service Association, in which paragraph 53 was written with the advice of the Orchestra players, dealt mainly with matters internal to the Corporation and the Orchestra—increase in the strings sections, dissatisfaction with touring venues and rehearsal facilities, the separation of administrative and repertoire positions—as well as recommending amendments to the Act to bring players in line with other Corporation employees in respect of wage and salary negotiations.

CONCLUSIONS

549. The justification for the Orchestra in terms of public service broadcasting has been that under a general principle of universality of appeal broadcast programmes should cater for all interests and tastes. The public service idea does not have as a primary aim the maximisation of impacts as often as possible; nor, by invoking the muddled concept of simply giving the people what they want (populism pretending to be democracy), does it aim above all else and as often as possible to offer mass-appeal programmes. Broadcasting has already amply proved that it can evoke in many of us interests we never expected to have.

550. We note from the submissions and evidence put before us that the Symphony Orchestra is perceived as being part of our European cultural tradition and conclusions about the Orchestra stem from that. Perhaps if the Orchestra, its justification and its expense were subjected to the same microscopic agonising as, say, Maori broadcasting or the establishment of a religious studies department, one might come to different conclusions about its role and funding.

551. Nevertheless the comments of the 1973 Adam Committee on the Symphony Orchestra may be as relevant today as they were then.

"No symphony orchestra in the world can pay its way, even when it lives in a teeming centre of population. If all the people in New Zealand were gathered into one place, they would not add up to a major city in overseas terms. Our orchestra undertakes expensive travel through a scattered population to play in centres which cannot, even at their best, provide audiences vast enough to return a profit. An orchestra is an instrument which cannot be whittled down or economised on and still play the music written for it. The tradition is long and universal that symphony orchestras are subsidised by the cities or countries fortunate enough to have them."⁴

552. It seems to us that there is an argument for the separate funding of the Orchestra which will not allow for a distortion of the licence fee for public service broadcasting, of which the Orchestra (as opposed to programmes of symphonic music) is not an inherent part.

553. We note, too, that the revenue of the Orchestra, which offsets gross costs, is based primarily on the proceeds of concerts at which seats are charged at an artificially low price of \$15. The Corporation submission stated that a recent survey showed that for the Orchestra to break even every seat at every concert would have to be filled at a cost, each, of over \$35.

554. In evidence, Ms Wakem stated that if the Orchestra, as a separately funded body, were to charge the Corporation for programme broadcasts, then the Corporation would make a charge for its managerial and concert support services.

555. If the role of the Corporation *vis-a-vis* the Orchestra is to be one of management only, then there has to be clear accountability and an

easily identified differentiation of the Orchestra's finances and management structure from that of the Corporation. Notwithstanding that, any organisation which accepts for itself the public service broadcasting role should utilise the services of the NZSO as often as possible.

556. If the Orchestra is to be publicly funded and supported then there ought to be, we feel, a reciprocal obligation to New Zealand music; the Orchestra should not feel inhibited about innovative programming. There ought to be a commitment to increased touring to bring the Orchestra and its music to New Zealand audiences, and especially to the schools. We also feel there should be co-ordination with other performing arts groups regarding touring and repertoire.

RECOMMENDATIONS

1. That the New Zealand Symphony Orchestra remain in its present relationship with the Broadcasting Corporation so far as administrative control, management, and the organisation of concert presentation are concerned.
2. That the radio and television services of the Corporation continue to promote the Symphony Orchestra's part in their programmes and in the community generally in recognition of the great significance of the Symphony Orchestra to the cultural life of New Zealand.
3. That liaison with the Arts Council and other bodies concerned with concert management and touring be improved and planning be more closely co-ordinated.
4. That the arrangements, the amount, and the nature of touring by the Symphony Orchestra be reassessed in the light of public demand and response.
5. That the costs of the management structure and the support services of the Symphony Orchestra, the costs of its use, and all other aspects of its financing should be clearly differentiated from the general financing and management of the Corporation so that separate and full accountability for the net cost of the Symphony Orchestra is achieved and maintained.
6. That the net cost of maintaining the Symphony Orchestra should be borne by the general revenue under Vote: Internal Affairs rather than by the payers of the Public Broadcasting Fee.

References

TERM OF REFERENCE 2(a)

1. Ian Robert Cross, written submission (at the invitation of the Royal Commission), p.2.
2. BCNZ, written submission on term of reference 2(a), p.10.
3. R.J. Gregory, *Politics and Broadcasting, Before and Beyond the NZBC*, Palmerston North, 1985, p.96.

4. *Report of the Committee on the Future of Broadcasting*, Lord Annan, Chairman, London, 1977, p.8, para 2.1.
5. *ibid.*, para 2.7.
6. R.J. Gregory, *op.cit.*, pp.93—96.
7. *ibid.*, p.111.
8. BCNZ, *loc.cit.*
9. *ibid.*, p.11.
10. Broadcasting Research Unit, *The Public Service Ideal in British Broadcasting, Main Principles*, London, 1985, p.3.
11. *ibid.*, p.14.
12. *ibid.*
13. *Report of the Committee on Financing the BBC*, Professor Alan Peacock, Chairman, London, HMSO, July 1986, p.76, para 307.
14. Association of Continuing & Community Education (Otago), written submission, p.2.

TERM OF REFERENCE 2(b)

1. BCNZ, written submission, term of reference 2(a), para 12.
2. Broadcasting Act 1976, section 3(1)(d)(i).
3. Broadcasting Act 1976, section 17(1)(a) and section 22.
4. Ian Robert Cross, transcript of oral evidence, 19 February 1986, p.32.
5. *ibid* p.3.
6. Cross, transcript of oral evidence, 20.02.86, p.41.
7. Heughan Bassett Rennie, written brief of evidence, 28 February 1986, p.2.
8. *Report of the Committee on the Future of Broadcasting*, Lord Annan, Chairman, March 1977, HMSO, para 9.60.
9. BCNZ, written submission, term of reference 2(b), para 9.
10. Royal Commission on Broadcasting, letter to BCNZ dated 25 October 1985.
11. BCNZ, letter to Royal Commission on Broadcasting dated 5 December 1985, p.4.
12. BCNZ, Board Paper, Executive Committee Report on Resource Services, dated 11 December 1985, for BCNZ Board Meeting 17 December 1985.
13. Rennie, transcript of oral evidence, 28 February 1986, p.40.
14. Rennie, written brief of evidence, 28 February 1986, p.6.
15. BCNZ, letter to Royal Commission on Broadcasting dated 7 May 1986.
16. Rennie, written brief of evidence, 28 February 1986, p.6.
17. *Report of the Committee on the Future of Broadcasting*, Lord Annan, Chairman, para 9.75.

18. R. J. Gregory, *Politics and Broadcasting, Before and Beyond the NZBC*, Palmerston North, 1985, p.107.
19. *ibid*, p.108.
20. *Report of the Commission of Inquiry into Contractual Arrangements entered into by the Broadcasting Corporation of New Zealand with its Employees and into Certain Matters Related to Advertising*, W. R. Jackson, Chairman, April 1984, p.66, paras 15, 16 & 17.
21. BCNZ, written submission, term of reference 2(b), para 10.
22. BCNZ, letter to Royal Commission on Broadcasting dated 7 May 1986.
23. *Report of the Commission of Inquiry into Contractual Arrangements*, W.R. Jackson, Chairman, pp. 65—66, para 14.
24. *The Broadcasting Future for New Zealand, Report of the Committee on Broadcasting*, Professor K. Adam, Chairman, 31 July 1973.
25. BCNZ, letter to Royal Commission on Broadcasting dated 7 May 1986.
26. BCNZ, letter to Royal Commission on Broadcasting dated 5 December 1985, p.5.
27. Rennie, transcript of oral evidence, 1 August 1985, p.97.
28. *The New Zealand Herald*, 13 August 1986, section 1, p.20.
29. BCNZ, written submission, term of reference 2(c), para 9.
30. *Report of the Broadcasting Corporation of New Zealand for the year ended 31 March 1986*, p.25.
31. Television New Zealand, Sales & Marketing, *Television & Other Media 1982—1985*, February 1986, pp.5,7,19 and 21.
32. BCNZ, letter to Royal Commission on Broadcasting dated 13 September 1985, p.5 and appendix (h).
33. *Report of the BCNZ for the year ended 31 March 1986*, p.4.
34. BCNZ, letter to Royal Commission on Broadcasting dated 5 December 1985, p.4.
35. BCNZ, letter to Royal Commission on Broadcasting dated 19 December 1985.
36. Rennie, transcript of oral evidence, 28 February 1986, pp.37—38.
37. *ibid.*, pp.52—53.
38. BCNZ, letter to Royal Commission on Broadcasting dated 15 April 1986 and BCNZ Public Broadcasting Fee—Scheme for Allocation of Revenues.
39. Rennie, BCNZ News Release re annual *Report*, 9 September 1986.
40. *Statement on Government Expenditure Reform*, 19 May 1986, Hon R. O. Douglas, pp.15,26.
41. *The New Zealand Herald*, 26 July 1986, section 1, p.12.

42. Nigel Alexander Dick, Chief Executive, BCNZ, transcript of oral evidence, 3 March 1986, pp.17—25 and 36—43.
43. Dick, written brief of evidence, 3 March 1986, p.20.
44. *ibid.*, pp.24—25.
45. Hylton John Mackley, written brief of evidence, pp.4—5.
46. The Hon. Michael Duffy, M.P., Minister for Communications, Press Release No.72/86, 29 July 1986, *Communications*, (Bulletin of Department of Communications, Canberra)
47. Dick, transcript of oral evidence, 3 March 1986, p.9—12.
48. BCNZ Statement of Purpose, Corporate Objectives, Statement of Principles and BCNZ Divisional Objectives and Corporate Services Objectives.
49. *The ABC in Review, National Broadcasting in the 1980s, Report by the Committee of Review of the Australian Broadcasting Commission*, A. T. Dix, Chairman, May 1981, Canberra, para 20.95.
50. *Report of the Commission of Inquiry into Contractual Arrangements*, W. R. Jackson, Chairman, p.68, para 25.
51. *ibid.*, p.68, para 24.
52. Darryl Vaughan Dorrington, transcript of oral evidence, 9 August 1985, p.51.
53. *The Broadcasting Future for New Zealand, Report of the Committee on Broadcasting*, Professor Adam, Chairman, 31 July 1973.
54. *ibid.*, p.13.
55. *Report of the Committee on Financing the BBC*, Professor Alan Peacock, Chairman, July 1986, HMSO, p.77, para 308.
56. The Treasury, Synopsis of Treasury Submission to the Royal Commission on Broadcasting, November 1985, para 3.2.4.
57. *The Economist*, 30 August 1986, p.23.
58. *ibid.*
59. *ibid.*
60. *ibid.*
61. *ibid.*, p.24.
62. *Report of the BCNZ for the year ended 31 March 1986*, p.3.
63. Rennie, BCNZ News Release re annual *Report*, 9 September 1986.
64. Rennie, written brief of evidence, 28 February 1986, p.6.

TERM OF REFERENCE 2(c)

1. National Council of Women, written submission, term of reference 2(c).
 NZ Public Service Association, written submission, term of reference 2(c).
 New Zealand Writers' Guild, written submission, p.1.

- Actors Equity, written submission, term of reference 2(c), para 4.8.
2. BCNZ, written submission, term of reference 2(c), paras 4—11.
 3. BCNZ, written submission, term of reference 2(c), para 6.
 4. Independent Broadcasters Association Inc., written submission, para 29.
 5. *Report of the Committee on Financing the BBC*, Professor Peacock, Chairman, July 1986, HMSO, para 621.
 6. BCNZ, written submission, term of reference 2(c), para 22.
 7. National Council of Women, written submission, term of reference 2(c).
 8. ESTV Project Team, written submission, term of reference 2(c).
 9. F. T. Walker, written submission, *Part 2*, c.2.
 10. Heughan Bassett Rennie, BCNZ, written brief of evidence, term of reference 4(a), 30 August 1985, p.7.
 11. Kenneth John McGuire, written brief of evidence, 4 September 1985, p.6; BCNZ, written submission, term of reference 2(c), paras 13,14.
 12. The Treasury, written submission, p.62.
 13. Rennie, written brief of evidence, 1 August 1985, p.11, para 2.

TERM OF REFERENCE 2(d)

1. BCNZ, written submission, term of reference 2(d), para 8.
2. *ibid.*, para 6.
3. *ibid.*, para 1.
4. *ibid.*, para 11.
5. *ibid.*, para 9.
6. *ibid.*, para 16.
7. *ibid.*, para 19.
8. *ibid.*, para 13.
9. National Council of Women, written submission, p.4.
10. New Zealand Public Service Association (Inc.), written submission, p.42, para 73.
11. National Council of Women, written submission, p.4.
12. New Zealand Federation of University Women (Inc.), written submission, p.1.
13. Auckland East Federation of the New Zealand Country Women's Institutes (Inc.), written submission.

TERM OF REFERENCE 2(e)

1. BCNZ, written submission, term of reference 2(e), para 1.
2. *ibid.*, para 2.
3. *ibid.*, para 4 and 5.
4. *ibid.*, para 10.

5. *ibid.*, para 11.
6. *ibid.*
7. *ibid.*, para 17.
8. *ibid.*, para 22 and 23.
9. *ibid.*, para 27.
10. *ibid.*, para 32 and 33.
11. *ibid.*, para 6 and 7.
12. *ibid.*, para 8.
13. *Report of the BCNZ* for the year ended 31 March 1982, p.22.
14. *Report of the BCNZ* for the year ended 31 March 1986, p.8.
15. BCNZ, written submission, term of reference 2(e), para 13.
16. *Report of the Committee on the Future of Broadcasting*, Lord Annan, Chairman, March 1977, HMSO, para 17.58.
17. BCNZ, written submission, term of reference 2(e), para 19.
18. *ibid.*, para 21.
19. *ibid.*, para 25.
20. BCNZ, letter to Royal Commission on Broadcasting, dated 10 July 1986.
21. BCNZ, written submission, term of reference 2(e), para 34.

TERM OF REFERENCE 2(f)

1. John Stephen Craig, written brief of evidence, term of reference 2(f), p.1, para 2.1.
2. Beverley Anne Wakem, transcript of oral evidence, 2 August 1985, pp.99-100
3. BCNZ, written submission, term of reference 2(f), para (f)3.
4. *ibid.*
5. Public Service Association, written submission, p.20, para 39.
6. PEN, written submission, p.4, para 10.
7. BCNZ, written submission, term of reference 2(f), p.5, para 2(f)16.
8. *ibid.*, para 2(f)17.
9. Television Producers & Directors Association, transcript of oral evidence, 10 October 1985, p.77.

TERM OF REFERENCE 2(g)

1. BCNZ, written submission, term of reference 2(g), para 29(g)2.
2. Independent Producers and Directors Guild, written submission, p.2, para 1.12.
3. *Report of the Committee on Financing the BBC*, Professor A. Peacock, Chairman, July 1986, p.141, para 646.
4. BCNZ, written submission, term of reference 2(g), para 2(g)17.
5. Desmond James Monaghan, transcript of oral evidence, 28 August 1985, p.2.

6. IPDG, written submission, p.8, para 2.2b(3).
7. *ibid.*, p.8, para 2.2b(5).
8. *Report of the Committee on Financing the BBC*, July 1986, p.141, para 645.
9. Writers Guild, written submission, p.2.

TERM OF REFERENCE 2(h)

1. *Report of the Commission of Inquiry into Contractual Arrangements entered into by the Broadcasting Corporation of New Zealand with its Employees and into certain matters relating to Advertising*, W.R. Jackson, Chairman, April 1984, p.23.
2. PSA, written submission, p.23, para 44.
3. Actors Equity, written submission, para 5.2(d).
4. Music Federation, written submission, p.7.
5. Composers Association, written submission, p.3, para 3.3.
6. John Stephen Craig, written brief of evidence, p.1, para 2.1.
7. *ibid.*, p.2, para 4.1.

TERM OF REFERENCE 2(i)

1. Minister of Overseas Trade and Marketing, Hon. Mike Moore, transcript of oral submission, p.5
2. John McCready, transcript of oral evidence, 27 September 1985, p.116.
3. *A Strategy for Development, NZ Recording Industry*, RIANZ, 1981, p.1.
4. *ibid.*, p.2.
5. *ibid.*, p.1.
6. McCready, transcript of oral evidence, 27 September 1985, p.20.
7. John Stephen Craig, written brief of evidence, term of reference 2(i), p.4, para 5.3.
8. Queen Elizabeth II Arts Council, written submission, p.13, para 4.3.
9. R.P. Douché, transcript of oral evidence, 5 November 1985, p.7.
10. McCready, transcript of oral evidence, 27 September 1985, p.38.
11. David James Gardiner, transcript of oral evidence, 24 February 1986, p.51.
12. *ibid.*, p.109.
13. *Annual Report of the Broadcasting Tribunal*, 31 March 1980, p.3.
14. *Report of the Broadcasting Tribunal to the Minister of Broadcasting on the Development of Frequency Modulation Broadcasting in New Zealand*, August 1981, p.75, para 15.19.
15. Douché, transcript of oral evidence, 5 November 1985, p.14.
16. New Zealand Film Commission, written submission, p.5, para 3.2.3.

17. Heughan Bassett Rennie, transcript of oral evidence, 30 August 1985, p.54.
18. *ibid.*, p.53.
19. Jeffrey William Bennet, written brief of evidence, p.2, para 2.4 and 2.5.
20. Public Service Association, written submission, p.21, para 41(a).
21. PEN, written submission, p.5, para 14.
22. Rennie, transcript of oral evidence, 27 February 1986, p.51.
23. Desmond James Monaghan, transcript of oral evidence, 25 August 1985, p.5.
24. Rennie, transcript of oral evidence, 27 February 1986, p.89.
25. Hallud Everard Weston, written brief of evidence, term of reference 7(d), p.9, para 7(d) 3.2.
26. *Report of the Committee on Financing the BBC*, July 1986, p.137, para 617.
27. Public Service Association, written submission, p.24, para 45.
28. *The Elements of a Performance Standard for Local Content on New Zealand Television*, New Zealand Film Commission, p.2, para 3.

TERM OF REFERENCE 2(j)

1. Art Galleries and Museums Association, written submission, p.4.
2. F. T. Walker, written submission, p.1.
3. Waikato Regional Advisory Committee on Broadcasting, written submission, p.2.
4. Independent Television Ltd (ITV), written submission, p.2.
5. *The Broadcasting Future for New Zealand, Report of the Committee on Broadcasting*, Professor K. Adam, Chairman, July 1973, Wellington, Government Printer, p.126.
6. David Colin Beatson, written brief of evidence, term of reference 2(j), p.7, para 3.9.

TERM OF REFERENCE 2(k)

1. Music Federation of New Zealand, written submission, p.12.
2. Public Service Association, written submission, p.29, para 53(a).
3. Broadcasting Corporation of New Zealand, written submission, term of reference 2(k), p.4, para 2(k)17.
4. *The Broadcasting Future for New Zealand, Report of the Committee on Broadcasting*, Professor K. Adam, Chairman, July 1973, Wellington, Government Printer, p.125.

CHAPTER 3

Term of Reference 3

"3. The corporate structures, ownership, financing, profitability and links with other news media companies of the holders of warrants in respect of private broadcasting stations and the aims, operations, programming, station structure, and staffing of private broadcasting stations: with particular reference to—

- (a) The matters referred to in paragraphs (b), (d), (e), (f), (g), (h), and (i) of clause 2 of this warrant, which paragraphs shall apply as if every reference in those paragraphs to the Corporation were a reference to a private broadcaster and with such other modifications as are necessary; and*
- (b) The cases for and against imposing an excess profit levy on the holders of warrants in respect of private television stations for the purpose of providing funds for the development of non-commercial public broadcasting services:"*

THE WARRANT HOLDERS

1. Relatively few submissions were received by the Commission specifically on this term of reference relating to private broadcasting. The Independent Broadcasters Association, which is open to and represents private broadcasters and, as such, receives statutory recognition in section 94 of the Broadcasting Act 1976, addressed many aspects of the terms of reference as a whole¹ from their own perspective, as did the submissions of other organisations with direct interests in the broadcasting field. Accordingly in order to gain some overview of the individual warrant holders themselves, the Commission wrote to each asking about their corporate structure, aims and operations.

2. It is not possible in the context of this *Report* to describe in detail the corporate structure, financing and ownership and aims and operations of each warrant holder company. The following are brief outlines of the warrant holders to whom the Commission wrote, taken from the more extensive information provided by each of them in reply.

RADIO HAURAKI

3. Radio Hauraki is owned by Hauraki Enterprises Limited which is 51 percent owned by Brierley Investments Limited. (Hauraki Enterprises also owns 30 percent of Capital City Radio Limited and 61 percent of Radio i Holdings Limited.)

4. As is well known, Radio Hauraki was the modern pioneer private broadcaster in New Zealand. It is a contemporary music station with a high level of entertainment in its programming; it endeavours to give its news an Auckland slant. Its target audience is all people in the 20—39 age group, and its immediate aim is to convert the station to the FM mode. Radio Hauraki sponsors community outings and events and

features local productions sometimes revolving around particular personalities. Radio Hauraki expects some loss of market share following the move to FM but, in the long term, anticipates that this will strengthen its position in the Auckland market. Radio Hauraki is involved with Radio Windy and Radio Avon in setting up a central news gathering data base in Wellington open to other private broadcasters to contribute to and receive information from.²

RADIO i

5. Radio i Limited is a private company wholly owned by Radio i Holdings Limited, a public unlisted company. Besides the Hauraki Enterprises shareholding mentioned above, 33.3 percent of the shareholding was owned by Mr A. I. Gibbs at the time of their letter to us. Political news is supplied by Radio Avon and sports coverage by Independent Radio Sports. Journalists are also employed by the company as they are by most of the other stations. Radio i has an "easy listening" music format, with community and local information. Local production is limited to competitions and a brief talk-back show in the mornings.³

RADIO PACIFIC

6. Radio Pacific is owned by Radio Pacific Limited, a public company. It has no shareholding links with other news media companies except a 20 percent investment in Televid Region I. The Company went through difficulties in the early 1980s from which it has recovered. Radio Pacific's emphasis is on spoken programmes including talk-back and news, sport and racing. Less than 10 percent of air-time is devoted to music and such recordings are targeted at the older age group. Guests are invited to participate in talk-back programmes, and particular topics featured. Radio Pacific concentrates on in-house programme production and its news service is provided to a number of other private radio stations.⁴

MAGIC 91FM

7. Magic 91FM is owned by Metropolitan FM Broadcasting Limited a private company of thirteen shares, each of equal value making up the total shareholding. It has traded successfully since it commenced broadcasting in April 1983. The company has no shareholding link with any other news media company other than a major shareholding in Canterbury FM Broadcasting Limited together with the Christchurch Press Company Limited. Canterbury FM will broadcast soon. Magic 91FM is principally a mass-appeal contemporary music station with programming directed at the 20—44 age group. Its news is supplied by Radio Pacific and it emphasises the entertainment, cultural and artistic events in the city of Auckland. The emphasis is on music rather than in-house production.⁵

TRIPLE M 89FM STEREO

8. Triple M 89FM is owned by Stereo FM Limited, a public company with approximately 230 shareholders, four of which are major shareholders and one of which, Cara Everard Limited, owns 53.4 percent of the shares. Cara Everard Limited is owned to the extent of 24.9 percent by the Triple M Broadcasting Company of Sydney which shareholding cannot be sold outside of New Zealand. After it commenced broadcasting in 1983 Triple M 89FM experienced serious difficulties in part because of an inability to attract listeners in commercially viable numbers. This in turn arose from a willingness to experiment with formats. The company takes the IBA news service and has regular stringers overseas. It commissions four well-known individual artists to write programme material and has sought to be supportive of the New Zealand music industry.⁶

RADIO WAIKATO

9. Radio Waikato is operated by the Independent Broadcasting Company Limited. Radio Waikato has experienced some uncertainty as regards its AM warrant arising out of the introduction of FM broadcasting within the Independent Broadcasting Company group, which also owns and operates Waikato/Bay of Plenty FM Limited. The company is now making a renewed commitment to Radio Waikato and is in the process of strengthening its news and current affairs section. Independent Broadcasting Company Limited is half-owned (50.3 percent) by the Independent Newspapers Limited group.⁷

WAIKATO/BAY OF PLENTY 898FM

10. Waikato/Bay of Plenty FM Limited is a wholly-owned subsidiary of Independent Broadcasting Company Limited and so, as described above, 898 FM effectively has the same ownership as Radio Waikato. It broadcasts a contemporary music programme aimed mainly at the under 40 age group, the main ingredient being music with minimal interruptions, and it undertakes summer promotions in the Bay of Plenty area. Its news is taken from Radio Pacific, IBA news contracts and the Radio Avon Parliamentary News Service.⁸

ONE-DOUBLE-X

11. One-Double-X is owned by Radio Bay of Plenty Limited. It is an unlisted public company of 110 shareholders with a considerable spread of shareholding by local residents or those with an interest in the Bay of Plenty. While national and international news is taken on network from Radio Pacific, the company concentrates heavily on local news coverage. Its music content is middle-of-the-road adult contemporary with considerable locally sourced programming including locally based community affairs programmes.⁹

RADIO MANAWATU

12. This station is owned by the Manawatu Radio Company Limited, a listed public company. Its only shareholding link is a foundation

shareholding in Televid Region 3. Its aims are to operate a commercial AM and now FM service in the Manawatu and into the Horowhenua and Wanganui regions as well. Radio 2XS is a contemporary radio station with a strong emphasis towards the 20—44 age group. Like other stations it takes the American top 40 type of programme and takes news from Radio Avon and its own staff provide regional and local news.¹⁰

RADIO HAWKES BAY

13. Radio Hawkes Bay Limited is a private company with seven shareholders, six of whom are private individuals and the seventh Hawke's Bay News Limited. It is an FM station which when first on air concentrated on the young adult audience with the aim of progressively extending its listenership. 93FM has operated a training school for young broadcasters in each of 1984 and 1985.¹¹

RADIO WINDY

14. Radio Windy is operated by Capital City Radio Limited. The major shareholders are Hauraki Enterprises 30 percent, and INL Limited, New Zealand News Limited and Brierley Investments Limited, 15 percent each. Radio Windy concentrates on the 25—39 year old age group with a mixture of well-known and current popular music. Radio Windy has as one of its objectives to take a leading role in drawing the private radio industry closer together and to encourage better concentration of resources to improve overall quality.¹²

RADIO AVON

15. Radio Avon is also an AM station, owned by Radio Avon Limited, a public listed company which has a broad shareholding. Radio Avon itself owns 23 percent of Radio Otago Limited and 24.9 percent of Foveaux Radio Limited. It operates the Avon Parliamentary News Bureau from Parliament Buildings. With Capital City Radio, Radio Avon is establishing the new network news service based in Wellington to serve independent radio stations in New Zealand. The new venture will also have a 49 percent share in Independent Radio Sports Limited which provides sports news and incorporates the parliamentary news bureau. Its programming format is one of music, news and information aimed at the 25—39 year old age group with some emphasis towards women in the listening audience.¹³

RADIO OTAGO

16. Radio 4XO is owned by Radio Otago Limited, a public listed company. It concentrates on the under 40 age group, and employs journalists locally as well as taking the recently established network news service. Radio Otago is in turn linked with Radio Central which it owns.¹⁴

RADIO CENTRAL

17. Radio Central 4XA (Alexandra) and Radio Central 4XC (Queenstown) and 4XE (Wanaka) provide a service to the inland Otago area using the resources of the Dunedin-based parent to complement the local service.¹⁵

FOVEAUX RADIO

18. Foveaux Radio is owned by Foveaux Radio Limited, a listed public company with wide shareholding including the Radio Avon shareholding of 24.9 percent. Its programme is aimed at the under 40 audience with a leaning towards country music, local news bulletins, late morning talk-back and an hourly community notice board. It employs a news room staff to prepare local news bulletins and takes national news and sports from Radio Avon and from Wellington.¹⁶

REVIEW

19. The above sketches of the private radio stations are not intended to give other than a very brief overview of the principal private warrant holders operating in New Zealand at the time of our hearings. Northland Radio FM is also now operational.

20. Total staff numbers can be quite small but in the larger stations managerial and administrative, programme, sales and marketing and news staff may total up to 40 including part-timers. The majority of stations concentrate on the under 40 audience with programmes consisting of popular or "easy-listening" music, local news and events with some national news and sports. One station, Radio Pacific, has a largely spoken programme and some of the FM stations, on the other hand, concentrate almost entirely on broadcasting popular music.

21. As regards local news and information, there is no doubt that a few stations have been exceptionally successful in creating strong links and identification with local listeners, advertisers and community groups. For example, Radio Bay of Plenty has achieved a high level of success in this regard. Some stations produce local programmes in quantity whereas others produce few programmes as their programme format does not call for this.

22. Generally, however, the national and international news component of the private stations is taken from other private stations or national bureaux providing this service, with reporters concentrating on local news. Few overseas programmes are purchased. We have already covered other related questions of independent production, the commissioning of writers and artists and a quota for New Zealand production under terms of reference 2(f) to 2(i).

23. It is to be borne in mind that the private warrant holders are answerable to the Broadcasting Tribunal for their performance and their attainment of the general purposes set out for all broadcasters in section 3 of the Broadcasting Act, and in particular for the fulfilment of conditions imposed by the Tribunal in particular warrants pursuant to section 71A. Monitoring of private warrant holders is addressed in term

of reference 4(a), but we would comment here that section 3(1)(b) of the Act enjoins all broadcasters to obtain, produce, commission and broadcast a range of programmes which will inform, educate and entertain; but as with the other paragraphs of subsection 3(1), these are general purposes by which broadcasters are to be guided "so far as they are relevant to their respective powers, duties and functions".

24. This limitation is of some importance in the case of private warrant holders because each seeks to develop a particular broadcasting personality emphasising entertainment or information or to a degree education in some combination. It is clear that the emphasis is on entertainment.

25. The paid capital of the companies ranged from under \$100,000 to over \$1 million. While private radio broadcasting can be profitable and has been for some warrant holders, particularly in terms of return on shareholders' funds achieved, this has not been the case for all private warrant holders.

26. As regards links with other news media companies, the Commission is aware that the Broadcasting Tribunal is to report to the Minister of Broadcasting on this particular topic and for that reason we do not propose to duplicate that study, nor do we believe that it would be appropriate for us to do so. However the Commission did receive submissions expressing disquiet at the growing links between some private warrant holders. It may be that this arises where technology is clearly put to efficient use.

27. In these circumstances, without wishing to trench on the conclusions to be drawn from the Tribunal's impending *Report*, the Commission can say that it would have some concern if in the future a trend towards foreign ownership were to develop. While we received a submission from the Overseas Investment Commission¹⁷ urging that no further restraints be put on overseas ownership than those that already exist, we believe that this is one area of foreign investment where a cautious approach can be justified.

EXCESS PROFIT LEVY

28. The Commission was also called upon to consider whether or not an excess profit levy ought to be imposed on the holders of warrants in respect of private television stations to provide funds for the development of non-commercial public broadcasting services and it was in this area that submissions tended to be concentrated.

29. One submission considered that such a levy would be analogous to the contribution of public reserves to a local authority when land is being subdivided¹⁸ and that, if a broadcaster provided non-commercial programmes from a commercial station, the levy could be rebated by an appropriate amount.

30. Other submissions suggested that a better approach would be to levy a fixed percentage of revenues rather than of profits, with the percentage to be higher if content was concentrated on overseas programming. To the extent that the proposal for a levy has merit, we

are inclined to agree that a levy on revenue rather than profits is more practical as it would be less of a distorting factor, judging from the limited use of a levy on profits overseas.

31. Yet another submission¹⁹ suggested that, rather than being subject to an excess profit levy, holders of warrants in respect of private television stations should have other production and programme requirements placed upon them. ESTV considered that funding from broadcasting should be channelled directly back into the community.²⁰

32. Generally speaking, however, it can be said that there was little support for this excess profit levy proposal. As would be expected, the idea was viewed with disfavour by more than one applicant for the third channel.

33. In these circumstances the Commission considers that, on the evidence presented, there is no case to be made at this stage for such a levy especially when third channel profitability, certainly in the early years of operation, is yet to be proved. Rather, we have set out under terms of reference 2(b) and 2(c) what we consider to be improvements in the existing system of funding public broadcasting, and under term of reference 4 we have suggested possible systems of payment for the right to use particular stations including television stations.

References

1. Independent Broadcasters Association, written submissions and evidence, 27 June 1985.
2. Hauraki Enterprises Limited, letter to Royal Commission on Broadcasting, dated 12 February 1986.
3. Radio i Limited, letter dated 10 February 1986.
4. Radio Pacific Limited, letter dated 10 February 1986.
5. Metropolitan FM Broadcasting Ltd., letter dated 12 February 1986.
6. Stereo FM Limited, letter dated 12 March 1986.
7. Independent Broadcasting Co. Ltd., letter dated 5 February 1986.
8. Waikato/Bay of Plenty FM Limited, letter dated 5 February 1986.
9. Radio Bay of Plenty Limited, letter dated 30 January 1986.
10. Manawatu Radio Company Limited, letter dated 2 April 1986.
11. Radio Hawkes Bay Limited, letter dated 21 February 1986.
12. Capital City Radio Ltd., letter dated 5 February 1986.
13. Radio Avon Limited, letter dated 6 February 1986.
14. Radio Otago Ltd., letter dated 7 February 1986.
15. *ibid.*
16. Foveaux Radio Limited, letter dated 5 February 1986.
17. Overseas Investment Commission, letter to Royal Commission on Broadcasting dated 4 July 1986.
18. P.H. Barker and H.R. Barker, written submission, p.2.

19. Association of NZ Advertisers Inc., written submission, p.2.
20. ESTV, written submission, term of reference 3(b).

CHAPTER 4

Term of Reference 4

"4. The resources and functions of the Broadcasting Tribunal and its role in relation to the Broadcasting Corporation of New Zealand, the holders of warrants in respect of private broadcasting stations, and the Complaints Committee":

Term of Reference 9

"9. Any associated matters that may be thought by you to be relevant to the general objects of the inquiry."

INTRODUCTION

1. To recommend upon the appropriate resources, functions and role of the Broadcasting Tribunal we had first to place its present functions in the context of the overall broadcasting system. Should this process reveal deficiencies in the system, that would require us to bring our ninth term of reference into action in order to recommend on the situation we found. So quotations from both terms of reference are placed at the head of this chapter. The Tribunal itself must be seen as one of four major and three minor elements in the conduct and shaping of broadcasting as a whole. The four major elements are Parliament through the prescriptions of the Act, the Minister with responsibility for general broadcasting policy through whom most elements are accountable to Parliament, the Broadcasting Corporation as trustee for the development of public service broadcasting, and the Broadcasting Tribunal which authorises and sets conditions for private broadcasters and, by the granting under the Act of all new warrants and fresh conditions, determines the balance of growth as between public service and private broadcasting. The three minor elements established by the Act are the Independent Broadcasters Association Incorporated which represents the private warrant holders, the rules committees which join Corporation and private warrant holders to make rules on programme standards and advertising and, lastly, the Broadcasting Complaints Committee which is a semi-detached tier in the complex complaints procedures.

2. What should tie the elements together is the Act itself and the policy oversight of the Minister. But the Minister himself has also been carefully constrained by Parliament giving limited powers of direction under the Act, and by having to seek advice from two independent bodies each with their own roles and functions. The Corporation has a general function under subsection 17(1)(b) "To advise the Minister in respect of matters relating to broadcasting:" and this continues from a time when all broadcasting was public service broadcasting. For the present all television and a substantial part of radio are still the province of the Corporation. At the same time the Broadcasting Tribunal which, like its predecessor the Broadcasting Authority, was introduced in part to superintend a private sector, was also given the function under

subsection 67(1)(c) "To advise the Minister in respect of such matters relating to broadcasting as may be referred to it by the Minister:"

3. What has happened is that successive governments have rewritten the broadcasting legislation each with different objectives particularly in mind. The Act as it now stands still embodies elements from various phases which, if not contradictory, are at least uneasily or loosely related to each other. Each government has begun with the presence of an overall system of public service broadcasting which has been largely self-regulating.

4. Before the Broadcasting Corporation Act of 1961 the New Zealand Broadcasting Service advised the Minister as a department would. With the conversion of the Service into the Corporation, the new NZBC continued to advise the Minister who had no staff of his own. The NZBC had been given power by the Act to issue warrants to admit the private sector into broadcasting, but did not use it. So the government by the Broadcasting Authority Act 1968 created a body which could and would do so. But the Authority's judicial and regulatory functions over all warrant holders, now including the NZBC, "confused the locus of responsibility for public broadcasting, till then clearly and correctly located in the functions of the NZBC board".¹ The era of four major elements in the control of broadcasting had arrived: Parliament, Minister, Corporation and Authority.

5. The Broadcasting Act 1973 endeavoured to establish the independence of the Broadcasting Council and its three interlinked corporations by abolishing the portfolio of the Minister of Broadcasting and the Broadcasting Authority. It was found necessary by 1975, however, to have a Minister to answer in Parliament and this was done by the Postmaster-General while the licensed private radio sector continued without its controlling Authority.

6. All four major elements of the pre-1973 situation were restored by the Broadcasting Act 1976. The Minister was given clear powers to issue written directions to the Broadcasting Corporation by section 20 and to the Broadcasting Tribunal by section 68 and directions had to be complied with, gazetted and laid before Parliament while both bodies had to "have regard to the general policy of the Government in relation to broadcasting." But the Minister was not given his own source of support and advice. Nor was the overlap between the warranting power of the Tribunal and the function of the Corporation "to develop, extend, and improve those services in the public interest" clarified, reduced or removed.

7. What resumed changing markedly thenceforth was the size of the private sector in radio and, from 1984 by decisions of successive governments, potentially in television. The effective weight of policy decisions by ministers and governments therefore grew, but the basis of advice on which they were taken was not made continuous nor strengthened correspondingly. At the same time it must be observed that the growth of the private sector from its unlicensed beginnings in 1966 to its present size has made it impossible, by common consent of

both parties of government, to return to a position where there was only the relationship between the Corporation and the Minister to consider. The growth of two substantial sectors has also made it essential that an informed basis for policy formation, independent of both sectors, should be provided to ministers and governments as they decide the moving balance between public and private broadcasting.

ADVICE TO THE MINISTER

8. As the widely experienced E. J. Wilkinson wrote in his evidence when discussing the question of policy advice on broadcasting from both BCNZ and Tribunal: "And yet in both cases there is a need for some 'distance' to be maintained between the Minister and these organisations. In the case of the BCNZ, this 'distance' is necessary to protect broadcasting from any inference of political manipulation and in the case of the Tribunal the 'distance' is necessary to protect and preserve the Tribunal's quasi-judicial status."²

9. The Tribunal in its submission pointed to a further difficulty. "The Tribunal has some concern that the Broadcasting Corporation remains the principal body providing advice to the Minister on Broadcasting Industry matters."³ They pointed to private radio being often in competition and considered that the "possibility of the Minister receiving advice" which could be perceived as partial was "undesirable."⁴ The coming of a private television service would only strengthen the case for a further "base for advice to the Minister" and a means of "sifting and analysis of competing views."⁵

10. The Tribunal had raised the central problem of policy making before. In its *Report* to Parliament through the Minister for the 1982 to 1983 year, dated October 1983, it wrote:

"The Tribunal considers that for the development of broadcasting in New Zealand, thought should be given to the policy making process. At present, policy is developed in a number of ways, but no permanent policy making machinery exists to facilitate medium- to long-term development."⁶

11. The conclusions of E. J. Wilkinson were direct and forceful. Having been part of the advisory process in Australia he thought it, "quite inappropriate for a Minister who is, after all, a layman in technical matters to have to resolve the problem of conflicting advice from more than one source, particularly when those sources are not government departments. The Minister should not have to put together all of the raw material into a single viewpoint. He needs a team of competent people in a Department of State, headed by a single permanent head, working with him in a proper Westminster-style relationship, to properly support him in his appointed role. I do not see how this can work effectively otherwise and I call into question the validity and the utility of the arrangement which you have at present in respect of broadcasting policy advice in New Zealand."⁷

12. The New Zealand Film Commission also supported a Ministry as a "strong source of policy advice to the Government and to undertake

practical administrative matters and supervision in the broadcasting arena separate from the major player the BCNZ."⁸ Though they were speaking to Communications, it was made clear that the Ministry "must not concern itself with transmission or trading functions"⁹ and that it should revolve around the social, cultural and content issues of broadcasting. As their Executive Director, Mr Booth, put it: "we are looking to the future where broadcasting . . . may in fact be replaced by all sorts of new means of communication. . . the pace of change is such that 'broadcast' may be too narrow a definition in the future."¹⁰

13. The Film Commission did "not concur that content or policy functions should come under the aegis of Internal Affairs. A separate Ministry should be established."¹¹ In essence it was to be "very small", a skilled policy unit "of say ten to twelve people."¹² Its prime task was to assist with the formulation of policy advice and administrative support for the Minister but also to provide analysis and research, act as a "consumer and industry watchdog",¹³ suggest reforms in areas like copyright, and explore issues such as standards among warrant holders and the public. Administrative and specialist staff would also be seconded to the Broadcasting Tribunal as required while the monitoring of conditions set by the Tribunal and any points system it determined could be conducted either there or by the Ministry.

14. Whatever the way future Ministers should be advised and supported, the evidence made plain that, as matters stood, there was a critical gap in the system set up by the Act. What had worked in the past, a lone Minister without a Department receiving advice from a Corporation which also planned, provided and operated all broadcasting, would not work in the same way when a widening sector of private broadcasting was introduced. Once Ministers of both governing parties had directed that applicants for private television warrants be sought, then the problem of policy advice in the future was intensified.

15. The grafting onto the Act of a Broadcasting Authority and then a Tribunal to consider and grant private warrants and additional public warrants did not solve the problem of advising the Minister. From whence was the advice to come on the basis of which Ministers would direct the Tribunal, for example, to seek television warrant holders? If it came directly from the evolving policies of an established or a new government, how was the Minister to test the viability and the consequences of such policy proposals when evaluating them for his Cabinet and Caucus colleagues if he were to have no support in doing so from a Ministry or its equivalent?

16. To consult the Tribunal would be to ask the very body which was to be directed as to what Government policy required of it. It would be to inquire of that institution whose initial purpose and function was to warrant private broadcasting and determine future warrants for the Corporation. Moreover it would pose the question of the viability of a policy to a body which would have subsequently to determine judicially who the beneficiaries of that policy ought to be. On the other hand, to

consult the Corporation would be to ask for an appraisal from the one body most affected in every aspect of its objectives, operations and planning by the potential evocation of such a significant rival for the basic advertising revenue on which so much of broadcasting has been built and will subsist.

17. The incomplete system as it has evolved has left the Minister of Broadcasting, with the aid of a single Private Secretary and the assistance of a small office, with responsibility for determining policy in a sector which colours the daily life of almost every citizen. It is a sector which has been rapidly altering technically, economically and in its social impact and is a sector where change is accelerating.

18. Although the Corporation can proffer advice on its own sphere of public broadcasting, outside that sphere, and even within it, evidence showed it was seen as a competitor and an interested party by private broadcasters. The Tribunal can be consulted but neither its part-time character, its judicial independence, nor its staff of two and one part-time helper were designed to be advisory or to produce regular analyses of developments. What is more it could only be viewed as a curiously circular and self-reinforcing process if the Minister's policy to direct either the Corporation or the Tribunal were to evolve mainly or even solely from its own advice about its own development. Nor would a cross-over of advice nor a mixture avoid the problem of evaluating which of the two authorities' proposals to follow and how far.

THE FORM AND FUNCTION OF THE BROADCASTING COMMISSION

19. In considering the form that a Department or equivalent body to advise the Minister might take, the Commission requested the assistance of the then Chairman of the State Services Commission, Dr Mervyn Probine, to discuss on a confidential basis the options open to us, their advantages and drawbacks, and the procedural steps each form would entail. The alternatives were examined in themselves and as to how they might interact with the Tribunal, the Corporation, private broadcasters, other departments and the public interest. The Commissioners were substantially aided by Dr Probine's clarity in laying out the possibilities which subsequently we have gone on to test against the whole body of evidence before us as to the relations between broadcasting's principal institutions.

20. We began from the fundamental problem that, while the Minister had responsibility for broadcasting, he still did not have an independent source of advice. Therefore, whatever the form of that source, it would require an experienced permanent Head or Chairman, administrative strength, broadcasting knowledge and research capacity. The body would need to work to the Minister in Wellington and to assess developments at home and abroad. It would call for the combination of professionally able staff members in a variety of fields from the technical and economic to the social and legal. The unit would have to be kept small at approximately a dozen to fifteen in all, including secretarial

support, even though it would be seconding officers with specialised skills as well as office personnel to service the Broadcasting Tribunal.

21. The Tribunal would preserve its independence and its regulatory and judicial functions and continue to work from Auckland as the largest and most diversified centre of broadcasting. It would continue to be consulted for advice by the Minister about trends in the development of broadcasting as reflected in its investigations and hearings but that advice could and now would be weighed, compared and combined with other considerations entering into the broad design of policy. The same would be true for the Broadcasting Corporation which would maintain its independent responsibility for public service broadcasting and its right to advise the Minister of its planning and its needs.

22. We considered both a Department or Ministry and a Commission. An amendment of the Broadcasting Act and a consequential amendment of the State Services Act would allow for the appointment of a permanent Head and staff. However, the difficulties of creating and preserving a small, separate, dedicated and professional unit such as we envisage could be increased if it were to be "given its pay and rations" by some poorly related department. More unfortunate again, the unit could be permanently hampered by being begun and staffed as a minor division of a large department preoccupied by the policy problems and financial weight of quite different concerns. We were very conscious that the worth of securing soundly spread and well-analysed advice on broadcasting has to be measured by the wide impress broadcasting leaves on the daily life of our society.

23. Therefore, we turned to the idea of a Commission of two, a Chairman and his Deputy, the Chairman having the status of a permanent Head but statutory independence from the Minister in respect both to staffing the Office of the Commission and to providing staff to service the Broadcasting Tribunal. The establishment of a dozen to fifteen staff for both institutions would be arrived at in consultation with the State Services Commission. The choice of personnel, however, would rest with the Broadcasting Commission which would be seeking expertise by secondment, recruitment from broadcasting and the relevant professions, and by transfer from within the public service. Since those recruited from the industry and professions could apply to join the public service, it would be necessary to ensure that there was no union barrier to movement into and out of the public service staff of the Commission, for so small a unit would represent only a stage or two in a career, yet a specialised stage of wide interest and considerable attraction.

24. Sound policy advice could only be expected if Commission staff were able to provide increasing expertise on the broadcasting industry's organisation and training; its economic and financial base; programme choice, audience response and social impact research; technical, transmission and liaison; and the legal and administrative implications for broadcasting. In each field practical policy options must rest not only

on knowledge of the New Zealand situation, but also on realistic and up-to-date assessments of changes and comparisons overseas.

25. As matters stand, information on most facets of broadcasting is spread unevenly through different levels of the public and private sectors. Select portions are gathered for executive purposes and Board meetings of the Corporation and, when needed, come forward to the Minister as evidence supporting advice or in reporting to a select committee or to Parliament. The pressures of commercial competition, legal cross-examination, five-yearly renewals and applications geared to industry initiatives all combine to give a different aspect to the information coming before the Tribunal at hearings and inquiries. Without orderly, comprehensive and impartial sifting of all the various kinds of information by such a body as the Broadcasting Commission, there can be no adequate and continuing basis for Ministerial policy to guide broadcasting as a whole and the Corporation and Tribunal as independent but articulated parts of an overall system.

THE ROLE OF THE BROADCASTING TRIBUNAL

26. The principal functions of the Broadcasting Tribunal would be little altered. The Act states among its general purposes at 3(1)(e), "To provide for the authorisation, control and operation of private broadcasters" and it is the Tribunal which would continue to determine such matters. It would consider and adjudicate on applications and requirements for warrants and authorisations, determine conditions, consider amendments and review performance. The Tribunal's duty of receiving and determining complaints on appeal would be somewhat enlarged as discussed below, while its function of advising the Minister on broadcasting matters referred to it would remain.

27. The recommendations made above under our term of reference 2(i) concerning the fixing of a points system in consultation with the broadcasters affected would widen the scope of the Tribunal's tasks, as would transferring the joint Rules Committee and attaching it to the Tribunal acting as a judicial and arbitral component. Both functions call, as did the Tribunal when reporting to Parliament on its existing tasks in 1985, for "more substantial resources...in terms of senior administrative staff and the availability of persons with broadcasting background".¹⁴ The provision of this kind of supporting staff, backed up as required by secondment from the Commission, would supply the appropriate means for additional ends.

28. Evidence from the public and broadcasters alike strongly favoured an increased staff provision for the Tribunal. Private broadcasters expressed confidence in the procedures and jurisdiction of the Tribunal and recognised that the adversary form of hearings carried inevitable penalties in the form of length of proceedings and consequent costs. Nevertheless it was hoped that a strengthening of the Tribunal would assist in the tackling and more speedy disposal of the growing workload of radio applications and the anticipated developments in respect to three-channel television. While the third channel hearings themselves

were seen as atypical, the daunting caseload described to us overseas by the Australian Broadcasting Tribunal, Canada's CRTC and America's FCC reinforced the suggestion that the present entirely part-time nature of our Tribunal membership should be altered.

29. If the chairmanship were to become a full-time appointment it would become easier to timetable hearings with both part-time members present. For the same reason there is a case for fixing a more flexible Tribunal quorum for hearing complaints and considering advisory committee business and we would suggest the Chairman, one part-time member, and one co-opted person whose qualifications or experience are likely to be of assistance to the Tribunal in dealing with that proceeding. Applications, rules, the points system, complaints on appeal and advisory committee business should all benefit. Evidence from the Tribunal itself stressed the need for staff help and emphasised the value of the broadcasting knowledge and community contacts of part-time status. For that reason we do not favour full-time status for the other two members, but having a full-time Chairman as a more constant element should harmonise increased availability with growing functions.

THE TREASURY PROPOSALS

30. It was Treasury's submission, however, which raised the largest questions about the functions of the Tribunal. Treasury advocated tendering for the lease from the Crown of the right to transmit on special frequencies at specified times and covering a given area—a Time, Area, Spectrum or TAS package. Thereafter the lessee could sell or subdivide and sublease portions for other uses as it profited him to do. "The role played by the Broadcasting Tribunal in seeking to judge the public good aspects of licence applications and of providing financial protection to existing licence holders would be redundant."¹⁵

31. Treasury's objectives were twofold. The first was "to achieve a fair return on assets owned by the Crown on behalf of the public"¹⁶ in the words of the 1985 Budget cited by Treasury. The second was to free up the use of the spectrum generally, an objective which will be a policy matter for the successor Department to the Post Office save where it also trenches on frequencies allotted to broadcasting.

32. In pursuit of its first objective Treasury also quoted the Tribunal's initial thought in response to a term of reference for its Frequency Modulation inquiry about whether there should be fees or levies "for the use of the public resource represented by the FM broadcasting spectrum", a question posed by the Minister of Broadcasting in 1981. The Tribunal had replied at 15.7 of its *Report*, "The Tribunal is also attracted in principle to the view that those who are exploiting a public resource for personal gain should be prepared to pay something for the privilege."¹⁷

33. The Tribunal's *Report* went on to recommend "that the whole question of a return to the public for the use of the public resource represented by the spectrum should be considered by the Government, a working paper prepared, and a discussion and submissions made to

the Government by all interested parties."¹⁸ It noted that the then levies of 0.3 percent of the revenue of private radio stations and 0.1 percent of Corporation television and radio revenues went to support the Tribunal, the 0.2 percent difference paying for the Committee of Private Broadcasters (abolished in 1982).

34. The Tribunal proceeded to advocate that the industry "which has produced good (and sometimes spectacular) profits" should apply a portion of revenue "to help to develop indigenous musical talent and technical expertise."¹⁹ It concluded by recommending a New Zealand Broadcasting Fund "to encourage local talent and the making of programmes or the recording of productions which might not otherwise take place."²⁰ This was to be financed by a levy of 0.25 percent of revenue from all commercial radio stations expected to produce about \$100,000 each year and be imposed in two stages to reduce the impact on the less profitable. The recommendation was not acted upon.

35. Treasury's proposals were far more wide ranging. They were closely argued on economic principles and were just as closely cross-questioned on broadcasting consequences by counsel or representatives for the Corporation, the Film Commission and the PSA. Mr Brian Easton, the Director of the New Zealand Institute of Economic Research, appeared as an expert witness for the Corporation and reviewed Treasury's synopsis and subsequent 70 page submission in 40 pages of illuminating commentary. Mr Easton further assisted the Commission by supplying six articles relevant to broadcasting regulation and the market place to set alongside Treasury's helpful background of eight articles which on the whole were more concerned with the efficient use of the whole range of the spectrum. Mr Rose for the Post Office subsequently answered several points in relation to interference and the allocation of the spectrum and Treasury closed a most intensive debate with their Final Submission.

36. The Commission has considered this extensive evidence at length. So far as it concerns the radio spectrum generally, and not those parts allocated internationally and nationally to broadcasting, we believe Treasury's arguments and proposals to be more properly the policy concern of the Minister and Department following on from the Postmaster-General and Post Office. So far as Treasury made proposals to transform the area of public broadcasting we have reviewed them under term of reference 2.

THE TEST OF BROADCASTING EXPERIENCE HERE

37. On broadcasting frequencies and their use in practice and by regulation, there are some illuminating comparisons to be considered. For New Zealand with 3.3 million people the Corporation now operates 29 active commercial stations and ten relay stations for smaller centres plus two FM duplicates. Private commercial radio presents sixteen stations with six extensions or relays to other centres plus one FM duplicate. That is a total of 64 warranted, separately located or differently functioning commercial radio outlets.

TABLE 13

TABLE OF WARRANTED OR AUTHORISED RADIO BROADCASTERS

% of AKLD Pop'n	Pop'n 000's	Urban Stat. District/Area est. 31/3/84	No. All ()=	Outlets Comcl. Progs.	BCNZ Comcl. or [?]	Private Commercial	Date Established	BCNZ NATL. etc.	BCNZ Concert	Independent Stations
100.0	882	Auckland	10	6	1ZB [1ZM]	1XA Hauraki Ent. 1XI Radio I 1XP Radio Pacific 1MJK Metro. FM 1MMM Stereo FM	Dec '66 Sep '67 '79 '82/3 '82/3	1YA 1YC		Stu.
38.8	342	Wellington	10 (8)	4 (3)	2ZB 2ZM <u>2ZZM</u>	2XW Capital City	'73	2YA 2YB	2YC <u>FMYC</u>	2XG* Rhema Stu.
36.6	323	Christchurch	9 (8)	4 (3)	3ZB 3ZM <u>3ZZM</u>	3XA Radio Avon	'73	3YA	3YC	3XG Rhema Poly. Stu.
19.0	168	Hamilton	6	3	1ZH	1XW Ind. Broade'g <u>1JJJ Wko-B. Pl. FM</u>	'70 '83/4	1YW	<u>FMYC</u>	Stu.
13.2	116	(Napier Hastings)	5	3	2ZC 2ZK	<u>2RHB Ra. Hk. Bay (FM)</u>	'83/4	2YZ	<u>FMYC</u>	
12.6	111	Dunedin	6	2	4ZB	4XO Radio Otago	Nov '71	4YA	4YC	4XD Ot. Ra. Assn. Stu.
10.8	95	Palmerston N.	5 (4)	3 (2)	2ZA	2XS XS Corpn. <u>2XXS XS Corpn.</u>	'81	2YM		Stu.
6.7	59	Tauranga	1	1	1ZD					
6.5	57	(Invercargill Te Anau)	4 (3)	3 (2)	(4ZA (*4ZF	4XF Foveaux Ra.	'81	4YZ		
6.5	57	(New Plymouth Hawera)	3 (2)	2 (1)	(2ZP (*2ZH			2YP		

% of AKLD Pop'n	Pop'n 000's	Urban Stat. District/Area 31/3/84	No. All ()=	Outlets Comcl. Progs.	BCNZ Comcl. or [?]	Private Commercial	Date Established	BCNZ NATL. etc.	BCNZ Concert	Independent Stations
5.9	52	(Whangarei (Kaitaia (Kaikohe	10 (3)	7 (2)	(1ZN (*1ZK (*1ZE (*1KCC Horokaka	(1KCC Nthld. FM (*1KCC Hikurangi (*1KCC M'taniwha	'84 '85 '85 '85	(1YX (*1YK (*1YE		
5.8	51	Rotorua	2	1	1ZC			1YZ		
5.1	45	(Nelson (Takaka	4 (3)	2 (1)	(2ZN (*2ZT			2YX		2XL * Rhema
4.4	40	Wanganui	1	1	2ZW					
3.6	32	Gisborne	2	1	2ZG			2YW		
3.5	31	(Timaru (Twizel	2 (1)	2 (1)	(3ZC (*3ZO					
3.1	27	(Blenheim (Picton	2 (1)	2 (1)	(2ZE (*2ZF					
2.3	20	Masterton	1	1	2ZD					
2.3	20	(Taupo (Turangi	3 (2)	2 (1)	(1ZA (*1ZT			1YT		
2.2	19.4	Tokoroa	1	1	1ZO					
2.2	19.1	(Whakatane (Murupara	2 (1)	2 (1)		(1XX, Ra. B. of Pl. (*1XX sync. B. of Pl.	Jun '71 '74			
2.0	18	Levin	1?	1?		New Warrant Appeal	'85			
1.7	15.3	Ashburton	1	1	3ZE					
1.7	14.6	Oamaru	1	1	4ZW					
1.4	12.1	Gore	1	1	4ZG					
1.3 (2.0)	11.6 +5.9	(Greymouth (Westport (Reefton	6 (2)	3 (1)	(3ZA (*3ZW (*3ZR			(3YZ (*3YW (*3YR		

% of AKLD Pop'n	Pop'n 000's	Urban Stat. District/Area est. 31/3/84	No. All () =	Outlets Comcl. Progs.	BCNZ Comcl. or [?]	Private Commercial	Date Established	BCNZ NATL. etc.	BCNZ Concert	Independent Stations
1.0	9.4	(Alexandra Queenstown Wanaka)	5 (2)	3 (1)		(4XA Radio Otago *4XC Radio Otago *4XE Radio Otago)	'80 '80 '80	(*4YW *4YQ)		
0.8	6.6	Taumarunui	1	1	1ZU					
0.6	4.8	Te Kuiti	1	1	1ZW					

Outlets include stations on AM, FM, or on both; relays, and synchronous. Progs = Programmes. Underline = FM. * = Relay or Synchronous. (= Linked. [?] = Change applied for. Role ? Stu. = Student station. Poly. = Community-Polytechnic Station. Ot. Ra. Assn. = Otago Radio Association, the oldest radio station operators in New Zealand, founded 1922.

Sources: Lists in annual *Reports* of the Broadcasting Tribunal and Broadcasting Corporation and *New Zealand Official Yearbook 1985*.

38. They cover every urban area or town in New Zealand down to the size of Greymouth at 11,600 people and, in addition, go out to pick up smaller centres like Te Kuiti at 4,800 or remoter spots like Wanaka at 1,300 and Queenstown at 3,500. It is a startling and even daunting total for so small a country, far in excess of the United Kingdom effort and not excelled to our knowledge in any of the states on our scale in the USA. Yet it was achieved initially by the public broadcasting system then backed up and extended by the initiatives of private broadcasters.

39. Insofar as Treasury was advocating that broadcasters require deregulation to open the way for more widespread coverage and service—and it was not always clear what Treasury's broadcasting motivation was—then, in the face of what the present regulated system has already accomplished in these respects, it strains belief to expect deregulation to yield much more. Already, indeed, the enterprise of private and public broadcasters has challenged if not defied economic logic, especially in their pioneering phases. We think here of the enthusiastic staff contribution and community service of Radio Bay of Plenty in Whakatane and Galatea and Radio Otago in Central Otago as well as of the Corporation in Taumarunui, Te Kuiti, the far North and on the West Coast.

40. Turning to non-commercial radio, the American example of incomplete but advancing deregulation put forward by Treasury presents no model of the systematic broadening of radio choice and range of programmes such as New Zealand provides with its National and Concert services. By charity, voluntary subscription and "radiothons", eked out by minimal government funding, National Public Radio is present in the great American cities and a far-flung, though erratic spread of lesser centres. While NPR broadcasts programmes of quality where it is available, as befits a huge, rich and advanced nation, all too often it is not available among 240 million people. The deregulated advertising-driven system simply does not provide the requisite balance of information, education and entertainment. The contrast with the BCNZ's 29 non-commercial outlets for 3.3 millions is markedly favourable to what New Zealand has evolved by Corporation direction of a public service system with a licence fee base.

41. To point to these positive features of radio in New Zealand is not to assert that the medium has done all that it is capable of doing either in public or private broadcasting. Rather it is to point to the fact that dual public and private provision with its elements of design and regulation by Corporation and Tribunal is settling into a system which can deliver a degree of variety, choice, and range precisely because it is a designed system with goals as well as marketing ambitions and funding constraints.

42. The argument that unregulated competition will some day so segment the radio market that it will be profitable to privately meet minority audience needs ignores the fact that New Zealand has just one sizeable market where theoretically this might occur eventually. The Auckland market of 900,000 people is not yet large by American

standards and would need, on American example, to be far larger for a real splitting up into segments. Even then it would predictably support only one unprofitable National Public Radio station. As it is in Auckland there are seven popular music stations all clustering so closely around the braided mainstream of mass-appeal music that only the eighth, the student station, is acknowledged to experiment consistently with breakaway styles and a strong emphasis on New Zealand groups. One of the music stations has distinguished itself by a large component of talk-back radio while another is the embodiment of the community station approach.

43. There is, therefore, some commercial variety. Nevertheless it remains the role of the Corporation's two committed non-commercial stations to reveal the whole spectrum of music, extensive news and spoken programmes. If there is to be more Maori, educational, sports and other specialised radio programming in the future, then it will only come because either Parliament or the Tribunal recognises it with warrants in the public interest and if the Corporation can launch or sustain it.

44. Looking at the urban radio markets in comparison to Auckland, both Wellington and Christchurch are just less than two-fifths of the size. Hamilton, Napier-Hastings, Dunedin and Palmerston North run from a fifth to a ninth of Auckland's numbers. As for the next six largest markets, they vary from one-fifteenth to one-twentieth of the one big market. Remembering the amount of variety Auckland has produced for its audience with the help of regulation, how much less is the chance that deregulated competition in markets so much smaller will yield the listeners a real choice or open to them the range of enjoyment and understanding of which radio is capable.

EXAMPLES OF DEREGULATED TELEVISION OVERSEAS

45. Competing television companies, because of their altogether grander scale of costs than radio and therefore their demand for correspondingly greater markets, have shown no tendency anywhere, even in markets of continental size, to settle for less than all they can seize of the broadest mass audience available. Even in radio the United States witnessed the rise of three networks, while in television it took the Courts and anti-monopoly legislation to make three network companies out of the original two. Of the hypothesized segmentation and profitable pursuit of minority audiences there are few signs outside the great cities with two or more times the population of New Zealand gathered in one conurbation. Mr Rupert Murdoch's ambitions, for a fourth channel, for example, rest not on innovative programming for neglected viewers but on rescreening thousands of old films bought up with the company that owned them.

46. In Italy the decision of a constitutional court, for reasons quite extraneous to broadcasting, had the effect of deregulating entry. After "ten years of chaos" the Berlusconi enterprise has emerged in control

of three channels overwhelmingly of entertainment television amid a host of localised, low power imitators.

47. For quite different reasons the third example of entrenched but in this case not deregulated competition, Australia, also has three commercial networks each aiming at the same style of mass-appeal, heavily entertainment-oriented broadcasting. The main achievement of television regulation in Australia has not been to secure a broad range of programming. Instead, by a quota and points system, it has induced the three competitors against their own misgivings to broadcast a far higher proportion of Australian-produced drama. The networks found that over a period of years the tastes of their audience shifted towards and beyond the goals set by the system.

48. More Australian-produced serials, series and light entertainment have certainly corresponded with concern for national identity even at the cost of reduced profits when compared to what importation might have yielded. Nevertheless other regulation has been sufficiently light so as not to impede the Australian commercial networks in their thrust towards mass-appeal programming. Whether commercial television has been lightly regulated for the most part as in Australia, is being deregulated as in the United States, or has been incidentally deregulated as in Italy, the upshot has not been a segmented variety and enlarged span of programme choice but in each case an oligopoly of three all aiming for the same mass target in an effectively closed market. In practice greater choice has come either from the presence of funded public service broadcasting or from closer regulation or, most beneficially as in the case of the United Kingdom, from a combination of the two.

DEREGULATION BY TECHNOLOGY

49. The spread of the fibre-optic networks to New Zealand's city suburbs and then to town and country will carry the possibility of an open market choice and self-selection of programmes at the cost of the consumer and according to what cable companies find profitable to import and provide. On present indications that is from a dozen to fifteen years off for any major section of the New Zealand audience. Closer but still a prospect for the 'nineties is the era of pay-decoded or free-to-air DBS from stronger foreign satellites. That, too, will multiply the proprietary origins of programming without necessarily transforming the nature of what is broadcast except perhaps in the case of sport and news. What is sure is that small national organisations will not be able to outbid multinational services for the Dallahs of that day.

50. With us now is the rapid spread of the videotape recorder and the cassette library. So the market-driven, consumer paid future has begun already and will advance and intensify by technological steps rather than requiring either the deregulation of our present fragile system or the postulated but not forthcoming segmentation of normal competitive commercial television. What will remain in a far more difficult form is how to attain many of the national, social and community goals and

standards embodied in the Broadcasting Act. To take wise advantage of the new while maintaining what remains valued among the objectives of today will call for continuing thought and adaptation by Parliament and Ministers, an informed Commission and strengthened Tribunal, besides flexibility and innovation from both BCNZ and third channel.

51. Sound broadcasting will also be profoundly altered in its potential for variety and in its economics by DBS and by fibre-optic cable, for both can transmit sound as well as pictures and encode them for access on payment or free-to-air if otherwise supported. Before that is a present alternative, however, there is room for more stations on FM almost everywhere in New Zealand and on AM in many parts of the country if that use of the frequency is in the public interest and if the market or the BCNZ or groups and institutions can fund them.

THE TRIBUNAL'S ROLE RECONSIDERED

52. We have examined the independent role of the BCNZ at term of reference 2(a) and will consider the implications of their function of developing, extending and improving their services as they apply to the warranting process under term of reference 4(c) below. So far as private stations are concerned, however, the Broadcasting Tribunal was brought into existence primarily to authorise and control their operations. In Treasury's view, as we noted, under deregulation those tasks were "redundant" while a system of competitive tenders would replace judgments of the Tribunal. The realities of New Zealand radio broadcasting on examination proved not to support the conception that our many little markets would thereupon be broken into segments of specialised, widely different demands and be privately catered for over a wide range or provide for much variety of taste outside the mainstream.

53. Insofar as there is range and variety in radio it is because the Tribunal has considered proposals for variety and warranted them or because the BCNZ has provided it, sometimes alone and sometimes in combination with private warrant holders. The Broadcasting Act aims at the maximisation of programme choice for as wide a coverage of listeners as possible. Therefore, in the absence of an effective automatic substitute for the Tribunal's judgment, we concluded that the Tribunal's role in planning for choice would continue to be necessary just as the Corporation's commitment to the same objective would continue to contribute from the public service broadcasting side.

54. The remaining limitations on the further progress of choice in radio are primarily economic: the broad penetration already achieved; whether existing or potential private warrant holders would find additions profitable; and whether BCNZ revenues could support additions of their own. The Broadcasting Act places these economic considerations before the Tribunal most specifically in section 80(b), (c), and (e), although economic prospects affect other listed considerations as well. The Broadcasting Tribunal must have regard to "(b) The economic effect which the establishment of the station... is likely to

have in respect to broadcasting stations already in operation: (c) The effect. . . on broadcasting services provided by the Corporation in the public interest: (e) The financial and commercial ability of the applicant to carry on the proposed services".

55. As an inevitable consequence, Tribunal hearings on applications for almost every new station involve all existing warrant holders in the coverage area putting their cases on what they forecast those economic effects will be. Since further division of an existing market, whether it is expanding or decreasing, must lessen potential profitability for those already occupying it, that effect can always be demonstrated to some degree, though it may be more or less of a reduction for an individual station according to how far its kind of programming would be overlapped by that of the proposed newcomer. Beyond decreased profitability, the cases of the existing stations may well go on to forecast not just shrinking profits but a lengthy period of losses or even common ruin if they see the market as too small, say, to support four competitive commercial stations instead of three, or two where there had been one. With the potential onset of a third television channel on the overall size of radio markets, such gloomy forecasts can be expected to increase.

COMPETITIVE TENDERING AND A MARKET RETURN

56. In this situation, Treasury's contention was that the introduction of competitive tendering for the right to broadcast and advertise as expressed in a warrant would be to put judgment of the available market where it ought to be —with those risking their capital. This must be an option worthy of careful assessment. To this Treasury joined a second argument, that a market return should be obtained for the leasing of a publicly-owned, scarce resource in the right to broadcast and advertise for a time on a given frequency for a specific coverage area. So it would not only be the right to start new stations which would have to be tendered for and a lease paid, but also existing stations would have to tender for and lease at least any renewed right to broadcast and advertise.

57. This option as we have suggested would need to be combined with the continuing role of the Tribunal in judging what is desirable in the public interest by way of range of programmes, the needs of the locality, the service proposed and other considerations set down in the Broadcasting Act in sections 80, 71A and 3. In such a combination the Tribunal would conduct reviews of a region or locality when either a warrant was expiring or a fresh proposal was made by an intending applicant or on the initiative of the Tribunal itself. In each case the Frequency Allocation Section of the Department of Communications would have to certify that there was one or more frequencies available in that region. The review would include a public hearing and the judicial consideration and determination of, first, the requirement, purposes and conditions for any private commercial warrant and then, after a separate hearing, the consideration of any non-commercial requirement for that region.

58. The requirements for any commercial warrant would be advertised and all applicants with proposals which met the general purposes, technical and other conditions would be approved to put in a tender. The highest of those tenders would be accepted subject only to a final hearing at which specific conditions arising out of the company's own proposals and undertakings could be fixed by the Tribunal. The Minister's approval would then be sought and the frequency licence issued on the technical terms earlier set by the Frequency Allocation Section.

59. Treasury's submission on their TAS packages foresaw "transition costs" if existing licences were withdrawn and, in our opinion, warrants having been issued for a fixed term of years would have to run their course until renewal was due. Successively as renewals came round, however, each frequency could be reviewed, hearings held and the new leasing system introduced. The term of these leases would have to be "sufficient for any potential investor to recover the investment during the term of the lease"²¹ and there was evidence from the Tribunal that, while a period of five years before reviewing the use of the frequency was probably too short, in a fast-changing industry fifteen years was possibly too long. A ten-year term appears preferable to either while, in order to check speculative tendering, any change of ownership in the lessee company without prior approval by the Tribunal or any continuing failure to abide by the conditions set would lead to the surrender of the lease and warrant.

AN ALTERNATIVE METHOD OF CHARGING

60. One Commissioner took the view that, while a charge for the use of a scarce and valuable public asset was just, a lease for a term would introduce a 'stop, start' factor into broadcasting that could be avoided by substituting a percentage charge on the gross annual revenue of each private warrant holder. A second Commissioner was attracted to this method of charging because it had the further merit of leaving intact the element of experience and judgment about broadcasting trends and needs which constituted a valuable part in the Tribunal's judicial testing and determination of the most appropriate final warrant holder. Under the tendering option, the Tribunal would weigh applicants for approval and set conditions, but that final choice would be a financial hurdle not a judicially arrived-at broadcasting decision. The Commission is thus united on the fairness of private warrant holders being charged for their use of a scarce public resource but, rather than recommending one method of charging for that use, prefers to state the two options of tender for lease and a percentage of the gross revenue.

61. Regardless of the method of charging which is chosen, all payments should first have deducted from them the Tribunal levy which now requires to be set at a level to fund a far more active programme of Tribunal Advisory Committee consultation, conferences and research into broadcasting's needs and effects. Once that is done it may be argued that, because these are public charges for the private use of

public assets, they should be paid into the general revenue. There is another possible destination, however, which would retain payments for the use of broadcasting frequencies for broadcasting purposes.

A COVERAGE FUND

62. The payments could constitute a fund for adding to non-commercial radio coverage, thus supplementing programme choice where it is not now available. A glance at the Table of Radio Broadcasters will show that National Radio does not stretch beyond the fifteenth largest market while the Concert Service is confined to the biggest six. It will also be seen that, with the exceptions of Radio Bay of Plenty and Otago and now Levin, private stations are likewise concentrated in the top ten urban markets, in their case profitably so. There would be an obvious equity in employing public charges for private advertising use of frequencies in markets with choice to extend that programme choice to those without it in smaller towns and rural areas. National Radio has the fullest news service in broadcasting and the widest discussion of current and rural affairs while it is ironically true, as was remarked to one of us, that "those who can't get to concerts are those who can't get the Concert Service." To utilise this revenue to bring non-commercial services to more New Zealanders would be to carry forward the first two of the general purposes of the Broadcasting Act which speaks first of developing broadcasting "to serve the people of New Zealand" as a totality, and second of broadcasting "a range of programmes which will inform, educate, and entertain".

REVIEW

63. To find the proper role and functions of the Tribunal it was necessary to look at the overall system of which it was but one part. On examination it proved more true to say that there were two systems, a public service and a private system, with a Corporation and a Tribunal as controllers and advisers to the Minister but no clear resolution of certain overlapping duties and functions. Moreover the balance between the two systems had altered with time and political alternation. Therefore the reconciliation of the parts into one overall system would require not only the existence of a Minister to make decisions on broadcasting policy for which he or she would be responsible to Parliament, but also supporting changes in the institutional framework and the Act.

64. The evidence led us to see that an informed basis for support and advice to the Minister would be provided by a Commission of two which would have independence in appointing its own specialised small staff, recruited with knowledge of broadcasting in mind. At the same time the Broadcasting Commission would second administrative and expert assistance to the Tribunal of the sort it had previously suggested. The Corporation's function of advising the Minister on public service broadcasting matters would continue, just as the Tribunal would continue to advise on matters referred to it, but the Minister would now

have the advice of the Commission to assist in the Minister's weighing and determination of policy for the system as a whole.

65. Settling the question of the proper source of advice to the Minister and institutionally supporting Ministerial responsibility for the overall system did not alter the Tribunal's primary role of providing for "the authorisation, control and operation of private broadcasters". Indeed that role was seen as producing a growing caseload, as would third-channel television and additional functions. Substantial evidence pointed to the need for strengthening the Tribunal's staffing and making the Chairman's position a full-time appointment.

66. The entire function of the Tribunal was, however, challenged by Treasury's submission, made independently of the Minister of Finance. The Treasury case aimed basically at freeing the use of the whole spectrum for every kind of communications use among which broadcasting was only one. Confining ourselves to broadcasting, we sought to establish with regard to radio—where it was cheaper to multiply stations than in television—whether our mixed public-private system had produced coverage and choice, and how much variety our private sector had contributed by segmenting markets in search of profit. Scale proved very important, but New Zealand's two-sector, planned system did well in supplying very extensive coverage and a real contrast in the kinds of programming available, at least in the larger but still comparatively small markets.

67. Looking at three examples of very much larger countries with competitive private television and varying degrees of deregulation showed little else but mass-appeal network programming. The exceptions were choice on pay-cable and independent stations in some of the largest cities on earth. As a reading of the Peacock Committee's *Report* makes apparent, greater choice, range and quality of programming have come from the presence of publicly-funded systems, close regulation of private systems as by the IBA in Britain, and most happily by the combination of the two in a country large enough to finance two systems on separated bases as in the United Kingdom.

68. The examples of the best in broadcasting overseas and our own achievements with a mixed system on a thin economic base should encourage us to persist with the planned provision of choice. That economic base will be threatened soon enough by the involuntary deregulation which will accompany international competition by satellite.

69. As it is the small size of our markets already limits growth in radio choice. This may be expressed, or perhaps further inhibited, by the fact that under the Act the Tribunal must consider and, in effect, protect the economic viability of existing stations before adding competitors. Furthermore, it was stressed that private use of assigned frequencies to broadcast and advertise represented the commercial use of a scarce public resource without charge. Treasury's suggestion of competitive tendering for the lease of the right to broadcast and advertise would provide a market judgment on the economic prospects of each extra or

existing station and the value of its warrant. This could be combined with prior setting by the Tribunal of requirements and conditions for the use of the warrant which would promote programming choice for the listener.

70. There was agreement among the Commission that there should be a charge for the commercial use of public resources, but an alternative method of charging by a percentage levy on gross station revenue was preferred by two commissioners to avoid 'stop, start' complications while retaining the Tribunal's final choice among applicants by taking all the present considerations into its judgment. Whichever method is followed, the Commission was united in favouring the use of the revenue so collected to fund additional choice of programmes by extending relayed non-commercial services or community non-commercial stations to towns and rural areas at present reached only by a single commercial service or none.

RECOMMENDATIONS

1. That statutory provision be made for a Broadcasting Commission of two, a Chairman and his or her Deputy, the Commission to have express statutory independence for specified personnel functions. The Chairman of the Commission to be Head of Department and responsible to the Minister of Broadcasting for the administration of the Act, for provision of policy advice to the Minister, and the functions of the Office of the Commission including the preparation of legislation and regulations.
2. That the Office of the Broadcasting Commission be constituted as a small specialised unit along the lines indicated in paragraphs 23 and 24.
3. That the function of providing administrative, professional and secretarial staff and other services for the Broadcasting Tribunal be transferred to the Broadcasting Commission.
4. That the position of Chairman of the Broadcasting Tribunal become a full-time appointment.
5. That the Tribunal quorum shall be the Chairman, one other Member and one co-opted person whose qualifications or experience are likely to be of assistance to the Tribunal in dealing with that proceeding.
6. That the level of staffing on secondment or temporary transfer to assist the Broadcasting Tribunal be strengthened to match the functions of the Tribunal.
7. The proposal that a public charge by lease or levy be made for the private right to broadcast with advertisements utilising the public resource of the radio spectrum from the time of granting a new warrant or from the time of the renewal of an existing warrant (except that warrants for which applications are already being heard should not be charged until the time fixed for renewal) be examined.

8. That receipts from such public charges be clearly identified and be applied solely to the coverage of full-time non-commercial broadcasting including licence fee payers not at present served.

Term of Reference 4(a)

"4(a) Whether the present monitoring of the performance of the holders of warrants is adequate for the Tribunal's purposes."

71. Because the Broadcasting Tribunal is involved at every point in the authorisation and control of the operations of private broadcasters, and because it reviews the conduct of all stations both public and private when their warrants are to be renewed, it must be reliably informed about what that conduct or those operations have been in the five-year intervals between renewals. Since at every application for a warrant the Tribunal has regard to the public interest and the needs of the locality, careful attention is paid to the types of programme proposed including their economic effect on existing stations. Conditions may be fixed by section 71A(1)(e) about "such other matters: . . . as the Tribunal thinks fit". Again, information on performance is required to know whether they have been complied with, as is information on whether there has been a breach of any rules or standards made under section 26.

72. Yet there is no explicit treatment in any one section of the Act as to how information is to come to the Tribunal about what happens in the intervals between hearings to grant or renew warrants or short-term authorisations or preceding and following the reception of complaints on appeal which do throw light on the conduct of warrant holders. Under section 61 the Tribunal is deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908 and it has ample powers under Broadcasting Regulations 1977 7(1)(c) to make and promulgate rules which may require information on programmes, finances, ownership and other matters which the rules might specify. That information, however, comes from the warrant holders and, so far as programme performance goes, the logs and data supplied may or may not reveal all that the Tribunal now requires to know to consider the conduct of a station and the warrant holder's case for renewal.

73. Since 1982 the Broadcasting Complaints Committee, a committee of one with power to co-opt, has had the duty of investigating and reporting to the Tribunal in relation to "allegations made to the Committee by any person of breaches by broadcasting bodies of the conditions of warrants or authorisations", a provision which has had little use. As for staff, the Justice Department's Tribunals Division furnished secretarial and clerical services on a most limited scale and the Secretary for Justice designates an officer to be Registrar but there is no reference to investigatory or monitoring staff. The assumption implicit in what is not provided for in the Act is that warrant holders would regulate themselves in between renewals or sporadic complaints

and that, by calling for records from warrant holders and recalling what the investigation of complaints revealed, the Tribunal would be sufficiently informed to extract what else was needed from hearings.

74. With a perspicacious Chairman and with broadcasting experience among the members, the Act's aspirations for control at minimum cost have been met, especially since the levies on warrant holders have not all been consumed by the expenses of the Tribunal. There was help for this system of control without monitoring. It was assisted to work by the form of the broadcasting structure itself. The Corporation was also there to control public broadcasting and had an extensive self-checking mechanism which, while not proof against error or failure in the thousands of hours broadcast and decisions made, fielded all but a few dozens or dealt with them in their own complaints machinery. And that included most of radio, and all of television—which provokes comment and complaint in proportion to its impact. Moreover private radio was local radio affecting thousands and not hundreds of thousands, mostly music in programming and with few beyond rival professionals who would remember what a warrant holder's expressed intentions were at the application hearings or what the conditions were or, for that matter, whether the 'play-list' had shifted emphasis from the predicted style to something like it but with differing effects.

75. Many months of hearings have convinced us that, nevertheless, the public had more qualifications, more unvoiced complaints and more reservations about television and radio programming than were ever registered with the Tribunal. And that was so in spite of a BCNZ record which was good by comparison, say, with any two of the three Australian commercial networks, and achieved in the face of economic constraints. When there is a third New Zealand network of television not run by a statutory Corporation in the public interest but with a company structure and operating under conditions set by the Tribunal, there will be much more for the Tribunal to superintend and far more to be known about the conduct of the warrant holders than ever before. The pressures of competition in television will be an additional factor, and so will securing compliance with whatever points system is determined by the Tribunal in consultation with the warrant holders.

76. The Tribunal looking back on its own experience concluded in its submission "that the broadcasting industry should remain as far as possible, self-regulating." It pointed to standards and rules as an example of collectively legislating. On the point of routine monitoring the Tribunal stressed its lack of facilities and staff and was "not convinced that such a function would be productive."¹ Complaints procedures and warrant renewal hearings "provide some opportunity to test the individual warrant holder's observations of industry standards in both the public and private sectors."²

77. One of the problems with monitoring music stations would be the components of style in announcing, the personalities involved, the subtle shifts in arrangements used, the splash of variety and the balance between the moving trends in popular music. No amount of

'logging' would quite measure why one station moved ahead of another in the 15 to 18 year-old market or weakened their grip on those in their late twenties. The correlation between styles of music and age group appeal was said to be too uncertain, although the net effect of a change in the mixture at one or several stations could be detected in profitability clearly enough. With such fine distinctions we are not concerned, but what could be tested is the accuracy, for example, of logs on the number of New Zealand records played on some randomly selected date or the duration and kind of news sessions presented.

78. TV3 considered that "monitoring of performance is adequate" although Television New Zealand had not technically been regularly monitored from outside since the Broadcasting Council in the mid-1970s. What was meant were the inquiry procedures of the Tribunal and TV3's conclusion was confident. "There is no need for continual monitoring for that is up to the broadcaster, and the public."³ Mr Impey giving evidence for the IBA was concerned lest "the promise of performance" used by the CRTC in Canada as a regulatory document should appear here, for "the CRTC has a right to continually monitor that." Mr Impey believed "that there was no requirement for that in the New Zealand context."⁴ In both the IBA evidence and the TV3 submission it was clear, that what was uppermost in the mind was the need for professional flexibility to meet the market.

79. The Chairman of the Corporation, Mr Rennie, in his brief of evidence, agreed that there was a need for flexibility in that "changes should be permitted; but they should be authorised by the Tribunal, taking into account the effects on other stations. The Tribunal, without the resources to monitor what is happening in the industry, has, I suggest, allowed changes to take place by default." He expressed no great concern with occasional and ephemeral mistakes in radio but put the Corporation's emphasis on whether future television and radio broadcasters "comply with the broader conditions of their warrants." There was no implication of day-to-day inspection or advance notices, but "private operators have been able to stray from the paths set out by the Tribunal, at times diverging from undertakings given to it."⁵

80. Mr Rennie did not see greater Tribunal scrutiny as contrary to the principle of self-regulation for this was a question of "compliance with terms and conditions of warrants, which have legal force". As it was the reliance on information coming forward from the industry, since they might know the unpublicised warrant conditions, was a flawed protection for "there is an understandable reluctance to 'shop' another broadcaster. It might sometimes be the case of not being in a position to cast the first stone."⁶

81. The BCNZ's position was founded on their belief that under the Act and their own constitution as a public service corporation they were bound to comply with external conditions and statutory duties. So much was this so that the BCNZ's submission considered that monitoring was not required in their case. It was a view radio competitors rejected on grounds of equality of treatment, yet the BCNZ was not rejecting

monitoring but, indeed, calling for it to uphold "minimum programming requirements" and warrant conditions which embodied them.

82. On the one hand the Corporation saw it as unnecessary and unequal that they should have to answer to and be scrutinised by two masters, Tribunal as well as Parliament. On the other hand, they could see that standards and conditions upheld by Tribunal monitoring for the third channel could be their main safeguard against having to compete in a permanently double standard arena. Mr Rennie put the second thought thus. "While it remains to be seen what qualitative standards are imposed on third channel programming, it must be assumed that conditions intended to equate programme standards to those now achieved by Television New Zealand will follow. The alternative of no control would not meet the 'public interest' test that applicants must satisfy."⁷

83. Accordingly "the Corporation believes that, particularly when warrants are approved for third channel operators, the Tribunal should exercise a more consistent, ongoing monitoring role of private broadcasters' performances against their statutory and warrant obligations, using its existing powers."⁸ Those powers were wide enough, there was "sufficient scope within the Act and Regulations for the Tribunal to exercise a monitoring function,"⁹ the BCNZ submission affirmed, it was simply that there were not the resources or staff to examine and analyse the information which it might request.

84. There were some surprisingly strong agreements with this view. TV3 proposed "a professional secretariat and full time experts" since it "rejects entirely the argument that there should be deregulation"¹⁰ and broadcasting would need an equipped and independent Tribunal. The Recording Industry Association held that "In the event of the present monitoring of the performance of warrant holders being inadequate. . . it should be made good and enforceable at the Broadcasting Tribunal's discretion."¹¹ Mr William Earl, representing Southern Cross Television, stated "that we believe that the Broadcasting Tribunal should have sufficient resources to monitor that performance promised by all warrant holders at the time of the granting or renewal of warrants including the performance of public broadcasting."¹² Mr Richard Wall on behalf of ITV made allied points. "It may be appropriate for the Tribunal to have more extensive powers and duties or for an independent body to be established for this purpose. The establishment of a third channel will necessarily increase the workload of the Tribunal."¹³ Energy Source Television concurred on increasing Tribunal resources to meet the third channel workload but, like Mr Rennie, it did not want too detailed monitoring but added, "Structural safeguards are however essential: as to both BCNZ and the private operators."¹⁴

85. The National Council of Women emphasised that, in the Tribunal's annual *Reports*, only granting and renewing warrants and complaints were set out. "Monitoring the performance of warrant holders does not feature. We question if the Tribunal has the necessary resources or staff to perform this task. The Act clearly lays down legislation giving the

Tribunal powers under section 83 to monitor standards and rules under section 26. It appears that at present the Tribunal only considers standards and rule infringements when a complaint is brought to them. With private TV warrant holders shortly to introduce a new channel, it is more important than ever that there is an overall monitoring system, and the Tribunal should be granted necessary facilities to do this."¹⁵

86. The Council's reference to section 83 raises a vital point. Under section 83(1) the Act says, "Where it appears to the Tribunal that the holder of a warrant has been failing to comply with any rules made under section 26 of this Act and notified to that holder, the Tribunal, notwithstanding any action taken by the Broadcasting Complaints Committee, may give to the holder such directions in writing as the Tribunal thinks necessary to ensure that the rules are complied with." Someone may have alleged to the Committee that there had been a breach of warrant conditions under section 95o, but such allegations and reports, at times, go directly to the Tribunal in their experience. Apart from the Committee and hearings and complaints on appeal, that is how the Tribunal knows to inquire and may lie behind the phrase, "Where it appears to the Tribunal. . ."

87. So both in the past and the present the Tribunal does hear of and inquire into, notify and question before taking the administrative and reasonable step of issuing directions as thought necessary to secure compliance. It is only after non-compliance persists that a breach of the conditions of the warrant may have occurred. Then the Tribunal "may at any time notify the holder of a warrant that it intends to hold a hearing for the purpose of determining whether the holder has committed a breach of the terms and conditions of the warrant" (section 83(3)). At that hearing the Tribunal must act judicially but, if a breach is found, revocation, suspension or reduction of term for the warrant may follow.

88. What the National Council of Women and others quoted were saying was that staff and resources were urgently required to monitor performance whether by programme logs, financial returns or statutory declarations, or by analysis of records called for on a quarterly or monthly or other convenient basis. The Tribunal needed to be equipped to view television programmes as records themselves, and so also for radio programmes. It could spot-check programmes off-air on an occasional basis if it had reason to do so. Or it could contract the task out, just as it now has power to conduct or commission research.

89. A Commissioner has emphasised to us all that the Chairman and members of the Tribunal should be remote from this process, just as the Tribunal would take no part in the investigation of complaints by its officers which the Tribunal might later have to determine. This could, however, be effected by having an investigating officer under the Registrar to follow up complaints and a monitoring section of two to analyse records—including the points system returns—under a Deputy Registrar. Only when a problem or a conclusion had been identified would the Tribunal be called to consider either interim action, or

contemplate a hearing at which all sides would be tested in a judicially-conducted situation.

90. The alternatives were first, to site the monitoring and investigative processes outside the Tribunal in the Broadcasting Commission in Wellington. This would open the process to criticism as being physically distant and, however unjustified, as insufficiently independent of Government. The Commission is agreed and agrees with the great bulk of those submitting evidence that the analysis and monitoring of records and logs should be done under the aegis of, but not by, the Tribunal itself.

91. The second alternative was to centre the process in Auckland with the Tribunal which would hear complaints and decide applications for warrants, but pass over all cases for breach of conditions of the warrant to the District Courts. This would certainly make investigation remote from hearings and adjudication, but at the cost of the broadcasting knowledge which is a vital element of the existing Tribunal. Placing such cases on the calendar of the District Court system would also mean a considerable variety of minds bent to the problems of broadcasting and, as we were advised, might have the effect of disturbing the development of a small but growing body of Broadcasting Tribunal precedent and case-law which had a value in guiding broadcasters in itself.

RECOMMENDATIONS

1. That the staffing of the Broadcasting Tribunal should be strengthened by the appointment of a Registrar and Deputy Registrar to direct the investigation of complaints and of records and monitoring respectively.
2. That specialised officers and secretarial support should be henceforth provided on a permanent or seconded basis by the Broadcasting Commission.
3. That a monitoring function be specifically provided for the Office of the Broadcasting Tribunal by amendment of the Act.

Term of Reference 4(b)

"4(b) Whether the present complaints system and its governing legislation requires simplification and reform."

INTRODUCTION

92. For an industry whose work interacts for hours every day with the great majority of the whole society, a formal complaints procedure must be an integral part of the accountability of that industry to society. This holds true not only of public broadcasters as custodians of the public interest, but also private warrant holders to ensure that programming and standards meet commonly accepted norms and that broadcasters do not use their considerable power to impugn any individual, group or organisation. The complaints procedure provides a formal way for any

member of the public to test the performance of broadcasters on a day-to-day basis. It also provides a mechanism by which the broadcasters themselves can monitor public opinion and keep abreast of changing community standards and norms.

93. Formal complaints procedures are a common feature of broadcasting structures in most western democracies. To be effective, however, a complaints system must be easily understood by the public so that they are aware of who is able to make a complaint, on what grounds, to whom it should be made and how, and what rights of referral or appeal the complainant has. Unfortunately, that has not been the case in New Zealand where the present complaints procedure has been described as "a pastiche of other systems."¹ Like any pastiche it has lacked a central unity which led all those who made submissions on this term of reference to reach a common conclusion: the system is slow, complex and cumbersome and in need of substantial revision and simplification.

THE PRESENT COMPLAINTS SYSTEM

94. The present complaints procedure established under the Broadcasting Act (section 95A) recognises certain principles:

- "(a) Broadcasting attracts complaints:
- (b) The holder of a warrant or authorisation issued in respect of a broadcasting station has a responsibility to deal with complaints and must establish a proper procedure to deal with them:
- (c) An independent complaints procedure must be available to complainants:
- (d) Complaints based merely on a complainant's preferences are not, in general, capable of being resolved by a complaints procedure:
- (e) An independent complaints procedure is not a substitute for proper consideration of complaints by the holder of the warrant or authorisation issued in respect of the broadcasting station:
- (f) Complaints should be made promptly to the holder of the warrant or authorisation issued in respect of the broadcasting station:
- (g) Formal complaints must be made in writing:
- (h) Most of the complaints that are capable of being resolved by an independent complaints procedure should not require to be resolved by that procedure but should be capable of being resolved by proper consideration and proper response on the part of the holder of the warrant or authorisation issued in respect of the broadcasting station:
- (i) The first consideration of a complaint under an independent complaints procedure should be prompt and without undue formality:
- (j) Further consideration of a complaint under an independent complaints procedure calls for greater formality:

- (k) Subject to the jurisdiction of the High Court in respect of any appeal, it is the responsibility of the Tribunal to decide the action to be taken in respect of a breach of a warrant or authorisation in respect of a broadcasting station."

95. With these principles in mind, sections 95B and 95C of the Act provide that the Corporation and private broadcasters respectively have a duty to receive and consider formal complaints. The complaint must refer to a programme which in the opinion of the complainant has failed to comply with either any part of section 24 for the Corporation, or any part of section 95 for the private warrant holders. Both of these sections specify that broadcasters in their programming have obligations to:

- (a) Maintain standards which will be generally acceptable to the community.
- (b) Maintain standards of good taste and decency.
- (c) Be accurate and impartial in the gathering and presentation of news according to recognised standards of objective journalism.
- (d) Have regard to the principle that when controversial issues of public importance are discussed, that reasonable efforts are made to present significant points of view in the same programme or in other programmes within the period of current interest.
- (e) Have regard to the maintenance of law and order.
- (f) Abide by the regulations in the Act regarding the broadcasting of cinematographic films.
- (g) Abide by the rules established under section 26 of the Act which establishes the Broadcasting Rules Committees with power to promulgate rules in relation to programmes and advertising.

96. The Act also establishes, under section 95F, a Broadcasting Complaints Committee comprising one person, who is appointed by the Governor-General on the recommendation of the Minister, with the power to co-opt a further one or two people whose qualifications or experience the Committee deems useful in dealing with any complaint. The purpose of this Committee is to consider any allegations of unfair and unjust treatment, or unwarranted invasion of privacy in any programme broadcast by a broadcasting body or in the obtaining of material for inclusion in such a programme.

97. A further function of this Committee is to investigate and report to the Broadcasting Tribunal any allegations made to it by any person of breaches by broadcasting bodies of conditions imposed on the warrants and authorisations of the broadcaster by the Tribunal.

98. The function of the Tribunal in this structure is to determine any complaints when the complainant is dissatisfied with the initial decision or action to be taken. That initial decision might have been taken by the Corporation, a private warrant holder or the Broadcasting Complaints Committee, or it might have been the action any of those bodies took in relation to a complaint. Furthermore, the Corporation or a private station may in turn refer a complaint from a decision or action of the

Broadcasting Complaints Committee. The Tribunal thus has a judicial oversight and determining function in the whole process although it does have discretion to decline determination of any such matter.

99. One further aspect of the complaints system needs to be mentioned. The Act provides (section 95ZA) that the Minister may, if he considers it to be in the public interest, refer a recorded or filmed programme to the Tribunal for its consideration before that programme has been broadcast. To date, that power has not been exercised by any Minister.

CRITICISM OF THE COMPLAINTS SYSTEM

100. There was almost total unanimity in the submissions to us that the complaints procedure is far too complex. Mr H. E. Jensen considered the procedure to be "complicated, tortuous, time-consuming, and demanding of the complainant the utmost in persistence and stamina."² The PSA considered the system to have "serious shortcomings"³ while Southern Cross Television believed the system presented "a confusing maze to public and broadcasters alike."⁴ The National Council of Women, too, saw it as cumbersome and time-consuming, adding that the creation of the Broadcasting Complaints Committee had merely "brought further confusion to an already confused situation."⁵ In this the Tribunal itself concurred, observing that they were not convinced "that the establishment of a separate Broadcasting Complaints Committee...[had]...added significantly to the satisfactory resolution of complaints."⁶ The Tribunal was also of the opinion that broadcasters needed to show greater readiness to make the system known to the public and argued for greater flexibility in the manner in which it had to conduct its own hearings, in that it did not believe that all complaint hearings benefited from consideration by a full sitting of the Tribunal's three permanent and two co-opted members.

THE COMPLAINTS SYSTEM IN PRACTICE

101. The bulk of the evidence on the actual operation of the present system was submitted by the BCNZ. While conceding that the legislation governing the procedure was complex and not easy to interpret, they argued that the system was no impediment and that it afforded "an important element in the public oversight of broadcasting."⁷

102. As far as the Corporation was concerned, they sought to ensure that their handling of complaints was not cumbersome or overly bureaucratic as far as the public was concerned, believing that "the ordinary person [had] the opportunity of asking for failings to be put right without cost and without burden."⁸ They argued that they had always been "overly generous" in what they regarded as a formal complaint and that they did not require a complainant, unfamiliar with the legislation, to make an elaborate submission. Indeed, they had often discovered or extended grounds for a complainant if they stated none.

Also, they had sometimes treated as formal complaints letters that had not stated they were formal complaints when the Corporation thought matters of consequence were involved.

103. Such a claim by the BCNZ, however, did not accord with the evidence of the two groups and one individual who commented to us about their experiences with the BCNZ. Mr Jensen argued that from his experience of the system he concluded that few complainants would be adequately "skilled in the law, or able and/or willing to meet substantial costs in money and/or time to defend a principle"⁹ as required by the system. The National Council of Women provided evidence of the lengthy procedure one of their members endured in lodging a complaint, while the Temperance Alliance noted that on more than one occasion they were advised by the Corporation that the basis of a complaint was invalid. When they ignored the advice and pursued their complaints further, those complaints were subsequently upheld by the Corporation. The Alliance concluded that "the Corporation's complaint system more than tested our patience and perseverance."¹⁰

REVIEW

104. It was abundantly clear from the evidence and submissions to us that the complaints system as it stood was far too complex in that few people knew how to make a formal complaint, what avenues of redress were open to them, or what appeal procedures were available in the event that they were dissatisfied with the determination of a complaint. Even the broadcasters and the Tribunal itself admitted that the Act in this regard was complicated and seemed to contain unnecessary duplication of functions. In our opinion, the system did not provide an adequate means for members of the public to test the performance of broadcasters if they felt the broadcasters had overstepped the line of what was thought acceptable, or if warrant holders were perceived as not complying with the terms and conditions of their warrants.

105. We believe primarily that any complaints system should be accessible and that the onus for having a complaint heard, once it was submitted, ought to rest not with the complainant but with the broadcasters themselves. Notwithstanding the evidence of the BCNZ, it seemed to us that the complainants we heard had required dogged determination to see their complaint through to a successful conclusion.

106. We think it imperative that all broadcasters establish an internal mechanism to receive and adjudicate on any complaint from the public as they are already directed to do by the Act. However, as the Act stands, to comply strictly with the terms of what constitutes a formal complaint, a complaint must be in writing and it must clearly indicate that it is a "formal complaint". Unless that is done, there is no legal compulsion on the part of the broadcaster to accept the complaint.

107. We believe that this process could be simplified if the definition of a formal complaint was revised to state that any complaint which was in writing and provided a return address should automatically be deemed a formal complaint, receipt of which would be acknowledged

by the broadcaster concerned and dealt with by that broadcaster's complaint procedures. When such a determination was completed we believe that, as is the case now, the outcome should be communicated to the complainant. We would add that this should be done within a reasonable and specified period of time.

108. Not only was it obvious from the submissions that there was often a very long time lag between the making of a complaint and its determination being communicated back to the complainant, but that this could be further compounded by delays at the Tribunal level if a complainant wished to pursue his or her cause further. Indeed, as we have already noted, the Tribunal wanted to see greater flexibility in the hearing of complaints at that level and considered that a full Tribunal meeting might not always be the best method.

109. We believe it imperative that any complainant does have the right of appeal over any decision of a broadcasting organisation and that such a right of appeal would be best provided by the Tribunal. The problem of time taken at the appellate level, and the need for greater flexibility could be reduced if the Tribunal were to have the power to delegate the determination of complaints initially to the Registrar of the Tribunal. In such an event, the Registrar would collect the relevant information from the interested parties and settle it on the papers if that were possible. This would not preclude the Registrar from referring any complaint to the full Tribunal if the Registrar thought such a course of action was warranted by the nature and complexity of the complaint. All complainants would retain the right to appeal to the full Tribunal if any complainant was dissatisfied with the determination by the Registrar of the Tribunal.

110. In much the same way it would be possible to dispense entirely with the Broadcasting Complaints Committee. While we think it imperative that anyone who felt that they had been treated unfairly or unjustly, or that their privacy had been invaded by any broadcaster, should have the right of redress independent of the complaints procedure of the broadcaster perceived to have committed the wrong, we do not necessarily consider the Broadcasting Complaints Committee to be the only body which could undertake that function. From the submissions, it appeared that the Committee was an unnecessary complication of an already complicated system. Once again, the Tribunal itself believed the Complaints Committee had not been an entirely effective mechanism in the satisfactory resolution of complaints.

111. In our opinion the functions of the Complaints Committee could be undertaken by the Registrar of the Tribunal. The right of appeal against any decision of the Registrar to the full Tribunal could be preserved as now, but dispensing with the Committee would provide a faster track for complainants while still providing a structure that was both independent and offered protection of individual rights and an appeal.

112. With regard to the provision in the Act permitting a Minister to refer a programme to the Tribunal for consideration before the

programme had been broadcast, we believe that this ought to be repealed. Not only does it raise the possibility of prior censorship on the initiative of a Minister and interference in broadcasting, but redress against any programme after it is broadcast is already provided for within the terms of the Act and within the existing, or proposed, simplified complaints structure. Furthermore, the provision has never been used.

113. In our view, it is critical that if the complaints procedure is to be operated effectively, and be readily accessible to all members of the public, then there should be a responsibility laid on all broadcasters to make the system known to the public through pamphlets, advertisements or the press. Likewise, we can see considerable benefits in the determination of any complaints being reported back to the public at large in a systematic manner, perhaps through the pages of the *New Zealand Listener*.

RECOMMENDATIONS

1. That all existing and future broadcasting warrant holders continue to be bound by the Act to provide internal procedures to receive and adjudicate on formal complaints from the public.
2. That a formal complaint be defined in the Act as any complaint which is submitted in writing to a broadcaster and contains a return address.
3. That the right of complainants to appeal a decision by a broadcaster to the Tribunal be preserved.
4. That the Broadcasting Complaints Committee be dispensed with.
5. That the Broadcasting Tribunal be given power to delegate the adjudication of complaints, in the first instance, to the Registrar of the full Tribunal.
6. That broadcasters and the public have the right to appeal any determination of a complaint by the Registrar to the full Tribunal.
7. That broadcasters be bound to make the complaints procedure known to the public through pamphlets, advertisements and the daily press, and that the determination of all complaints by the Registrar, or by the Tribunal be reported back to the public through the *New Zealand Listener*.

Term of Reference 4(c)

"4(c) Whether the Broadcasting Corporation of New Zealand has sufficient independence under the Broadcasting Act 1976 and whether, in particular, the Broadcasting Tribunal should continue to have power to determine applications for warrants by the Corporation:"

TRIBUNAL POWERS IN RELATION TO BCNZ DEVELOPMENT

114. A close review of the Broadcasting Act 1976 and the Broadcasting Regulations 1977 and their amendments shows that, indeed, the BCNZ has lost to the Broadcasting Tribunal substantial portions of its originally independent function "To develop, extend, and improve those [broadcasting] services in the public interest." Parliament made the Broadcasting Service into a Corporation in 1961 to increase its independence of operation and the quoted function of development is still there in the Act.

115. Yet now the Tribunal may decline an application for a Corporation warrant, specify the number of warrants available for a given region, defer an application for a sound-radio warrant for up to three years, impose conditions upon a warrant about whether or not relay stations may be established, decide the granting of short-term authorisations, fix minimum hours of transmission and specify FM coverage objectives. Furthermore, the Broadcasting Regulations provide that the Tribunal, at every third renewal of an FM warrant, shall review the use of the frequency by the holder and, if the Tribunal is not satisfied that it is "in the public interest", then the warrant lapses after a year. In short, the Broadcasting Tribunal can do much by its quasi-judicial decisions to determine the rate at which the Broadcasting Corporation develops and extends its services. That represents a loss of independence in regard to a prime Corporation function while making the Corporation subordinate to the Tribunal's decisions rather than a co-ordinate institution in the development of broadcasting.

116. This is a logical outcome of marrying two kinds of objective and two kinds of process in one Act. On the one hand the Act entrusts a Corporation with the task of developing public service broadcasting according to the Act and the needs of the public and when it earns the funds to do so and also makes it accountable to Parliament. On the other hand, the Act creates a Tribunal to introduce and control a private sector by a warranting process which is extended to control the development of both public and private sectors.

OVERSIGHT OF PERFORMANCE BY THE TRIBUNAL

117. There are two kinds of control exercised over the Corporation's activities by the Tribunal and they have different objectives and different effects on the Corporation's independence. The second kind of control is exercised in three ways. The first method is the Tribunal's jurisdiction on appeal over complaints. The second is the Tribunal's oversight of BCNZ adherence to the Standards and Rules it has participated in

establishing. If they are not complied with, then that non-compliance can constitute grounds for a finding that the conditions of the warrant have been breached and that can be punished, in the Corporation's case, either by shortening the term of the warrant concerned or by fine which, incidentally, is limited for all warrant holders to a ludicrously low figure "not exceeding \$500". The third way is by the Tribunal conducting review hearings in public at the time of Corporation warrant renewals which look at the general conduct of stations.

118. All three methods amount to a quality of performance control system which checks the BCNZ's performance against standards laid down for it in the Act, checks programmes against standards and rules the BCNZ helped to formulate, and checks the conduct of stations in the light of a Tribunal review held in public. They do constitute methods of external control and, as such, do represent a lessening of the Corporation's independence to check and control its own operations and account for that performance solely to Parliament through the Minister, in annual *Reports* and in responding to select committees.

119. There is another consideration involved however. The Tribunal in conducting these controls on the quality of performance is suitably constituted and qualified to do so, it should be well informed for the purposes by its own monitoring and its Advisory Committee, it must act judicially, and here it acts on behalf of the public—the listening and viewing public. Complaints admit the public directly into the process of performance control. Hearings on compliance with standards and rules must likewise invite public attention and judgment either directly or through the media and both the Corporation media and all others. Inquiries into adherence to a points system, the objectives and weighting of which the Corporation had participated in designing, would work in the same direction and in the same public interest way as a quality of performance control.

120. These judicially-conducted, public checks by the Tribunal of performance against standards which are either jointly arrived at or in the Act seem to us both useful and reasonable. Although technically a derogation from the Corporation's independence, in fact they constitute a supplementary public assertion of the objectives of the Corporation's Board itself. At the same time such Tribunal checks can serve to remind all of the public service nature and the licence payers' expectations of the standards and range of performance the BCNZ was set up to provide.

FIVE-YEARLY REVIEW OF CORPORATION WARRANTS

121. Where a different view may reasonably be taken is in respect to the five-yearly review of the Corporation's warrants themselves. Their statutory nature is obliquely recognised by the Act in the provision under section 83(5) that they cannot be "suspended or revoked except on the request of the Corporation or with the approval of the Minister." The section also recognises thereby that the radio services were there decades before the creation of the Tribunal and so were the great bulk

of the radio stations and both services of television. Indeed the operation and development of radio services and their television counterparts was the fundamental business given in trust to the Corporation as its reason for being.

122. The public review of warrants by the Tribunal is inherently an examination of the Corporation's whole stewardship, management, and necessarily its finance. It is entirely additional to the reporting which the Corporation must give to Parliament, to the Minister and through replies to questions to the House, and to select committees which are now empowered and composed to make searching examinations. The Corporation must account to the Auditor-General and, if the independent Review Commission is to consider the financing of public service broadcasting to determine the level of the licence fee, then that too, is a five-yearly check but removed from the regular Tribunal business of judicially supervising and authorising the development of competitive private services. Lastly, if the Executive Council wishes an examination to be made of the whole field of broadcasting or some part of it, it may recommend to the Governor-General the appointment of a Royal Commission or, as the Minister chose to do in 1973, appoint a Committee of Inquiry.

123. We have throughout our hearings and considerations been united in the desire to see accountability to Parliament and public advanced and view the clarity of objectives, structure and financial reporting as interlinked aspects of both good management and transparent accountability. But the five-yearly review by the Tribunal of warrants, which it can neither suspend nor revoke as a consequence, is not a necessary part of a system accountable to Parliament.

EVIDENCE ON THE OPPOSED VIEWS

124. Evidence before us showed that the Corporation supported the Tribunal's role with regard to compliance with standards and rules and its appellate function for complaints but questioned the need for the Tribunal review of their warrants and another layer of recurrent general examination while opposing its continuance. It also pointed to the effects of delay upon planning when "Most Corporation warrants were due for renewal in 1982; an interim decision to renew them was released by the Tribunal in January 1983, but the final decision, . . . had not been received."¹

125. Holders of and applicants for private radio and television warrants, on the other hand, were strongly of the opinion as one put it "that the Corporation must be accountable to the Tribunal. It has commercial interests and enjoys a monopoly in some areas e.g. in transmission." TV3 continued, "The Corporation should be independent of Government but not a law unto itself, particularly in a competitive environment and where it has a heavily centralised structure."² ITV thought "The Corporation and private broadcasters should be subject to the same controls."³ Capital City Radio wanted for the Corporation "the same regulatory procedures as other media groups" and spoke of

"market dominance" while conceding Radio New Zealand had "obligations to fund non-commercial radio."⁴ Mr Wesley was convinced that the Corporation should "be accountable to whatever authority is charged with the responsibility of running broadcasting."⁵

126. The PSA made reference to the Tribunal ensuring "the best possible services" from all warrant holders including the BCNZ and saw no reason for the Tribunal not to determine applications for new Corporation warrants.⁶ The National Council of Women, which had shown much concern about both standards and reductions in programming, was emphatic that "Although on the surface it seems ridiculous that this large, public, broadcasting organisation should have to apply for warrants and their renewal to the Broadcasting Tribunal, it is essential." They spoke of David confronted by Goliath and considered that in the light of the "power and influence the BCNZ has on the lives of New Zealanders" there should be checks and balances and that it should be "seen to be accountable for its work to an independent body and not directly to the Government."⁷

127. There was great concern among interested parties in this evidence for matching the conditions of commercial competition for the BCNZ and private operators under the Tribunal, and a wary eye on government and programme standards from the National Council of Women. But of the Corporation's duties in the public interest and as trustee little was reflected. Rather there was a reservation on the Council's part and clearly a distrust of the BCNZ among several of its private competitors. Perhaps size had much to do with it for the Tribunal's view was that, "The board of the BCNZ should not be expected to adopt a view on development of radio and television which is divorced from the ambitions and objectives of its executives and of the Corporation. History has shown that some independent body with a wider overview is necessary. It may also be necessary because of the Corporation's dominant position commercially and its combative approach to private development."⁸

128. The weight of the evidence therefore came down on the side of retaining five-yearly Tribunal public reviews of Corporation warrants, even though such a conclusion ignored the Corporation's many duties and responsibilities to Parliament and no reference was made to them. The BCNZ's private competitors emphasised rather the argument that what was the case for them, namely Tribunal oversight by review, must be the case for the BCNZ or the apparent equity under the Tribunal alone would be disturbed.

CONCLUSIONS ON FIVE-YEARLY REVIEWS

129. With reluctance on the part of one among us, the Commission accepts that the Tribunal's five-yearly reviews of warrants should continue for all warrant holders, thus satisfying the view that this will establish equality of treatment. The positive value of the process as a public review of the quality of performance in addition to Parliament's superintendence is, in the sense set out by the National Council of

Women, a tribute public service broadcasting must pay to the great influence it exerts on the lives and leisure of us all.

130. As an ever more accountable body, the BCNZ should have diminishing difficulty in making the performance of its role ever clearer to the public and the Broadcasting Tribunal at those five-yearly hearings. Furthermore, the added constraints on resources which competition will bring, will make it obvious that for the BCNZ and for the third channel warrant holders, funding puts a limit on quality of performance quite as strong as any regulation.

A SUGGESTED AMENDMENT TO RECONCILE THE DUTIES OF EACH

131. There is an associated consideration here. Both the Corporation and the Tribunal are enjoined by the Act to consider and act in the public interest. The Corporation must abide by conditions the Tribunal sets and plead a case before it in a great variety of circumstances. But the Act does not oblige the Tribunal to have regard to the duties, responsibilities and role which the Act itself binds the Corporation to discharge.

132. So the responsibilities between the two bodies are far from reciprocal and the statutory objectives of some of the Corporation's applications or activities may not be considered by the Tribunal because the Act has omitted to provide that the Tribunal should do so.

133. In section 80(c) the Tribunal in considering any application for a warrant shall have regard to the effect which a station "may have on broadcasting services provided by the Corporation in the public interest" and this is most faithfully executed. The Act does not provide, however, that the Tribunal have regard to the first mentioned general function and power of the Corporation under section 17(1)(a), "To carry on public broadcasting services, and to develop, extend, and improve those services in the public interest". Were the Act amended to do so, each part of the general system would be taking fuller and proper account of the prescribed duties of the other.

THE STATUTORY NATURE OF EXISTING BCNZ WARRANTS

134. We have already noted the oblique recognition in the Act of the statutory nature of the Corporation's warrants for the stations, and hence services, the great majority predating the establishment of the Tribunal itself. These stations and their warrants can be seen as having sprung from twin purposes of the Corporation and of successive Broadcasting Acts. First, that the Corporation provide varied commercial and non-commercial services to the public each with aspects and features which are distinctly public service in nature. Second, that the Corporation's services be operated so that they generate enough funds to provide, together with licence receipts, the financial basis for the whole range of services. Increasingly as licence funding has shrunk, not only has the importance of commercial funding grown, but it has meant that the subtraction of any number of warrants

and, in a few instances, of single station warrants, would throw radio or television finances into confusion.

AN EXPLICIT AND CLEAR STATUS

135. Since it has been at Parliament's behest and in accordance with its Acts over decades that these services have been created and extended by the Corporation, it would seem consistent, just and reasonable if Parliament gave explicit statutory recognition to the services and statutory warrants to the existing Corporation stations. In a real sense under section 83(5) they have this status now, given that the Minister disapproves of a revocation. Yet it is a conditional security when they exist to embody the purposes Parliament set for them, and which Parliament checks for itself every year.

THE PROCESS OF DEVELOPMENT AND NEW WARRANTS

136. We are left with the question of where the development of new public stations and services should be initiated. The Act confers that duty on the Corporation. Last year it gave advice to the Minister on a four-strand policy of development with Parliamentary, Maori and Access plans in addition. After considering the matter in relation to Government policy, the Minister issued a notice to the Tribunal stating "part of the general policy of the New Zealand Government in relation to broadcasting" which dealt with the new strands and gave their establishment recognition as part of policy to be implemented "when funds permit."

137. However this process of Corporation planning, advice, Ministerial consideration in relation to Government policy, and written direction could not equate with the provision of statutory warrants. In section 68(1) of the present Act it is provided that the Tribunal "shall have regard to the general policy of the Government" and "shall comply with any directions given by the Minister". However section 68(1) also states that "nothing in this subsection shall be construed as authorising the Minister to give any direction. . . that would derogate from the duty of the Tribunal to act judicially."

138. A further duty of the Tribunal in acting judicially in respect to all applications for a warrant is to "have regard to" fifteen other matters listed in section 80 for consideration in determining which applicant, if any, shall be granted the warrant. So for a frequency made available in any given market, the outcome of the Tribunal's judicial consideration of all applicants and all grounds for decision may or may not establish one of the kinds of station which Government policy wished to advance. To proceed by stating policy and giving directions, while it can commence a process as major as considering applicants for a third private channel, is no guarantee of achieving policy goals, at least within the three-year cycle of our general elections.

139. An alternative would be for the Corporation to plan its development according to the Act and, when funds were in hand, to advise the Minister of the initiative they sought. If this was acceptable to

the Government, then a Bill would be introduced to Parliament establishing a type of service or defining a class of public station which would receive statutory warrants when frequencies were available in the regions to be served. On the passage of the Act it would only be a matter of aligning the financial programme for establishment with the timetable of frequency allocation. This procedure would be practicable for non-commercial or predominantly non-commercial services such as the suggested Parliamentary, Sport and Education stations or the Maori service where disturbance of existing commercial interests would be minor or minimal.

140. But statutory warrants for, say, the extension of the Young Adult ZM-FM service to provincial towns would cut into existing warrant holders' markets. If bidding for lease was instituted, the Corporation could simply bid and be ready to pay as would other bidders if they wanted to establish a commercial station in a region with an available frequency. If a percentage of gross revenue was chosen, then either the present Tribunal system would have to govern the Corporation's development as now, or Parliament would have deliberately to confine the Tribunal to control of development in the private sector as the Corporation is confined to developing the public sector.

RECOMMENDATIONS

1. That the Tribunal's role as the appeal body for all complaints and its functions in ensuring compliance with all standards, rules, conditions and the points system should be confirmed.
2. That the five-yearly Tribunal review of performance under the warrants for the BCNZ should be maintained but with final decisions arrived at within twelve months.
3. That the Corporation's function "to carry on public broadcasting services and to develop, extend, and improve those services in the public interest" be added to the matters which the Broadcasting Tribunal must have regard to when considering and determining applications.
4. That statutory warrants be provided for all existing Corporation stations and relays.
5. That Parliament consider granting warrants for any further class of Corporation non-commercial or predominantly non-commercial stations when the Corporation has established the objectives, requirements, and programme of funding and introduction for that service.

References

TERMS OF REFERENCE 4 & 9

1. R.J. Gregory, *Politics and Broadcasting, Before and Beyond the NZBC*, Palmerston North, 1985, p.56.
2. Edward James Wilkinson, written brief of evidence, term of reference 1(f), p.19, para 5.1.3.
3. Broadcasting Tribunal, written submission, p.1.
4. *ibid.*
5. *ibid.*, p.2.
6. *Report of the Broadcasting Tribunal*, 1983, p.22.
7. Williamson, written brief of evidence, term of reference 1(f), p.20, para 5.1.4.
8. James Lawrence Booth, written brief of evidence, p.6.
9. *ibid.*
10. Booth, transcript of oral evidence, 26 November 1985, p.50.
11. Booth, written brief of evidence, p.6.
12. Booth, transcript of oral evidence, 26 November 1985, p.23.
13. Booth, written brief of evidence, p.7.
14. *Report of the Broadcasting Tribunal*, 1985, p.2.
15. The Treasury, written submission, p.18.
16. *ibid.*, p.16.
17. *Report of the Broadcasting Tribunal to the Minister of Broadcasting on the Development of Frequency Modulation Broadcasting in New Zealand*, August 1981, p.73, para 15.7.
18. *ibid.*, para 15.9.
19. *ibid.*, p.75, para 15.18.
20. *ibid.*, para 15.26.
21. The Treasury, written submission, p.17.

TERM OF REFERENCE 4(a)

1. Broadcasting Tribunal, written submission, p.3.
2. *ibid.*, p.4.
3. TV3, written submission, p.10.
4. B.G. Impey, transcript of oral evidence, pp.127—128.
5. Heughan Bassett Rennie, written brief of evidence, pp.12—13.
6. *ibid.*, p.12.
7. *ibid.*, p.13.
8. *ibid.*
9. BCNZ, submissions on term of reference 4(a), p.3.
10. TV3, *loc. cit.*
11. Recording Industry Association of New Zealand, written submission, p.7.
12. William J. Earl, written brief of evidence, p.24.

13. Richard Wall, written brief of evidence, p.17.
14. Energy Source Television, written submission, p.14.
15. National Council of Women, written submission, p.8.

TERM OF REFERENCE 4(b)

1. Heughan Bassett Rennie, written brief of evidence, term of reference 4(b), p.3.
2. H. E. Jensen, written submission, p.2.
3. Public Service Association, written submission, p.39, para 70.
4. Southern Cross Television Ltd., written submission, term of reference 4(b).
5. National Council of Women, written submission, p.9.
6. Broadcasting Tribunal, written submission, p.4.
7. BCNZ, written submission, term of reference 4(b), p.4, para 14.
8. *ibid.*
9. Jensen, *op. cit.*, p.1.
10. New Zealand Temperance Alliance, written submission, p.2.

TERM OF REFERENCE 4(c)

1. BCNZ, written submission, term of reference 4(c), p.5, para 5(c)14.
2. TV3, written submission, p.11.
3. ITV, written submission, p.5.
4. Capital City Radio, written submission, p.6.
5. Noel Wesney, written submission.
6. PSA, written submission, p.39.
7. National Council of Women, written submission, p.9.
8. Broadcasting Tribunal, written submission, p.5.

CHAPTER 5

Term of Reference 5

"5. The adequacy of section 34A of the Broadcasting Act 1976 as it relates to the purchasing of overseas television programmes, and whether alternative or additional procedures are required:"

1. Section 34A was inserted by section 7 of the Broadcasting Amendment Act (No. 2) 1982, presumably in anticipation of the advent of a privately-owned third television channel. Its purpose is to lay down general guidelines for the establishment of a *pricing* mechanism by way of an overseas programme agreement which stipulates a maximum price payable by a private broadcaster holding a television warrant in respect of the purchase of programmes "produced beyond New Zealand". It does not establish *purchasing* procedures.

2. Also relevant to this term of reference and section 34A are section 71A(2), which outlines warrant conditions for warrant holders other than the Corporation in respect of section 34A and section 98(ib).

3. Subsection 2 of section 71A, which establishes conditions of warrants, states:

"It is a condition of every warrant (being a television warrant or a television programme warrant) issued to a person other than the Corporation that the holder of that warrant shall not—

- (a) Purchase or otherwise acquire, at a price that exceeds the maximum price applicable under section 34A of this Act, rights to, or privileges in respect of, any programme produced beyond New Zealand; or
- (b) Broadcast any programme produced beyond New Zealand if rights to, or privileges in respect of, that programme have been purchased or acquired by the holder of that warrant at a price that exceeds the maximum applicable under section 34A of this Act."

Section 98(ib) states that

"[The Governor-General may, from time to time, by Order in Council, make regulations. . .]

- (ib) Prescribing procedures to be observed in relation to the entering into of an overseas programmes agreement under section 34A(1) of this Act or an agreement under section 34A(6) of this Act."

4. The format of any overseas programmes agreement is not specified in the Act. The insertion of section 34A appears to be an effort to avoid competitive bidding for programmes with attendant price increases. Mr Monaghan, the Controller of Programming for Television New Zealand, pointed out in his evidence that "if unfettered price competition eventuates the only people to benefit will be offshore programme suppliers"¹ and he cited a recent example in Britain with the BBC and ITV being forced into paying over-high programme prices.

5. Mr Monaghan envisaged that an ideal situation would be one in which a maximum price would be agreed upon for the year under review and "we would each be required to ensure that we did not exceed that maximum price, but outside of that we would be free to identify those programmes we were interested in acquiring for our schedule."²

6. There appeared to be some confusion in the minds of a number of those who addressed this term of reference. Some thought the term of reference provided further opportunity to comment on those matters raised at 2(d) and others misinterpreted the provisions of section 34A. For example, the PSA stated "the public sector...[is] required to set a maximum price [and] undertake the work associated with the purchase and supply."³ However this is not what we think section 34A is about. Even section 34B does not establish purchasing mechanisms but states conditions applying if the Corporation acts as an agent in the purchase of *any* programme (not just those produced beyond New Zealand), which it *may* do but is not *required* to do.

THIRD CHANNEL APPLICANTS

7. Five of the applicants for the third channel warrant briefly addressed this term of reference. Their submissions said, in effect, that it was difficult to determine the adequacy of section 34A, and any possible alterations and/or additions that may be required, until it was "put to the test". They were concerned, however, that section 34A should not be read to imply a centralised buying authority (a point also made by the Corporation) and also that nothing in section 34A should give the Corporation an advantage when it came to the purchase of overseas programmes. It was suggested that the Corporation and the private warrant holder or holders should be equal partners in the negotiation and implementation of the overseas programmes agreement. United Telecast Corporation suggested that disagreements should be referred to the Tribunal rather than settled in accordance with the provisions of the Arbitration Act 1908. None of the third channel applicants made reference to the provision of section 71A(2).

THE BROADCASTING CORPORATION OF NEW ZEALAND

8. The Corporation submitted that the principle embodied in section 34A would be "the appropriate way of handling the situation"⁴ but recommended that a procedure for an independent audit on an annual basis be established to oversee the operation of any agreement to ensure compliance by third channel operators and to ensure that any obvious abuses could be drawn to the attention of the appropriate authorities being the Tribunal and the BCNZ Board. The Corporation further recommended that the Broadcasting Tribunal should be given the authority to impose penalties in the case of non-compliance. The Corporation pointed out that while it is not covered by section 71A it, too, should be subject to the audit procedures.

9. Evidence given in cross-examination by the Controller of Programming for Television New Zealand, Mr Monaghan, on this term of

reference indicated that the Corporation perceived possible areas of conflict when section 34A is put into practice and it was for this reason that the audit procedure was recommended.

10. Mr Monaghan explained the conventions of the industry as they might be expected to apply when the third channel is operative. A distributor would offer new episodes of an ongoing series to the broadcaster already carrying that series. If that broadcaster declined to purchase the series it would then be offered to the other broadcaster. In the case of a new series the programme would be offered to one or other of the warrant holders at the distributor's discretion. If that broadcaster indicated they wished to acquire that programme at a price no greater than the maximum agreed price that would be the end of the matter. Otherwise the programme would be offered to the other warrant holder if they were interested in acquiring it.

11. Mr Monaghan went on to say that "it is, of course, like everything in this life, more complex than that".⁵ The maximum price per minute that is paid under the overseas programmes agreement applies to one screening only. A broadcaster may choose to indicate to the distributor that he will purchase repeat screening rights and can therefore offer a greater return to the distributor than could another broadcaster who may wish to purchase fewer repeat rights.

12. While acknowledging the need for a mechanism to create price stability in respect of overseas programmes, the Corporation did not wish to see section 34A extended to establish a central purchasing authority or a tender or ballot system for programme purchase. Other submissions felt that a single purchasing authority should be established. However, the Broadcasting Tribunal was concerned to prevent a "duplication of administrative authorities to audit the operation of such procedures."⁶

13. There may be some advantage if we were to examine the specific provisions of the section itself.

SUBSECTIONS (1) and (2) PROVIDE:

(1) Where any television warrant or television programme warrant is held by a private broadcaster, the Corporation shall, at least once in each financial year, enter into an agreement (in this section called "an overseas programmes agreement") with that private broadcaster or with all private broadcasters who hold television warrants or television programme warrants, as the case may require, which agreement shall specify the maximum prices that may be paid by that private broadcaster or by all such private broadcasters for the purchase or other acquisition of rights to, or privileges in respect of, each category of programmes which are produced beyond New Zealand.

(2) The purpose of overseas programmes agreements is to ensure that, except where special circumstances exist, the price paid by any private broadcaster for the purchase or acquisition of rights to, or privileges in respect of, any programme which is produced

beyond New Zealand does not exceed the maximum price that would be paid by the Corporation if it were to purchase or acquire those rights or privileges.

14. Subsections (1) and (2) of section 34A establish, in effect, a statutory cartel in respect of prices. We assume that the provisions of section 23 and section 27 of the Commerce Act 1975, which deal with trade practices in respect of collective pricing agreements, do not apply to section 34A by virtue of section 27(3)(c) of the Commerce Act, which states that it (the Act) does not apply to any "trade practice that is expressly authorised by any other Act".

15. We note that the provisions of section 34A (and of section 71A) only impose restrictions on and make requirements of private television warrant holder(s) in respect of any overseas programme agreement that may be in force. For example, subsection (1) establishes an agreement to "...specify the maximum price that may be paid by that private broadcaster or by all such private broadcasters. ..." Subsections (6) and (7) of section 34A, which outline the procedures and categories for a departure from an overseas programmes agreement apply only to private broadcasters.

16. It may be desirable for these subsections to apply to the Corporation as well in order to place the Corporation and private broadcaster or broadcasters on an equal footing. However, this subsection places a mandatory requirement on the Corporation to enter into an agreement and the ultimate aim or purpose is quite clear. Indeed the fact there is to be an agreement means that two or more parties do or shall agree—not that one shall dictate to the other.

17. If no agreement is reached, subsection 8 provides for arbitration or a presumably independent body to rule on any disagreement.

18. There is no doubt that the objective is to keep the price down in \$US, and we see nothing wrong in this. In an oligopoly situation the purchaser is usually at the mercy of the vendor, and a collective pricing agreement can only be for the benefit of both or all the New Zealand parties who separately would have little 'clout' in an international market.

19. Subsections (2) and (7) refer to "special circumstances" (under which a departure from any agreement may occur) without further defining such circumstances. Furthermore subsection (7) appears to indicate that "special circumstances" are ultimately decided upon by the Corporation. It may be desirable to circumscribe the phrase "special circumstances" by listing a number of factors that may be taken into account. We think the Corporation and private broadcaster(s) ought to be placed on an equal footing in respect of a decision on what constitutes a special circumstance for the purposes of subsection (7) as it applies to subsection (6).

SUBSECTION (3) PROVIDES:

(3) Subject to the provisions of this section, every overseas programmes agreement shall by force of this Act extend to and

bind not only the private broadcasters who are parties to it but also every private broadcaster who, at any time while it is in force, holds a television warrant or a television programme warrant.

20. Presumably the rationale for this subsection is that if a private broadcaster is granted a television warrant in the course of a year he will be bound by the terms of any existing overseas programme agreement up until the time that he formally enters into such agreement.

21. This appears to be a sensible provision to entrap any new warrants granted during the term of an agreement and eminently fair.

SUBSECTIONS (4) AND (5) PROVIDE:

- (4) Every overseas programmes agreement shall specify the date on which it shall expire.
- (5) Notwithstanding the expiry of an overseas programmes agreement, that agreement shall continue in force until it is superseded by another overseas programmes agreement.

Agreements are to be entered into at least one each financial year under subsection 34A(1) although it is not clear whose financial year it is intended to cover and thus may need clarification. There may be argument for, say, the Tribunal to intervene in the event of prolonged failure to reach agreement.

SUBSECTIONS (6) AND (7) PROVIDE:

- (6) Notwithstanding the provisions of any overseas programmes agreement, but subject to subsections (7) and (8) of this section, where a private broadcaster who holds a television warrant or a television programme warrant wishes to purchase or acquire rights to, or privileges in respect of, a programme which has been or is being produced beyond New Zealand, he shall,—

- (a) If that programme does not fall within one of the categories specified in the overseas programmes agreement which is then in force; or
- (b) If he is uncertain about the maximum price applicable in respect of that programme under the overseas programmes agreement which is then in force; or
- (c) If he wishes to pay for the purchase or acquisition of rights to, or privileges in respect of, that programme a price that exceeds the maximum price applicable in respect of that programme under the overseas programmes agreement which is then in force, —

agree with the Corporation on the maximum price that may be paid by the private broadcaster for the purchase or acquisition of those rights or privileges.

- (7) In agreeing under subsection (6) of this section the Corporation shall have regard to the maximum prices determined by the overseas programmes agreement then in force and shall agree to

a departure from the general level of maximum prices fixed by that agreement only if there are special circumstances.

22. At present these subsections apply only to private broadcasters. It would seem desirable that they apply to the Corporation as well. If the Corporation has a programme that comes within one of the categories (a) through to (c), then the Corporation appears to be free to fix whatever price it thinks fit.

23. Subsection 7 refers to special circumstances and it may be desirable to set out a second set of factors which come within that phrase as used in its second context.

SUBSECTION 8 PROVIDES:

(8) If the Corporation and any private broadcaster are unable to settle the terms of an overseas programmes agreement or of an agreement required to be entered into under subsection (6) of this section, the Corporation or the private broadcaster may require that the terms of the agreement or the terms of the agreement in respect of which agreement cannot be reached be referred to arbitration in accordance with the Arbitration Act 1908.

24. Generally the process of arbitration is used for an arbitrator sitting with or without an umpire to make a decision on matters in dispute. For example contract grape growers arbitrate each year with the wine companies the amount that is to be paid for the grapes in any one season. However, within the context of section 34A, it is not merely the maximum price that is to be fixed but possibly the whole terms of the overseas programmes agreement itself.

25. Then the issue arises as to whether arbitration is an appropriate procedure for that at all. The matter of the maximum price is simply something that can be quite properly dealt with by way of arbitration.

26. However, we consider it is essential that any referee should have an ongoing association with, and detailed knowledge of the problems always likely to be encountered. The terms of an agreement and the maximum price agreed upon are always likely to be interwoven problems and should not in our opinion be treated separately. The two items should be within the province of an independent authority with ongoing knowledge of the problems of the industry. Whether it be the Tribunal or a Broadcasting Commission does not particularly matter so long as they are properly informed and conversant with the overall situation.

SUBSECTION 9 PROVIDES:

(9) Nothing in this section applies in relation to the purchase or other acquisition only of rights to, or privileges in respect of, the format of a programme produced beyond New Zealand.

27. This subsection is designed to allow broadcasters to purchase the formats of programmes such as *This is Your Life* without such purchases being constrained by maximum prices.

AUDITING

28. As we have noted it was submitted to us that overseas programmes agreements could readily be circumvented by the purchasing of repeat rights. Conceivably multi-national shareholding could affect purchasing in the sense of programme availability, as for example the New Zealand subsidiary of an overseas distributor holding a New Zealand private broadcast warrant.

29. The BCNZ submissions suggested it would be necessary to make provision to avoid the acquisition of programmes by putting up sums of money in excess of normal purchasing prices supposedly for co-production (and listing in the credits of a programme) which would in reality be for pre-purchase of a production to deny it to another channel.

30. Actors Equity posed the likelihood —

"...that television licence-holders could also have, or obtain, rights to other exhibition outlets, such as video, and the potential for such things as 'in-house' cassette delivery of encoded material in down time. These additional modes of exhibition would give these companies additional strength when negotiation [sic] rights, to the detriment of other licensees, particularly the BCNZ."⁷

31. Presumably, although there would be obvious economic limitations, the Act in its present form would not cover any pre-warrant purchases.

32. The Corporation has suggested that all warrant holders, including itself, be subject to an annual audit procedure and that any warrant holder may refer the circumstances of a particular purchase to the auditors. We can only observe that should 'under the counter' payments be made, false invoicing entered into, payments made to third parties or via false agreements, then we are not convinced that ethical and well meaning auditors would always find these—particularly now with unlimited freedom to purchase foreign exchange and computer generated payment transfers. In essence to rely implicitly on an audit may shift the responsibility for the problem but may not solve the problem itself.

REVIEW

33. If the Corporation and private broadcasters are to be placed on an equal footing in respect of section 34A (as opposed to the current situation which proposes a "leading role" for the Corporation) then possibly the Tribunal might be required to establish the procedures for entering into an agreement, the terms of such an agreement, outline "categories of programmes", decide on "special circumstances", define "produced beyond New Zealand" and arbitrate in the event of a disagreement. If the audit procedure suggested by the Corporation is to be adopted this may be a further area of responsibility for the Tribunal.

34. We note also that the definition of broadcasting as provided in section 2 of the Broadcasting Act 1976 may not be adequate: will the definition "...the dissemination of any form of communication...by

means of Hertzian waves..." be sufficient to capture all future broadcasting technology? Indeed if the future brings us into not simply a deregulated, but an unregulated environment, how adequate will any cartel be?

35. Neither the Corporation nor any of the aspiring third channel warrant applicants have indicated any enthusiasm for a central buying agency. Understandably they are anxious to retain some purchasing edge and we do not think that any legislative device should deter sensible commercial haggling or the opportunity to buy at less than the maximum overseas programme stipulated price.

36. The "wait and see" attitude expressed by those aspirants probably reflects a realistic approach. Although we have tentatively pointed to some defects which we perceive, presumably these could be accommodated by statutory amendment, probably in consultation with the successful applicant(s) once those organisations are identified. Including the Tribunal in any such discussions would, we feel, be helpful.

37. As previously indicated we are mindful that direct broadcast satellite cover for example, could render any legislative controls impotent. Multinational advertising has, we are told, overcome some of the perceived barriers, while ownership of rights to programmes themselves could possibly be in the hands of the persons controlling the satellites.

RECOMMENDATIONS:

1. The rationale of the section under discussion embodies, we consider, desirable and sensible provisions for the small market of New Zealand with its oligopolous character.
2. We have pointed to the weighted nature in favour of the Corporation and wherever this occurs we feel there are grounds for amendment.
3. Various phrases used in the legislation which we have identified require definition, and indeed a draft form of agreement may well be desirable.
4. If the auditing mechanism was introduced we feel the parties should have access to the Tribunal for resolution.
5. It may well be that the negotiations for an annual revision of any contemplated agreement should be referred to the Tribunal by some specified date each year.

References

1. Desmond James Monaghan, written brief of evidence, term of reference 5, p.1, para 1.4.
2. Monaghan, transcript of oral evidence, 15 August 1985, p.26.
3. Public Service Association, written submission, p.41, para 72.
4. BNCZ, written submission, term of reference 5, p.2, para 5.6.
5. Monaghan, transcript of oral evidence, 15 August 1985, p.29.

6. Broadcasting Tribunal, written submission, p.6.
7. Actors Equity, written submission, para 9.5.

CHAPTER 6

Term of Reference 6

"6. The reflection in broadcasting of the multicultural nature of New Zealand society, the recognition of regional, sectional, and minority interests in the design of programmes, and the provision of opportunities for access broadcasting: with particular reference to—"

"6(a) The extent to which programmes build on and explore—

(i) Maori culture and language, and the history and current concerns of Maoris;"

"6(b) The recruitment and training of staff fluent in the relevant languages;"

"6(c) The recruitment and training of other staff needed to produce and broadcast programmes of interest to each cultural group, including those required for technical positions as well as those required for production and programme positions;"

"6(d) The role of a Maori and Pacific Island commercial radio station not only as a broadcasting station but also as a production centre for programmes to be broadcast from other broadcasting stations;"

INTRODUCTION

1. The issues raised by these terms of reference as they relate to programmes which build on and explore Maori culture and language, and the history and current concerns of Maoris, attracted a great deal of attention from those who made submissions to us. Many of those concerns were expressed when the Commission was received onto the marae at Te Aute College and later in two days of hearings at the Hoani Waititi Marae in West Auckland. At the same time as this Commission has been conducting its inquiry the case for the place of Te Reo Maori and Taha Maori in broadcasting has also been put to other authorities, and the environment to which many of the early arguments were addressed and in which they were put to us we feel has changed.

2. In June 1985 the Broadcasting Subcommittee of the Maori Economic Development Commission presented its report to the Minister of Maori Affairs. The subcommittee, charged with producing a five year development plan for Maori broadcasting, contended that broadcasting authorities have been gravely remiss in fulfilling their statutory obligations to reflect and develop a New Zealand identity and recommended that a statutory body should be established to ensure the broadcasting needs of Maori people were considered and met nationally. It further recommended the establishment of an autonomous body to control Maori broadcasting within the BCNZ and with equal status with Radio New Zealand and Television New Zealand.

3. The subcommittee also recommended the establishment of an Aotearoa radio network with funding to come from a variety of sources including tribal groups, Maori organisations and relevant government departments, as well as the BCNZ vote. The subcommittee report supported the Aotearoa Broadcasting System third channel warrant application and suggested the establishment of a Maori television production unit within an autonomous ABS to promote programmes aimed at both Maori and wider audiences, in Maori and English, to be transmitted on the two Television New Zealand networks.

4. The application by Aotearoa Broadcasting System to the Broadcasting Tribunal in respect of a warrant for the third channel has focused the discussion before that body, *inter alia*, on Maori programming. In September 1985 the Broadcasting Corporation and ABS came to an agreement on the provision of transmission services to and financial support for ABS should it receive the third channel warrant. At that time the Corporation maintained that the ABS application was the one most in keeping with the Corporation's constitutional objectives and statutory obligations, and that its programming proposals were complementary to the Corporation's programmes and would extend the choice rather than provide more of the same.

5. That offer of support was withdrawn in April 1986 and in July 1986 ABS, in conjunction with another warrant applicant, Independent Television Limited (ITV) applied for leave to amend their application to one in respect of a programme warrant. The Broadcasting Tribunal subsequently declined that application. However it noted, in a decision dated 14 August 1986, that it would be capable of imposing conditions regarding programming and in particular Maori programming if it thought that to be appropriate, and that such a condition could require arrangements for autonomous broadcasting through a programme warrant holder.

6. In April 1986 the Waitangi Tribunal presented to the Minister of Maori Affairs its report on the claim lodged by Huirangi Waikerepuru and Nga Kaiwhakapumau i te Reo Incorporated Society (the Wellington Maori Language Board) that the Maori language receive official recognition. In its Finding the Tribunal drew attention to the fact that the jurisdiction of this Commission as well as that of the Broadcasting Tribunal existed concurrently with its own. The Tribunal confined itself, at that stage, to making broad observations on the place of the Maori language in broadcasting while reserving for itself the right to reconvene to make recommendations additional to any that might be made by us or the Broadcasting Tribunal.

7. The members of the Waitangi Tribunal were, however, quite clear in their view that Article II of the Treaty of Waitangi guarantees protection to the Maori language and they were also quite clear that the predominance of English in the media had had an adverse effect upon it. They further noted that "it is consistent with the principles of the

Treaty that the language and matters of Maori interest should have a secure place in broadcasting."¹

8. We have taken cognizance of these events as they relate to our own inquiry and terms of reference. However it is not our task or responsibility to give further detail here, nor to comment on decisions made by other authorities except as they may relate to our own recommendations.

9. These terms of reference, which were collected together under the umbrella term "Maori broadcasting" by many of those who spoke to us, relate to the fundamental questions of the survival and development of the Maori language and Maori culture as one part of a wider New Zealand identity, and the role that the broadcast media can play in this. No one who gave evidence to us disputed the value of Maori culture, nor that bi-culturalism was a worthwhile goal. Indeed no one disputed the effectiveness of radio and television in assisting with the development of the Maori language and of reflecting Maori values to non-Maori New Zealanders. What witnesses could not agree on was the extent to which this should be done, in what form, how soon and under whose control.

10. A great deal of the evidence was addressed not only to us but also to the Broadcasting Tribunal and was supportive of the ABS warrant application.

SUMMARY OF SUBMISSIONS—THE BROADCASTING CORPORATION OF NEW ZEALAND

11. Under the Broadcasting Act 1976 the BCNZ is required to reflect and develop New Zealand's identity and culture. Witnesses from Television New Zealand and Radio New Zealand gave evidence to us on the extent to which the Services fulfil this responsibility in respect of Maoritanga. The Corporation told us that it encourages its producers, programme makers and executives to attend hui to gain a wider understanding and appreciation of the needs and expectations of the Maori community. Correct pronunciation of the Maori language is required of all on-air staff in both services and training is provided in this.

12. Television New Zealand especially has come under attack for failing to fulfil its statutory responsibilities in respect of Maori programming, and much of the evidence presented to us on this was given in the wider context of the Waitangi Tribunal hearings and the third channel hearings in front of the Broadcasting Tribunal. The Chairman of the Corporation admitted to us that television had been a late starter in the process of identifying means of providing Maori programme content. However he told us that there had been considerable reshaping in the attitudes of those in the Corporation towards Maori programming on radio and television, and contended that the leopard had not so much changed its spots but that there was, in fact, a new leopard.

13. Mr Cross, the then Chief Executive of the Corporation, told us that in 1978 the Board had developed a policy on Maori broadcasting,

relating especially to television, which dealt with staff recruitment and bi-lingualism in television and programme changes which were to be taken as a result of this.

14. The varying production requirements of radio and television have meant that Radio New Zealand and Television New Zealand have developed in different ways over questions of recruitment and training. The Corporation claimed to operate an affirmative action policy in respect of Maori and Pacific Island trainees and to liaise closely with the Ministry of Maori Affairs in identifying suitable trainees.

15. In testimony given to us on 29 August 1985 we were informed by the Director of Personnel for the BCNZ, Mr Russ, that there have been difficulties in attracting recruits for the craft areas, as opposed to on-air trainees, and he noted also that pre-selection criteria (tertiary training for journalism and advanced high school education in mathematics and science subjects for technical training) often limited the available field of recruits. The Corporation claimed to have attempted in the past to recruit Maori staff directly from Maori schools and other educational institutions but to have had limited success in this.

16. Mr Russ maintained that promotion within the Corporation was on merit and that appointees had to be able to compete in a merit-based structure. The BCNZ, he told us, "will continue to operate and refine its affirmative action policies in relation to the recruitment of Maori and Polynesian staff members and to the greatest extent possible will endeavour to improve the ratio in all occupational areas."²

17. The Corporation considered that it would be able to increase the number of Maori and Polynesian staff further if a staff member was dedicated to the co-ordination of affirmative action programmes and the undertaking of vocational guidance duties in predominantly Maori colleges and multi-cultural situations, that the estimated annual cost of such a position would be approximately \$60,000 but that the Corporation's priorities had not extended to such an appointment.

18. We feel it necessary to record that during recent months, coinciding it appears with the appointment of the new Chief Executive and the new Director-General of Television New Zealand, the Corporation, and Radio New Zealand in particular, has introduced a new impetus in turning some of these intentions into action, reflecting not so much a new attitude, but rather overcoming the 'paralysis by analysis' which appears to be a corollary of any discussions involving race.

19. The Corporation's short-lived marriage with Aotearoa Broadcasting Service and the acrimonious divorce proceedings no doubt have also provided a spur for more positive action, within the funding constraints under which the Corporation operates, and as an accelerant, have introduced a series of increases in the level of Maori and bi-cultural programmes in both radio and television. For example, the Board has proposed the possibility of an arrangement with ABS in which the latter would produce programmes for broadcast on both Television New Zealand channels. At the end of May 1986 the Board set

a percentile target of programmes in which Maori is the dominant element, some of which would be produced by Television New Zealand.

TELEVISION NEW ZEALAND

20. Mr Allan Martin, the former Director-General of Television New Zealand, told us that Television New Zealand reflected Maori culture in two ways "through its general programming as a mass medium, and in special language and other programmes. Its production departments deal with Maori subjects as part of normal programming. Maori attitudes and activities have been reflected where appropriate, both socially and historically, through drama, special interest programmes, entertainment, documentaries, news, current affairs, sport and children's programmes."³ He spoke of the establishment of *Koha* in 1980 and *Te Karere* in 1983, of the two language teaching series *Te Reo* and *Korero Mai*, Maori language inserts in *Sesame Street* and other children's programmes, and of the programmes produced by other production departments — drama, documentary and entertainment—which have had an emphasis on Maori history and values, including programmes in production at that time. Television New Zealand also provided financial and resource assistance to Te Waiora o Aotearoa for the production and broadcast of four programmes designed to promote Maori health and well-being.

21. Nevertheless Mr Martin admitted that Television New Zealand's Maori programming in both English and Maori constituted at best two hours per week over both channels and he acknowledged that this was not sufficient.

22. In 1985, we were told, Television New Zealand had recommended the establishment of a Maori Production Unit to its Board. This recommendation was the outcome of a committee established to ascertain and recommend an overall philosophy and direction for Maori programming. The Committee's final recommendations to the Board were:

- "1. That a Maori Unit be established within Television New Zealand for the production of programmes aimed at the following three audiences:
 - (a) Maoris who are not fluent users of the Maori language.
 - (b) Maoris and non-Maoris who are interested in Maoritanga including the language.
 - (c) Persons who are fluent users of the language.
2. That a Head of that Unit be appointed acting through the Head of General and Special Interest Programmes to the Controller of Programme Production.
3. That a recruitment scheme be instituted to meet the needs of the Unit and to identify Maoris for employment in other areas of Television New Zealand.

4. That close and continuous liaison be established with the Maori Affairs Department, and other institutions, to assist with recruitment.

5. That with the approval of the Head of the proposed Unit, a plan for training be put into place.

6. That the Unit be responsible for ongoing training in the pronunciation of the Maori language."

23. The Unit was eventually established as a full production Unit rather than part of General and Special Interest Programmes and the new head of the Department, Mr E. Leonard, was appointed in January 1986. It is notable that Mr Leonard's appointment was not without some controversy particularly as the position had been advertised as requiring a bi-lingual component.

24. He appeared before us in February 1986 and gave us evidence on the immediate and short-term priorities of his new Department as he had identified them. The first was the immediate training of staff, which is of course a glaring inadequacy, and to this end he proposed some "fast track" courses for mature and fluently bi-lingual people as well as the placing of others on longer-term courses which included camera work, direction, scripting and editing as well as journalism. Mr Leonard also proposed to carry out a national survey in conjunction with the Maori Affairs Department to ascertain the programme needs of Maori people. This gives rise to some scepticism as to how other groups have purported to be expressing Maori aspirations and claims to be authorised to make quite specific demands if, as Mr Leonard suggested, these have never been identified. We have not received further evidence on the results of such a survey.

25. Mr Leonard hoped that his Department would be able to have programmes going to air by April 1987. He told us that his Department would be taking a two-fold approach to the scheduling of such programmes. Some Maori programming which would appeal to a general audience would be scheduled in peak viewing time. "Narrowcast" programmes would be scheduled in off-peak times. The Maori programming Department did not feel that it alone would have a lien on the production of Maori programmes and anticipated liaising with other production departments who wished to place a Maori perspective on their programmes. Mr Martin had also raised the possibility with us of the Corporation's acquiring such programmes from independent producers. This last suggestion seems to us inevitable.

26. We are concerned that no Corporation witnesses were able to give us evidence on the financial commitment the Board has made in respect of this Department. Many witnesses who appeared before us were critical of the new Department, claiming that neither it, nor its newly appointed Head, possessed the mana which the objectives and statements of the Corporation in respect of this new Department would warrant. Mr Martin and Mr Mounter told us that Television New Zealand was preparing to appoint an adviser to the Head of the Department and that they would consult with the Maori community on this.

27. In June 1986 Mr Mounter, the new Director-General of Television New Zealand, appeared before us again and described further steps taken by his Service, in respect of Maori programming and ensuring a Maori perspective on screen. Television New Zealand had prescribed that there was to be a Maori presenter on the main news programmes and that most programmes should have a Maori perspective on screen. Mr Mounter described programmes which had been planned for production, including the broadcasting of archival material contributed by tribal elders, the extension of *Koha* and the giving of more time to *Te Karere*, and the production of a bi-lingual current affairs programme.

28. We were also given evidence of recent personnel directions to reinforce affirmative action policies in situations where all other qualifications of applicants were equal. Mr Rennie told us that filling vacancies in Television New Zealand which required bi-lingual and bi-cultural attributes had been difficult given the small pool of available people with broadcasting experience. It was clear, he said, that the way to make the most rapid progress was to train people within the organisation.

29. Mr Martin submitted that Television New Zealand employed Maori people over a wide spectrum of occupations although he noted that detailed numbers were not available because records were not kept on ethnic origins of staff. He was able to tell us, however, that Television New Zealand employed, at that time, eleven Maori-speaking journalists (mainly in *Te Karere*) and six Maori producers. Television New Zealand he continued was working to develop young Maori journalists through *Koha*. There were also two Maori Affairs Department recruits working as production attachments and two additional production attachments on staff. The Corporation also noted that there was a relatively high number of Maori and Polynesian presenters included in programmes produced by the Children's and Young People's Department.

RADIO NEW ZEALAND

30. The Director-General of Radio New Zealand assured us that public radio had "always been conscious of its statutory obligations towards the Maori and Pacific Island segment of its listeners—although it may not have fulfilled their needs to the extent and in the way that some contemporary thinking now demands".⁴ We had been advised by the Corporation in its original submission that the provision of extended radio services for the Maori population was a Corporation priority.

31. The past decade has been one of slow movement in this respect. Mr Robert Mahuta, Director of Maori Studies at Waikato University, described progress as that of "glacial rapidity."⁵ The reasons for slow growth were rationalised to us as partly financial as well as being affected by changes in policy on the part of successive governments, and the limits to which Radio New Zealand has been able to successfully recruit appropriate personnel. Ms Wakem admitted that there was a "gross under-representation"⁶ of both Maori and Pacific Islanders on Radio New Zealand's staff. The early high turnover rate in

respect of Maori trainees and the limited success experienced with early affirmative action recruitment had been lowered, we were told, as a result of steps taken within Radio New Zealand to promote awareness of cultural sensitivities including the introduction of a mentoring system for bi-cultural recruits.

32. Much of Radio New Zealand's output of programmes which build on and explore Maori culture and concerns is produced by Te Reo o Aotearoa which was established in 1978 and now operates with a staff of eleven. Te Reo is, in essence, a truncated version of the Radio Polynesia recommended in the 1973 Adam Report, *The Broadcasting Future for New Zealand*.

33. Te Reo's brief is to "provide news and information of special interest to Maori and Pacific Island listeners,"⁷ and it provides news bulletins in Maori, Samoan, Cook Island Maori, Niuean, Tongan and Tokelauan, as well as magazine programmes in English and the Pacific Island languages. Te Reo's output is broadcast on the National Programme (approximately 7.5 hours per week) and the Corporation told us that broadcasting such programmes on commercial stations "would not meet the identified interests and understanding of the mass of the audience."⁸ Te Reo has also been involved in a number of short-term authorisations.

34. We were told that listeners to the programmes produced by Te Reo are those who are attuned to the "nuances of culture" and that the output of Te Reo is, "in a real sense, analogous to the tone and tenor of the Concert Programme".⁹ Many Corporation witnesses stressed that Maori listeners and viewers listen to and watch mainstream programming. A report produced for Radio New Zealand by Robyn Leeming of Massey University's Sociology Department indicated that Maori listening patterns closely paralleled that of the wider audience and that approximately 80 percent of the population tuned to commercial popular radio.

35. The challenge identified by Ms Wakem was the provision of a "more popular path for young people to approach the taonga of their people. How to achieve that in terms acceptable to Maoridom is one challenge, the other, how to make it possible on our community radio stations."¹⁰

36. The Board of the Corporation agreed, in October 1984, to a range of future priorities in respect of Maori and Pacific Island programming:

- "1. The establishment of 1YB in Auckland as a Maori/Pacific Island/Access station, with the emphasis to be on Maori content. Links would be established with 2YB in Wellington, or further elements of Maori programming would be initiated on 2YB, such as a Maori breakfast session.
2. The establishment of a new post of Maori Affairs Reporter at Radio New Zealand Head Office News, with other Maori Affairs posts to follow.

3. The establishment of regular Maori news bulletins in English on commercial stations and regular bulletins in English on the National Programme.
4. The provision of Maori Language Week type of capsules for commercial stations to be played throughout the year (not just in Maori Language Week).
5. The extension of Community Notice Board facilities on commercial stations to include notices of hui, tangi and other events of interest to Maoris.
6. The provision of 60-second information commercials with revenue potential on Maori history, culture and personalities in collaboration with the Departments of Maori Affairs and Education.
7. The promotion of modern Maori music and musicians on commercial stations.
8. The adoption of a mentoring scheme for Maori recruits specifically directed at maintaining their bi-cultural differences until they reach positions of influence in Radio New Zealand, which would enable them to affect the prevailing culture.
9. Encouragement of pakeha staff to become bi-cultural and bi-lingual, with Maori modules in all suitable courses and facilitation of outside studies.
10. The encouragement of a mental orientation, in all Radio New Zealand decision makers, towards consideration of the Maori point of view in any project. This consideration is to be fundamental, not token, and to take place in such a way and with sufficient time so that a Maori influence can be exerted on the final decision or programme."

37. We were given evidence that steps had been taken to meet these priorities. For example, Radio New Zealand commercial stations in Gisborne, Tokoroa, Whangarei, Tauranga and Greymouth broadcast regular Maori news bulletins. Further bulletins are broadcast on National Programme breakouts in Invercargill, Napier and Whangarei. Radio New Zealand's policy is that all stations in areas with 10 percent or more Maori population should work towards a weekly Maori news bulletin in English. Community stations are encouraged to broadcast notices of hui and tangi and information of interest to the Maori community. Mr Rennie told us that the Board receives a monthly report on the coverage of Maori news and current affairs by Radio New Zealand stations. The policies adopted by Radio New Zealand in respect of Maori programming also included a policy in respect of the recruitment and training of bi-lingual personnel.

38. On 23 and 27 August 1985, Mr Dunlop, the Head of Planning and Development for Radio New Zealand, gave us impressive if faintly pessimistic evidence on the Corporation's policy to support the establishment of separate Maori broadcasting stations and noted that Radio New Zealand's commitment to that policy had preceded the

Minister's Direction of 14 August 1985 which required the Corporation to "establish broadcasting stations or provide transmission facilities for the holders of sound radio programme warrants to broadcast Maori programmes".

39. Mr Dunlop's evidence concentrated on the financial aspects of such a network and he noted the constraints which he attributed to a declining licence fee revenue. He described a reluctance to increase the asset base unless a positive financial return could be guaranteed in order to meet the Corporation's objective of 10 percent return on the historical cost of assets. For that reason the Corporation proposed that such a network should have some commercial content, possibly with a music-based format to complement the special interest Te Reo programme strand. The Corporation proposed a network of stations covering Auckland, Wellington and Christchurch with synchronous extension to the Bay of Plenty.

40. In March 1985 the Corporation had approved further proposals with an emphasis on a policy of "sponsor funding" by which Maori interests would be encouraged to apply for programme warrants and provide sponsor fees for the use of BCNZ transmission and studio facilities. Radio New Zealand would continue to develop its responsibilities in mainstream programming to represent Maori cultural values.

41. We note, however, in a remarkable if commendable change in stance, the inhibitions so graphically outlined to us by Mr Dunlop appear to have been cast aside when, at the end of July 1986, the Board of the Corporation accepted guidelines for the establishment of a Maori Radio Network "as a matter of the highest importance and priority in the discharging of its public service broadcasting obligations". The Corporation noted that such a network should be a Government-funded social service, with some limited commercial contribution, and that such government funding should be in the form of an initial capital grant with annual operating funds being derived from an increase in the licence fee. However the Board also resolved that, should this not be forthcoming, the Network would still proceed and a consequent reordering of the Corporation's public service broadcasting priorities would be required. An advisory committee, to be known as a Board, was to administer the Network.

42. Much of the evidence given to us by Radio New Zealand had been pointing in the direction of a Maori Network and we were encouraged to have seen firm announcements made. We understand that final details are yet to be decided and it appears that the availability of suitable frequencies may still be imposed as a condition precedent. We understand that the Corporation wishes to use 603 kHz for 1YB in Auckland (with an extension to the Bay of Plenty) and 2YB in Wellington, and possibly 3ZM in the South Island if the ZM-FM application there is successful. (Access Radio, which is presently broadcast on 2YB, would be moved to the 2ZM frequency).

43. Mr Dunlop had told us that the programme objectives for a Maori Network had been kept to broad principles and management proposals had also been kept to a minimum level of detail. Radio New Zealand, he told us, was attempting to provide the facilities in a way that would enable Maori interests to shape the form. He emphasised, early in our hearings, that final decisions on the format of the stations should be in the hands of those who run those stations.

44. Ms Wakem correctly noted that important distinctions between tribal hapu need to be reflected in Maori radio services and raised the possibility of the development of individual stations based on tribal groupings. The Corporation also anticipated using the YC-AM network to meet local special interest needs.

45. The importance of training was again stressed and Mr Dunlop indicated that a three-month training period and a three-month period of experience on existing stations would produce a full complement of staff capable of launching such a network and that existing Maori staff within Radio New Zealand would also be possible participants in such a training venture.

SUMMARY OF SUBMISSIONS BY THIRD CHANNEL APPLICANTS

46. Those applicants who are applying for all four regional warrants have made statements in their submissions to this Commission and in their applications to the Broadcasting Tribunal regarding the place of Maori programming in their programming philosophies and their programme schedules. Many of the arguments which have been put to the Broadcasting Tribunal and to us appear to have arisen partly as a result of the application made by Aotearoa Broadcasting System and the catalytic effect of that application on the attitudes of other applicants.

47. Much of the material we received and many of the arguments put to us by the applicants and others on these terms of reference were a rehearsal of arguments that had been or were being put to the Tribunal. We were at pains to point out during our hearings that this Commission has no jurisdiction in respect of the third channel warrant and cannot make recommendations in respect of the awarding of that warrant. Nor can we direct the Tribunal in respect of the application of specific warrant conditions.

48. Southern Cross Television placed emphasis on awareness and dialogue in the establishment of priorities in respect of Maori broadcasting and on narrowcasting as a starting point to meeting the needs of the Maori community, while stating that the obligation to meet these needs is properly that of a public service broadcaster who receives public funds. Southern Cross felt that the New Zealand audience was generally well served by Television New Zealand at present in respect of programmes on Maori affairs. Southern Cross's submission and evidence to the Tribunal also advocated an industry-wide approach (in conjunction with the Maori community and possibly the Maori Affairs Department) to the issue of training.

49. The United Telecast Corporation (UTC), a Southern Cross affiliate applying for the warrant for Region 2, also emphasised the provision of a Maori perspective, awareness of Maori values and dialogue with the Maori community. UTC has adopted an employment policy with an aim of employing 15 percent of its staff from within the Maori community. As UTC will be networked with Southern Cross its programme slots for Maori programmes will be the same as those for Southern Cross.

50. The Televid Group (TV3) is opposed to what it identified as a policy of "ghetto programming" and "separatism" in respect of Maori programming, advocating instead 'mainstreaming', meaning that all locally produced programmes should reflect New Zealand's multi-cultural identity. Multi-cultural programming they said "will best flourish when it is treated as an integral and dynamic element in the local programming mix."¹¹ The key to this, they said, was the employment of competent multi-cultural staff at all levels, but without any regulations being imposed as to staff quotas or programme requirements.

51. Energy Source Television (ESTV) submitted that it is a responsibility of New Zealand television, including the third channel, to give proper recognition to the culture and values of the Maori people as the tangata whenua of Aotearoa and to work with the Maori people in reviving the Maori language and culture. Mr Mahuta, appearing for ESTV, submitted that there has been inadequate provision for Maori interests on television to date. ESTV promised that Maori interests will be recognised both in general programming and in programmes with a specifically Maori interest. Their programme schedule submitted to the Tribunal sets aside 15 minutes on a Sunday evening (at 6.00 pm) for "The Maori Dimension" followed by a further 15 minutes of "Multi-cultural New Zealand".

52. Independent Television told us that public and private broadcasters have a duty to cater for the needs of the Maori community. ITV has proposed that there be a Maori production Unit, separate from Television New Zealand and ITV if it should be awarded the third channel warrant, but established by Television New Zealand in terms of plant and equipment. ITV proposed paying an initial grant to Television New Zealand as reimbursement for part of the establishment costs, plus an annual levy to reimburse Television New Zealand for revenue loss incurred in "narrowcasting" programmes on one of the existing Television New Zealand channels to meet the needs of the Maori community in fulfilment of its public broadcasting responsibilities. The Unit will operate *in addition* to ITV's own Maori production Unit and the new Unit established by Television New Zealand. ITV sees this proposed tri-partite production of Maori programmes as providing opportunities for the development of skills and talents of Maori journalists and broadcasters, as well as expanding outlets for such expertise.

53. The Corporation would thus, it was contended, be able to meet its responsibilities to the Maori people, with the cost borne equitably by the whole television service. The wider coverage of Television New

Zealand's channels would mean that such programmes will reach a wider audience including remote communities. ITV also proposed establishing a Maori Unit to produce Maori programmes for broadcast on its own channel and other programmes for inclusion in ITV's general schedule and for the commissioning-in process to include work from independent Maori film-makers. ITV has indicated its willingness to accept Maori programming requirements and its support of an independent Maori Production Unit as a condition of its warrant. We have also noted recent moves made by ITV to accommodate a programme warrant for Maori broadcasting and note that, although the Tribunal has denied leave to amend the application, this does not mean such an arrangement could not be made after the awarding of warrants.

54. Aotearoa Broadcasting System was established by the New Zealand Maori Council to apply for the third channel warrant. ABS believed that a public resource such as the third television channel should not be licensed for private gain before the aims and objectives of all sections of the community had been met. ABS's application, and its criticisms of other applicants' proposals and the Corporation's programming, were based on the principles of equity and autonomy. The Maori claim for much greater recognition in and influence over radio and television in Aotearoa is based on three things:

1. The obligations of the Crown under the Treaty of Waitangi in respect of taonga Maori.
2. The responsibilities of broadcasters in this country under the Broadcasting Act 1976.
3. The cultural requirements of both tangata whenua and manuhiri.

55. Maori people and their culture, ABS contended in its submission to us, have been and are being treated unfairly by the broadcasting authorities. The Act makes certain requirements in respect of a New Zealand identity. Professor Winiata told us that ABS believed that a "New Zealand identity consists of all the characteristics of this country which together make it distinguishable from other countries and communities and which gives it its individuality. . . [one] element which distinguishes the New Zealand population from others is its Maori component, both in people and in culture".¹² ABS required, therefore, that broadcasters ensure that the Maori component is given appropriate prominence in programming, otherwise New Zealand's identity will not be reflected or maintained. Professor Winiata felt, however, that it was improbable that the present institutional and organisational arrangements for broadcasting could meet those requirements and that was the reason for the ABS application for the third channel warrant.

56. In its original application to the Tribunal ABS proposed a channel which would be bi-lingual and bi-cultural with 35 percent Maori language content. One-third of the content would be purchased from outside New Zealand, and half of the local content would focus on Maori topics, some of which would be of general interest. As we have noted ABS sought leave to amend its application to a programme warrant application and ITV indicated that it was prepared to accommodate such a programme

warrant. That proposal involved the broadcasting of programmes produced by ABS for a total of seven hours and thirty-five minutes per week in the first year, eight hours and forty-five minutes in the second year and ten hours in subsequent years.

MAORI BROADCASTERS ASSOCIATION

57. Various members of the Maori Broadcasters Association spoke to us in support of the Association's submission and in support of the ABS submission to us and its application to the Tribunal. Their concerns covered both the philosophical and practical aspects of Maori broadcasting and, as with ABS, the basis of their submission was equity and autonomy. The broadcasting system in New Zealand is, they submitted, mono-cultural both in its structure and its output, noting that there was little on television or radio to suggest that this country had a non-European population and an indigenous culture.

58. Television and radio have a positive role to play in raising the level of consciousness of both Maori and non-Maori in respect of Maori culture. The purpose of this for Maori and non-Maori differs. For Maori the aim is the re-establishment and reinforcement of an understanding of their own culture and identity and the self-esteem which springs from this. For non-Maori it is to encourage understanding of Maori culture and to see this as an integral part of New Zealand society.

59. Members of the MBA pointed to the lack of adequate funding for training and production; to the small amount of time allocated to the broadcast of programmes for and about Maori; and to the inappropriate scheduling of the little that is broadcast. Mr Fox suggested that bilingual and bi-cultural people who were successful in other professions could be trained for radio and television journalism and programme production. Suggestions were made as to the sorts of programmes that could be made to reflect aspects of Maori culture to both Maori and non-Maori.

60. The role of television and radio in respect of Maori people in a wider sense was also investigated—the lack of positive images of Maori people in local drama and in advertising for example, the need for educational programmes which may assist the large number of Maori people who have little formal education.

61. If ABS was not successful in its third channel application Mr Fox felt that there had to be some organisation which was responsible for making Maori programmes or Maori-oriented programmes for all three channels.

NEW ZEALAND FILM COMMISSION

62. The New Zealand Film Commission placed before the Royal Commission a proposal which was developed following discussions with Maori elders for the establishment of a New Zealand Maori Broadcasting Commission. The proposal was introduced to the Commission as a possible alternative in the event of Aotearoa Broadcasting System not being awarded the third channel warrant. The Film Commission

stressed, however, that this proposal required further exploration and definition by the Maori community.

63. The Film Commission identified four basic principles in respect of Maori broadcasting and the development of such a Commission:

- "1. That there has been a denial in broadcasting generally of an appropriate position for the Maori elements of New Zealand society.
2. That has applied to all aspects, be it employment, representation of Maori culture, representation of Maori interests within the general New Zealand context.
3. Maori control of the means/power is essential.
4. The result will be an enriching of New Zealand broadcasting for the benefit of all the people."

64. Mr Rennie of the Corporation accepted these principles stating that they were in line with the Corporation's current thinking in this area and that the principle of Maori control "has to be observed for us to make progress".¹³

65. The Maori Broadcasting Commission proposed by the Film Commission would not be a production unit; rather it would act as a "facilitator", a conduit for Maori programming and programmers. Programme production would still be the realm of radio and television (both Corporation and private in the case of television) and independent programme makers.

66. The function of the MBC, especially in respect of television, would be to determine objectives, co-ordinate and negotiate with channels on the placement of programmes, commissioning of such programmes where appropriate, including assisting in the development and financing, and recruitment of personnel, as well as having an overall function of 'quality control'. The Commission should also be able to refer matters to the Broadcasting Tribunal or its equivalent in the event of disagreement when channels did not fulfil their obligations. The role played by a Commission of this nature was premised on there being a statutory requirement for broadcasters to broadcast a required amount of Maori material.

67. The Film Commission proposal also outlined the structure of such a Commission which would be based on an "efficient administrative unit" and a "traditionally based policy council", with funding by government grant and a levy on warrant-holders.

REVIEW

68. We have listened carefully and at length to the many arguments put to us in respect of Maori programming on radio and television and the recruitment of bi-lingual staff for the production of programmes. We recognised the critical importance of the Maori language within the general case for recognition of things Maori. We had seen in Canada the way in which French was treated for it is the major language of two-fifths of the Canadian population, and how the problems of the Inuit in the

north were dealt with. We made arrangements to go to Wales to see how not only the BBC but the Welsh 4th Channel were grappling with a parallel problem with respect to Welsh. We have paid particular attention to the Irish provisions for the preservation of Erse which again deals with provision, principally on radio, for a language still spoken particularly in the far west of Eire and which has been the subject of governmental concern since the founding of the Republic.

69. The principles underlying the claims for Maori access to the broadcast media are, as we have said, equity and autonomy. We have carefully considered the decision of the Waitangi Tribunal and there is no doubt that it reflects and distills Maori aspirations since the signing of the Treaty. We find it a reasoned and powerful argument with many ramifications in respect of broadcasting. The Waitangi Tribunal has emphasised the fact that linguistic continuity is essential and that the lack of input by broadcast media has contributed to the deterioration of the language. Indeed, that the Maori language, with its essentially oral tradition, has survived colonisation, urban migration and past educational policies and economic forces is in itself a tribute to the tenacity of the Maori race in New Zealand and the durability of the language itself.

70. The Tribunal also found that the BCNZ has statutory obligations in this respect and that the Minister of Broadcasting has contractual obligations under the Treaty of Waitangi Act. The Tribunal, in its Recommendations, recommended to the Minister of Broadcasting that in the formulation of broadcasting policy regard be had to the Tribunal's Finding that the Treaty of Waitangi obliges the Crown to recognise and protect the Maori language and that section 20 of the Broadcasting Act 1976 enables this to be done so far as broadcasting is concerned.

71. Aotearoa Broadcasting System told us that the Treaty of Waitangi and the Broadcasting Act 1976, taken together or separately, are irrefutable statements on the responsibilities of public broadcasting to the Maori people and to the gifts which they have to offer to New Zealand. We also note that the evidence given to us by the Corporation and the third channel applicants indicates an acceptance of the justice of and the need for bi-lingual and bi-cultural broadcasting for Maori people, and for New Zealanders generally as part of that process of establishing a New Zealand identity on radio and television. There is no doubt in our minds as to the validity of the demands for a greater share of the resources of broadcasting and the benefits of bi-culturalism.

72. The sub-committee established by the Board of the Corporation to report on Maori programming within Television New Zealand identified a number of reasons behind the requests for more television time and they sum up well those arguments put to us. We note them here for they are compelling reasons:

- "1. Common equity.
2. The promotion of the Maori language.
3. The perpetuation of Maori insights and values.

4. The enhancement of self-esteem and confidence among young Maori.
5. The visible expression of multi-culturalism.
6. The unification of Maori aspirations on a national scale.
7. The exposure of positive role models to encourage emulation by the Maori young.
8. The acknowledgment by a perceived Pakeha institution that Maoridom is of account."

73. Perhaps it could be said that all New Zealanders should consider themselves as trustees of a distinctive living culture unique to New Zealand. It may well be that many would exercise that trust simply by not erecting barriers for others who are actively inclined to participate and contribute to the rehabilitation of the Maori language which is the fundamental base for the wider concept of the Maori culture.

74. We have discussed at length at terms of reference 2(f), 2(g), 2(h) and 2(i) the benefits of New Zealand content on television and radio. It seems to us that programmes cannot legitimately reflect and develop a New Zealand identity without incorporating Maori concepts.

75. The evidence that came forward about how the Maori language was to feature in programmes had two subquestions with respect to both radio and television.

76. There was the question of how far programmes should be entirely in Maori, how far programmes should have both languages present in them in some combination and how far problems about Maori concerns should be broadcast on Maori television series and Maori television services and how Maori radio stations would balance those three types of programmes.

77. The second major question raised is the degree to which Maori radio stations would rely on other types of programming in which Maori music and Maori musicians would carry the cultural message and how far completely typical commercial and community programming should appear. The same kind of considerations raise themselves in respect of television.

78. Questions of television and the proportion of time which should be given over for the perpetuation of the Maori language are not simple ones. Three models were put to us. The first was that all three channels should develop a spread of programming, that Maori programmes should appear along with other programmes, some of them specifically aimed at Maori speaking audiences, some of them in peak-time and some of them in off-peak time. Essentially this model offers a 'mainstream' alternative. It involves all three channels working with their own production units with three kinds of audiences in mind—fluent Maori speakers, non-fluent Maori speakers and those interested in Maoritanga, and the general audience.

79. The second model addresses the demand which says that no institution can deal with this that is not a Maori institution and that production should be carried on outside all three channels, none of

which fits the description of a Maori institution. It is a statement of faith that such programmes would be accepted by the viewing public. There is also the danger of 'ghetto-isation' of such a production unit and the programming it produces. This model encompasses to a certain extent the changed situation in respect of the ABS application and that organisation's relationship with the BCNZ and ITV.

80. The third model, which encompasses the original Aotearoa application, is that one channel should carry the burden of Maori programming, especially at peak time, and be compensated by the others for loss of advertising revenue.

81. Many witnesses noted the problems of 'ghetto-isation' of programmes identified as 'minority interest' by audiences, advertisers and programmes. For this reason we would wish to see that tag avoided in respect of Maori programming. To identify particular programmes as targeted only at a certain audience or section of the viewing and listening public is to discourage other sections of the general audience from watching or listening. We note, for example, that some witnesses did not regard *Koha* as a Maori programme. That may be so if we define Maori programming narrowly. We do not wish to do that. If one of the aims of expanding Maori programming is to reflect Maori values and culture to a predominantly Pakeha audience in the interests of bi-culturalism, and we believe this should be such an aim, then programmes such as *Koha* have a valuable place.

CONCLUSIONS

82. It is our belief that matters relating to Maoris, including Maori broadcasting, should ideally occupy an unselfconscious and integral part of mainstream broadcasting in New Zealand. In respect of television we look to a production unit within the BCNZ and another within the third channel to provide programming. However this should not preclude the use of independent production houses or the contribution of finance by warrant holders to an autonomous production unit to assist with supporting the proper balance of Maori programming. Nor should it preclude the possibility of an allocation of time on the three channels to a programme warrant holder if such an arrangement were deemed desirable.

83. Artificial stimulants are properly anathema to this type of transmission. Quotas should be irrelevant. Specific hours allocated to Maori broadcasting would inevitably signal self-consciousness. However, to achieve the ideal requires, initially at least, some kind of affirmative action. The public service organisation has made slow progress indeed in translating good intentions into practical programming and, even after 25 years, little progress has been made.

84. Witnesses spoke of a need for a wide variety of programmes which build on and explore Maori interests and we concur. Some programmes will be specifically targeted at fluent speakers of Maori, some at those interested in Maoritanga, and some at a wider audience.

85. We have suggested at 2(i) that there should be a points system for local production and we have also indicated that we believe that Maori programming should be given high points as an encouragement to warrant holders. We would hope that they would do so voluntarily. We are reluctant to suggest that a minimum requirement be included in the regulations but would suggest here that the Broadcasting Tribunal indicate a guideline of appropriate hours per annum over all times of the day and all weeks of the year. Should such a guideline not be reached voluntarily then we see a need for a formal minimum requirement to be included in the points system.

86. In respect of radio our term of reference 6(d) refers to the role of a Maori and Pacific Island radio station. We do not believe the two cultures should be treated one as an extension of the other. The announcement made by Radio New Zealand in respect of a Maori network is to be commended in this respect. The immediate implementation should follow. We would also expect that Te Reo o Aotearoa will continue to provide a source of programmes for the National Programme and community stations and that the new Network will also provide programmes for broadcast on Radio New Zealand community stations throughout the country. Further relays of the Maori network should be kept in mind for the future. Such relays should be balanced with tribal or regional initiatives in respect of mini-stations. Such mini-stations should be in Maori hands but we look to a time when the BCNZ will assist with the presentation of such cases to the Tribunal and we hope that the Tribunal will take note of this policy.

87. Throughout we have assumed, indeed like the evidence put to us, that advertising would be combined with Maori stations' programme makeup as a normal element in New Zealand broadcasting. We also assumed that these programmes, whether radio or television, were expected to appeal right across the spectrum of language skills among Maori people as well as to have an appeal outside to the population in general. Therefore Maori broadcasters would be testing as they went for the right balance between types of programmes rather than being able to assert before the event what the answer to those difficult questions might prove to be.

88. It has become clear to us that one of the central issues and immediate problems is that of recruitment and training. Nevertheless the standards that are applied to Maori journalism should not be different from those which are applied to journalism generally. We would be concerned if the appointment of Maori personnel was seen only in terms of relevance to Maori programming. Maori recruits should be considered for all positions within the Corporation and the third channel rather than being gathered into single areas of production. Furthermore the benefits to be gained from bi-cultural staff, in terms of reorientation of attitudes of Pakeha staff, can best be achieved if Maori staff are part of the 'mainstream' as well as having a role in Maori production areas.

89. An important consideration in our view is the potential international market for this unique type of programme. The success of

the Te Maori Exhibition would seem to support this. We questioned various experienced programmers and producers on this specific issue and they were all in positive agreement that this could be the case.

90. The Finding of the Waitangi Tribunal relating to Te Reo Maori and a claim lodged by Huirangi Waikerepuru and Nga Kaiwhakapumau i Te Reo Incorporated Society, at pages thirty-four to thirty-seven, paragraphs 5.1 to 5.12, sets out what could be described as the standard objections to the recognition of Te Reo Maori as an official language of New Zealand. We feel that there is a clear analogy between those particular arguments and those relating to Maori broadcasting and we would respectfully adopt, where appropriate and relevant, the reasoning of the Tribunal.

91. There is, of course, another argument which relates to programming and the difficulties in the commercial plus licence fee mixed type of broadcasting system which we have, but we are confident that New Zealand possesses programmers highly skilled in their field and we do not see this as an insurmountable problem.

RECOMMENDATIONS

1. That programmes which build on and explore Maori culture and interests should be part of the mainstream broadcasting on all television channels in this country, but with special emphasis on the responsibilities of the public broadcasting system.
2. That we support the establishment of a Maori Language Commission as recommended by the Waitangi Tribunal with the right, *inter alia*, to advise the Minister of Broadcasting to the extent its jurisdiction impinges on areas regarding broadcasting.
3. That as a function of public service broadcasting, Maori programming on radio and television is entitled to security of funding. No one would suggest an open cheque situation but there may be a need for an initial disproportionate allocation to redress previous neglect.
4. That a Maori Advisory Board should be established in respect of the Corporation and private warrant holders, with standing before the Tribunal if statutory failure by warrant holders in respect of Maori programming is ascertained. We would envisage this Board having an advisory, qualitative and critical role.
5. That independent production in respect of Maori programming should be encouraged.
6. That if quality and volume are not achieved some form of specific minimum requirement should be imposed at the end of, say, three years.
7. That relatively high points should be allocated to Maori programming under the points system recommended at 2(i).
8. That there should be accelerated training programmes on an industry-wide basis to support positive staffing policies for Maori

broadcasters, journalists and production personnel. Employment 'credit' should be given for bi-lingualism and bi-cultural backgrounds.

9. That training programmes should be instituted within broadcasting organisations for bi-cultural education.
10. That accurate and precise standards of pronunciation should apply in using the Maori language.
11. That existing programmes which are intended to develop and illustrate the Maori contribution to this society should be continued and enhanced.
12. That Radio New Zealand's proposals in respect of the Maori Radio Network should be implemented immediately.
13. That any future developments should not be at the expense of existing programmes which perform specific functions.
14. That the production of cassettes and videos for the promotion of the language be encouraged.
15. That the extension of access radio be supported and we note here the considerable potential for access television.

"6(a) The extent to which programmes build on and explore—

(ii) The past and present of the Pacific Islands and the cultures and current concerns of Pacific Islanders;"

"6(b) The recruitment and training of staff fluent in the relevant languages;"

"6(c) The recruitment and training of the other staff needed to produce and broadcast programmes of interest to each cultural group, including those required for technical positions as well as those required for production and programme positions;"

"6(d) The role of a Maori and Pacific Island commercial radio station not only as a broadcasting station but also as a production centre for programmes to be broadcast from other broadcasting stations;"

92. Under term of reference 6(a)(i) and those parts of 6(b), 6(c) and 6(d) which related to Maori broadcasting we were required to consider the place of bi-culturalism in broadcasting. Under terms of reference 6(a)(ii) and 6(a)(iii) we have been asked to consider the next step in respect of minority cultures in New Zealand and assess the place of multi-culturalism in radio and television, not only in respect of those sections of our community which come from the Pacific Island nations, but also those whose cultural backgrounds lie in Continental European and Asian countries.

93. We would stress here that we believe the logical progression to multi-culturalism on television and radio is through bi-culturalism and recognition of the rights of the tangata whenua. Indeed the majority of submissions made to us by and on behalf of representatives of non-

Maori minority groups stressed that they would not wish to see their interests met at the expense of the Maori people.

94. Dr Ho, of the Auckland Chinese Community Centre, submitted to us that the aim of multi-culturalism is "to endeavour to preserve ethnic cultural heritage and enhance self esteem among society's composite ethnic groups, enabling each to happily and confidently contribute to building a harmonious, prosperous, creative society."¹ The Office of the Race Relations Conciliator used the term "unity in diversity" relating to the development of strong individual cultures within society as a whole. As with Maori programming, broadcasting has a positive role to play in "the achievement of a workable society that will accept and benefit from the many cultures that form our society".²

BROADCASTING CORPORATION OF NEW ZEALAND

95. Pacific Island content on Radio New Zealand stations comes mainly from Te Reo o Aotearoa, and is broadcast almost exclusively on the National Programme. Te Reo provides news bulletins in Samoan, Cook Islands Maori, Niuean, Tongan and Tokelauan, as well as magazine programmes in the Pacific Island languages. Ms Wakem, the Director-General of Radio New Zealand, contended that Pacific Island people are attentive listeners to the vernacular programmes broadcast by Te Reo. Radio New Zealand also despatches weekly fifteen-minute 'news letters' in the Cook Island, Tongan, Samoan and Niuean vernaculars to their respective countries. Some community stations also initiate programmes of their own which are of particular interest to the Pacific Island people in their communities.

96. Proposals approved by the Board of the Corporation in March 1985 included the development of Polynesian/Access Radio as an extension of the present 2YB Access Radio station in Wellington on the 1ZM and 2ZM (AM) frequencies in Auckland and Wellington. Radio New Zealand proposed that these should be sponsor-funded with programme warrants being held by those using the frequencies. 2YB Access provides opportunities for Pacific Island communities to make and broadcast programmes. We support the Corporation's intention to extend Access to Auckland where there is a large Pacific Island population. It is also envisaged by Radio New Zealand that time will be available on the YC-AM transmitters after the Concert Programme FM conversion. The YC-AM network will be available to meet special programme needs in addition to Access Radio, in accordance with the Minister of Broadcasting's Direction of 14 August 1985 which stated, *inter alia*, that the YC-AM network should provide "programmes to cater for the interests of cultural and ethnic minorities".

97. The only regular programme that Television New Zealand broadcasts that is directed at the Pacific Island audience is the weekday programme *See Here* which also has a Maori audience in mind. Pacific Island elements are contained from time to time in other programmes such as news and current affairs programmes and documentaries. Television New Zealand was not able to give us any

indication of plans to extend its programming directed at Pacific Island audiences.

98. Radio New Zealand employs staff members in appropriate Pacific Island languages for broadcasting through Te Reo and as casual staff for reading vernacular news bulletins on some community stations. Both Radio New Zealand and Television New Zealand referred to the problems of recruiting and retaining suitable personnel, citing lack of appropriate educational qualifications for trainees and recruits, and problems experienced by Pacific Island recruits in the mono-cultural environment of the BCNZ. We have noted at 6(a)(i) that the Corporation submitted to us that it operates an affirmative action policy in relation to the recruitment of Pacific Island staff members.

PRIVATE WARRANT HOLDERS

99. Of the third channel applicants, only Southern Cross television submitted that ethnic broadcasting was more properly the role of a public broadcasting system. Energy Source Television expressed the need for the third channel warrant holder to address multi-cultural needs and told us that it had appointed an adviser on multi-cultural affairs. Independent Television Limited told us that television warrant holders had an obligation to reflect in a balanced way the multi-cultural nature of New Zealand society by recognising minority interests in the design of programmes. Televid (TV3) contended that mainstream programming was the best way of programming for minority interests.

100. The Independent Broadcasters Association, representing private radio station warrant holders, believed that public service broadcasting was best equipped to address the needs and requirements of multi-cultural programming. The IBA felt that commercial Maori and Pacific Island radio would not be sustainable in a commercial environment.

THE PACIFIC ISLAND COMMUNITY

101. A number of representatives of the Pacific Island community including several members of the Pacific Island Advisory Committee on Broadcasting appeared before us when we held hearings at the Hoani Waititi Marae in Auckland. The submission put to us by the Office of the Race Relations Conciliator dealt also with the issue of programming for and about Pacific Island concerns and culture. Essentially the Pacific Island community did not feel well served by the current broadcasting system and submitted that the needs of their community had not been represented or reflected properly on television or radio. The Office of the Race Relations Conciliator further expressed concern "with the persistent approach of broadcasting authorities to put the emphasis on negative rather than positive matters in regard to Pacific Islanders."³

102. The Pacific Island Advisory Committee on Broadcasting was critical of the Broadcasting Corporation for not fostering an understanding of their cultures in the community at large through educative programming. Members were concerned that the small amount of Pacific Island material, especially on television, reflected to

their young the concept that Pacific Island cultures have little value, as well as taking that same message to the wider audience.

103. However those who made submissions were generally appreciative of the efforts made by Radio New Zealand in respect of programming for various Pacific Island communities and told us that Access Radio in Wellington has proved, in their eyes, to be a valuable medium. They were pleased, therefore, to know that Access Radio would be extended to Auckland although they expressed some concern at possible changes in the funding of Access.

104. They were less content with the amount of television time allocated to them. It was submitted that there were few topical programmes of interests which delved deeply into the heart of Pacific Island affairs. *See Here* was perceived as being a token only and inappropriately scheduled at a time when many of the target audience would be at work.

105. Broadcasting, we were told, has a valuable role to play in developing a New Zealand identity and portraying the place of the Pacific Island community in that national identity. Television and radio can reflect the multi-cultural nature of New Zealand society and assist in the development of a truly multi-cultural nation.

106. Short and long-term goals were identified in respect of multi-culturalism in broadcasting. In the short term it was hoped that there would be an increase in the amount of air-time, especially on television, with programmes shown at realistic times. To this end submissions suggested that:

1. There should be more programmes on both media that reflect the Pacific Island presence in New Zealand.
2. More Pacific Island music should be played on radio.
3. A realistic and sensible time-slot should be allotted on television for a regular programme covering issues and items which are of concern to and which affect Pacific Island people.
4. There should be programmes for young people and children which reflect Pacific Island values and interests and provide positive role models; and Pacific Island languages should be used for specialist educational programmes aimed at Pacific Island residents in New Zealand.

107. It was also suggested that there should be an emphasis on community-based programmes as opposed to studio-based programme making. The long-term goal put to us was that of partnership with the broadcasting authorities and the participation of Pacific Island people in all aspects of broadcasting from policy-making to production, both behind and in front of the camera. A number of suggestions were made which would enable this long-term goal to be met:

1. The institution of a multi-cultural policy and concept in the BCNZ and the recognition of languages other than English.
2. The control and operation of facilities by the people at whom programmes are directed.

3. That research be carried out to ascertain the programme needs of Pacific Island audiences.
4. That concerted efforts be made to recruit and train Pacific Island people in all levels of television and radio.
5. That a Pacific Island representative be appointed to the Board of the BCNZ.

REVIEW

108. The question of how multi-cultural needs, as opposed to bi-cultural needs, should be met within the broadcasting system is a complex one and one which would benefit from a more in-depth discussion in order to establish the specific needs and concerns of minority groups in New Zealand.

109. The overwhelming majority of submissions were critical of what they saw as the BCNZ's failure to reflect Pacific Island cultures and values and supported the desirability of making programmes which would. Concern was expressed that programmes were made or bought on the basis of the dominant cultural values at the expense of minority, sectional and regional interests. We believe that a policy needs to be arrived at and firm commitments made if the Pacific Island cultures are to be catered for in the broadcasting system.

110. Pacific Island perceptions and values should be considered when programming and have their place in the decision-making process as a matter of course. Programmes such as news, drama, children's drama, sports, the arts and culture, documentaries and current affairs should incorporate more Pacific Island contributions from groups here in New Zealand. We would also suggest that there be greater news and current affairs coverage of the South Pacific area.

111. Increased positive portrayal of Pacific Island people in relevant areas of programming will also provide a much delayed opportunity for New Zealanders at large to share in and deepen their understanding of a significant minority culture living in the New Zealand community.

112. At term of reference 2(i) we have recommended a points system for New Zealand content. We would recommend that programmes produced in New Zealand which build on and explore the past and present of the Pacific Islands and the cultures and current concerns of Pacific Islanders should qualify for points as part of that New Zealand content and as contributing to that New Zealand identity we wish to encourage. We would also suggest that programmes which are purchased from production sources in the Pacific Islands and broadcast on New Zealand television either in English or in the vernacular should qualify for points as New Zealand content under the points system.

RECOMMENDATIONS

1. That more time should be made available for a programme on television which builds on and explores the past and present of the Pacific Islands and the cultures and current concerns of

Pacific Islanders, and that appropriate finance should be made available.

2. That in developing programmes about and for Pacific Island peoples there be an awareness of the opportunities for community-based programming.
3. That the Broadcasting Corporation of New Zealand and the warrant holder in respect of the third television channel make a commitment to the recruitment and training of Pacific Island peoples in all areas of broadcasting.
4. That educative and community information programmes in the vernacular should be made to aid non-English speaking peoples in gaining access to information available to the public at large through the media. We believe that radio is the best medium for this.
5. That warrant holders should maintain a close consultative relationship with the Pacific Island Advisory Committee on Broadcasting.
6. That there should be immediate activation of plans to extend access radio to Auckland and to develop the YC-AM network to provide more air-time for Pacific Island interests.

*"6(a) The extent to which programmes build on and explore—
(iii) The cultural links and interests of New Zealanders with
continental European or Asian backgrounds;"*

113. Programmes which build on and explore the cultural links and interests of New Zealanders with backgrounds which are not that of the tangata whenua or of Pacific Island peoples are, in most cases, those which can most properly be described as 'narrowcast'. Narrowcasting to a specific and identifiable audience is an appropriate way to serve special needs.

114. In its original submission to us the Corporation outlined the extent of its programme services which are likely to be of interest to New Zealanders of continental European or Asian backgrounds. News services in both radio and television give considerable attention to events and topics that may have relevance to such sections of the New Zealand community although such programmes are targeted at the wider audience. The criteria for coverage of such overseas events is their news worthiness rather than their potential interest to specific audiences. We note in this context that both the New Zealand Jewish Council and the Palestine Human Rights Campaign expressed dissatisfaction with the Corporation's news and current events coverage of events in the Middle East or events which involved their respective political interests.

115. In respect of Radio New Zealand the most consistent outlet for the widest variety of cultural backgrounds is 2YB Access Radio in Wellington. We will discuss the functions and operation of 2YB in greater depth at term of reference 6(g) but we note that programmes

have been broadcast in 35 different languages since the inception of Access Radio.

116. A brief survey of Access Radio programmes in the *New Zealand Listener* in recent weeks shows programmes produced by and for members of the following cultural communities: Italian, Greek, Dutch, German, Polish, Indian, Papua New Guinean, Cypriot, Spanish, Norwegian, Albanian, Hungarian and Fijian. Radio New Zealand plans to extend Access Radio to 1YB in Auckland and we expect such a facility to further extend the range of programmes available.

117. Radio New Zealand's National Programme has a network programme of special interest to Dutch listeners and provides occasional breakout segments for groups such as Auckland's Dalmatian community.

118. It has been the experience of Television New Zealand, we were told, that programmes which may be of interest to specific minority cultural groups within the community must also have an appeal for the general audience. There has been, for example, a *World Cinema* series, as well as documentaries, entertainment programmes and some arts programmes.

119. The Office of the Race Relations Conciliator submitted that there was little minority ethnic content on television. The Office, and others from whom we received submissions, raised the possibility of access to studio facilities for ethnic groups in much the same way as is provided for access radio. The Corporation noted that such an experiment was tried by South Pacific Television in Christchurch but proved expensive in terms of staff and equipment. Nevertheless it may be that as ethnic and cultural groups increase their broadcasting expertise through access radio, and with an increasing use of videotape, access television programmes may be possible.

REVIEW

120. The provision of such programmes is, we feel, more properly the responsibility of public broadcasting. Certainly we must agree with the Independent Broadcasters Association that such narrowcasting could not survive in a traditional commercial context. Furthermore it is our view that it is radio which is better suited to 'narrowcast' in this respect. Nevertheless we would not wish to discourage public or private television warrant holders from broadcasting such programmes which, while appealing to a general audience, also reflect the backgrounds and interests of New Zealanders with European and Asian backgrounds.

121. At 2(d) we have discussed overseas purchasing policies and urged programme purchasers to look beyond the usual American, Australian and British markets. At 2(i) we have indicated that there should be a points system for New Zealand content. In Great Britain the Independent Broadcasting Authority includes in its 86 percent quota of locally-produced content, films and other programmes (which may be subtitled) from the homelands of Britain's ethnic minorities. We feel that this would be a valuable and enriching resource for New Zealand's

general audience as well as for New Zealand's minority groups. We would recommend that where such programmes are broadcast in New Zealand and are purchased from production sources in countries from continental Europe and Asia, as well as the Middle East and South America, and are specifically directed towards ethnic minorities in New Zealand, they should qualify for points.

Term of Reference 6(e)

"6(e) New Zealand's shortwave radio and overseas programme services and their requirements for effective transmission capacity, staff, and funding:"

122. New Zealand's external broadcasting service began 38 years ago with two war-surplus shortwave transmitters of 7.5 kW each. They are still the only direct means of broadcasting to the world beyond our shores although, since 1965, the service has increasingly produced programmes in cassette form to circulate to Pacific Island radio stations for inclusion in programmes broadcast locally on medium wave. Since our radio voice was too thin and wavering, we used airmail.

OBJECTIVES

123. When the service was begun in 1948, Peter Fraser, the then Prime Minister, gave as its objective the presentation of "an accurate picture of life in New Zealand"¹ to people abroad. In essence the purpose was the promotion of good foreign relations, a matter of basic national interest. By broadcasting an impartial and accurate account of events in New Zealand, showing its diversity of viewpoints and illustrating and analysing its development in a variety of fields from cultural activities to sport or industry, it was intended that the broadcaster would display the nature, intentions and identity of the country as its own people understood it. No foreign voice could serve as a substitute means to such ends. Just as New Zealand had a diplomatic service to represent its government's views and actions to governmental levels abroad, so at a more general and popular level radio would present the range of New Zealand life and attitudes to people overseas.

AUSTRALIA

124. Within the limited reach of the transmitters there were two broad target areas, Australia and the Southwest Pacific. Both had many New Zealanders either working or holidaying who wanted to keep in touch with events "at home". Those who had lived in Australia would know that in normal years there was little there to be heard or read about New Zealand, certainly not in detail, and the converse about Australia in New Zealand was nearly as true. The two Commonwealth neighbours, related in a hundred ways, jogged along side-by-side but apart and with minds elsewhere.

125. In the four decades since Radio New Zealand International—as it is now known—began, the relationships have been drawn much tighter

by trade, sport, tourism, business and inter-governmental agreements like CER. But this closer view has revealed many differences of attitude and understanding, a close likeness but with often subtle yet very real divergences which call for representation and explanation of each people to the other. The need was never greater for daily direct transmissions from New Zealand which reach Australia and can be quoted or re-broadcast from there as being the immediate, current New Zealand events and opinions. At the same time, the tens of thousands of New Zealanders in Australia, briefly or at length, would gain from being able to know more, and more precisely, how events were moving back across the Tasman. For our access to increase, however, our voice will have to be a great deal clearer and have its diaphragm financially strengthened.

THE SOUTHWEST PACIFIC

126. The other targeted area, the Southwest Pacific, has also undergone profound changes since the 1940s. With a few notable exceptions, former colonies have become independent or autonomous. They are struggling to improve agriculture, fishing, trade, health, education and administration and in doing so they find, given their small size and scattered distribution, that distance is their enemy and radio a friend. The transistor transformation of radio receivers in the 'sixties was of great help in this respect as efficiency rose, prices fell and small batteries meant they could be listened to anywhere whether there was a power supply or not. On the other hand, only a proportion of sets were engineered to pull in shortwave on their attached aerials. It was therefore essential for Island governments to ensure that a medium wave radio system linked all their territories and this was done, normally with government funds and some aid, then placed under Commission control or, on occasion, direct government superintendence.

127. As independence advanced so did the problems loom up of securing economic and every other kind of viability for the new states. What had been difficulties of the imperial or mandated powers, to be administratively and financially met or neglected internally to their own systems, now had to be seen as problems calling for external aid, negotiation and co-operation. A succession of New Zealand governments of both major party persuasions has taken an active role in gradually building the web of forums and agencies which now link South Pacific countries. Besides the Forum, the Commission and the Bureau for Economic Co-operation there is a Commonwealth grouping, a shipping line and educational, cultural and information networks connected with the University of the South Pacific, Peacesat, UNESCO, the East-West Centre, the Asian Broadcasting Union and others.

AID AND BROADCASTING

128. Yet the linkages are hardly substantial and the means to collect and distribute the news and advice which aid projects generate—whether it be about medical self-help, crop cultivation and prices, or cultural festivals—are so far inadequate to their large task.

The broadcasting systems need strengthening, their staff require more help with training and by exchange schemes, and New Zealand should be reliably supplying by shortwave the specialised programmes in English or the vernacular languages which would back up and multiply the effects of our own aid projects and those of the co-operative agencies and networks. Australia, indeed, has assisted radio and communications development directly for it is seen for what it is, a method of assisting the take-off of already funded projects and an integral part of the Australian effort in foreign relations in its most generous aspect.

THE DOMESTIC ASPECT

129. Aid and broadcasting to the South Pacific have also, of course, a domestic aspect for New Zealand in that over three percent of our population are of Island origin or descent. In the first generation here they remain very close-knit communities visiting those of their families remaining in the home village, connected by church and village associations and glad of news from the Pacific at every level from gossip to Pacific Forum politics. In the other direction there is the same desire for news and voice contact at all levels and additionally a need to understand how the migrants are faring in the urban, manufacturing environment and subject to such a range of unfamiliar or half-comprehended pressures.

TE REO O AOTEAROA

130. Here radio can be the natural mediator and the news bulletins in Maori, Samoan, Tongan, Cook Island Maori, Niuean, Tokelauan and English served just this purpose and reflected much credit on Te Reo O Aotearoa, the Maori and Pacific Island programme supply unit. From 1978 to 1982 the Unit injected live into the service 30 to 40 minutes of news material every weekday, fourteen minutes in English with the rest in the vernacular language of one or other of the Island groups. These live insertions were cut off in 1982 when an economy drive eliminated all Foreign Affairs funding to support the use of broadcasting as a means to forward foreign relations generally and those with nearer neighbours in particular. Radio New Zealand was left to carry on broadcasting extracts from the National Programme using funds from its licence fee subscribers and revenue from advertising on domestic programmes. Meantime the environment overseas was also changing adversely with the startling growth in power and number of broadcasts into the Pacific.

THE COMPETITIVE POWERS IN RADIO

131. No matter how "soft and reasonable" New Zealand's overseas service might have been, it was being lost in a Babel of high powered competitors. In an ocean of 100 to 500 kilowatt transmitters, New Zealand's two antique 7.5 kW transmitters could be incidentally drowned out by the overtones of Germany's Deutsche Welle speaking from Sri Lanka. Even for Pacific stations with professional equipment trying to record our shortwave programmes for re-broadcast by medium

wave, the failure rate was at least once a week. Radio Australia which is government-funded now deploys six 100 kW transmitters and six of 250 to 300 kW. The result is that the international news which Pacific Islanders hear is re-broadcast from Radio Australia and secondarily from the BBC and the Voice of America. News of New Zealand events, of its peoples and their viewpoint come through others when they penetrate at all.

132. Radio New Zealand's engineers have nursed their transmitters to more than twice their predicted life-span and by skilled frequency shifts have preserved some audibility but Radio New Zealand's most ingenious success has been achieved with phone, airmail and cassettes. In their search for news of the region and of other island groups, staff of Pacific stations have proved ready to phone Auckland with their island's own news and events and Radio New Zealand have then linked the tapes, contributed themselves, and despatched the programme, *Pacific Link*, on cassette to twelve participating countries. Radio Australia by securing Island station news staff to act as paid "stringers" seems likely to replace Radio New Zealand by the true radio immediacy of a breakfast thirty minute programme of news and current affairs called *Pacific Voice* at first on three days a week, then daily.

THE PBL PROPOSAL FOR SOUTH PACIFIC TELEVISION

133. Beyond sound and in sight within two or three years is a private Australian proposal to supply a commercial television programme to the Commission or government-controlled broadcasting systems of the Southwest Pacific states. The predominantly Australian and American programme, financed by Australian, international and Pacific advertisers, will come over by an INTELSAT transponder but be re-broadcast locally by terrestrial transmission. This proposal of Mr Packer's Channel Nine, represented by Publishing and Broadcasting Limited, has been surveyed and negotiated by its Vice-President of Network Operations.

134. The Report of Mr Ian Johnstone, to whom we are indebted, suggests that Fiji, Tonga and the Cook Islands "will declare positive interest"² and that the sequence might then be Western Samoa, Niue, Tuvalu and Kiribati. There are, of course, many obstacles and financial weaknesses to be overcome before the scheme can be partly or wholly fulfilled. However they do bring into focus New Zealand's interest in such a revolutionary change in South Pacific communications, an area where better communications are a primary need.

135. The first problem will be to secure the co-operation of the governments concerned who may well be fearful of the daily impact of commercial television in English on the values, the aspirations, the culture and the very identity of their peoples. Mr Cross in his evidence took care to warn New Zealanders to beware the Trojan satellite. By comparison, for Pacific Island societies the economic and social repercussions should prove far greater when they move from relative or real isolation to pseudo-intimacy with the world of *Dallas* and

The Equaliser. As it is, the rapid spread of VCRs in some of the Island states has provided a limited foretaste of certain aspects of the culture shock made doubly unpalatable by the international market's provision of violence and pornography on cassette.

PACIFIC PRODUCTION

136. Generous and sensible funding from the West German Government and the Seidel Foundation are helping to create a National Video Centre for Fiji to produce and distribute indigenous programmes of relevance and worth. Yet even the busiest Centre will go only a little way towards filling the tens of thousands of VCRs while other territories will have to queue to make programmes about their concerns and in their vernacular languages. The Channel Nine proposal includes the concept of "windows" being inserted into the wall of overseas programming so that each Island state, or some of them, could fill the windows with a mixture of local commercials, news and weather and such indigenous material as was available. The Fijian Video Centre's productions would serve this second function and no doubt the Centre itself would be pressed to expand. Yet daily television is so voracious and the expense of local production so great that it must take many years for those "windows" to open on a wide view of the Island states as their inhabitants see and speak of them.

137. In the first phase it is anticipated that Island news from stringers would flow by telex to Sydney where it would be incorporated as sound-track while Sydney studios could produce "localised" commercials, visual reports and short features from material shot in the Islands. Though not inexpensive, Sydney production would make little capital demand compared to the capital required for satellite earth stations, announcing studios, cabling and transmitters in the participating countries themselves.

THE FIJIAN JOINT VENTURE

138. Whatever the future of the total proposal might prove to be, progress on the most populous and accessible sector was reported in September 1985 when the Government of Fiji and Publishing and Broadcasting Limited were said to be entering on a joint venture to commence television broadcasts in Fiji in 1987. Then in March of this year an agreement was announced granting PBL an exclusive initial licence for twelve years. Later reports termed it an agreement in principle only. PBL would provide the "entire working capital of NZ\$9.6 million",³ give the Fijian Government a 20 percent shareholding, pay rent and other fees for services to the Fijian Post and Telecommunications Department and, later, would be able to sell more shares in Fiji while the Fijian Government could increase its shareholding to 40 percent.

139. The PBL proposal to the Fijian Government envisages, it is understood, an increasing proportion of local production which would be fitted to the news, current events and such features of Fijian life as

the particularly strong place of the churches in the culture. Since the Packer organisation has a twenty-four hour leased transponder on an INTELSAT satellite linking Los Angeles to Sydney it would be possible to send the service from either end of that link and have the Fijian television company retransmit directly or video record what it proposed to replay and, from a studio perhaps in the capital, insert what was generated within Fiji itself.

140. A further announcement was made by the Minister of Information at the beginning of July that a twelve-year agreement with PBL, the Packer organisation, was to be signed by the Government after seven applicants had been considered and PBL accepted. It was intended that a 70 percent coverage of the population would be reached within five years at a capital cost exceeding A\$5 million which would represent the necessary earth station and transmitting towers to reach the principal groups of islands. In part this was dependent on the spread of electricity which was now growing rapidly while the number of television receivers were expected to rise from around 45,000 to about 80,000 as transmission areas extend.

THE PROBLEMS IN EXTENDING TELEVISION EVENLY

141. To take the plan for Fiji and apply it to other Islands is to move from the most practical base to less populous, and often more scattered and economically insecure Island states. The balance of payments in each Island economy would reflect the cost of the imported content of television receivers. Moreover the wide ocean jumps to reach outlying groups of islands could well render totally insufficient a system of distribution by radiated signals from centrally located terrestrial transmitters. If, in addition, the small states of the South Pacific felt that they must, in defense of their languages, societies and political identities, proceed to the stage of themselves producing enough programmes to offset if not balance the effects of foreign programming, then the cumulative costs could prove to be far beyond them.

142. The choice or lack of choice between methods of distribution will affect costs considerably because the Island states themselves vary so greatly as to how far they are scattered across the ocean and as to the number of their citizens on whom those costs will bear. An earth station linked to a transmitter and one or two repeaters could cover Western Samoa's two islands and 160,000 inhabitants, while Niue's 3,300 could be cabled out from one central dish. Fiji with its two main islands containing a majority of its 700,000 people represents an opportunity that has been seized on precisely because an earth station linked to terrestrial transmitters can capture the great part of the potential audience without moving into further large or small DBS receivers.

143. On the other hand, Fiji also encompasses a wide fringe of islands and archipelagos from 25 to 500 kilometres offshore. Coverage for some of them could only come from a satellite signal strong enough and sufficiently directed to be received by individual dishes which villagers could afford to buy along with their sets. At that point one again meets

the problems of power supply which has not yet reached considerable sections of the main island. Tonga with a population of 100,000 might also be able to transmit terrestrially to its core on the islands of Tongatapu and 'Eua. But its outliers are from 300 to 600 kilometres away. As for Kiribati with 60,000 people, the Cook Islands with 18,000 and Tuvalu with 9,000, their spread is so vast that only village dishes with power supply receiving directly from a satellite could meet their reception requirements.

144. The difficulties for the micro-states have also appeared in the largest potential market, Papua-New Guinea. Here the Australian Parry Corporation's Newcastle Broadcasting Network had been building facilities for the planned launching in September 1986 of the country's first station in the Niugini Television Network, with 20 percent local and 80 percent Australian programming. But a sudden change to a new Government led by Mr Paias Wingti brought an end to the television policy and an offer of compensation to the Australian networks of \$2.65 million. This Port Moresby instance like the very different Fijian development still suggests that television could eventually start separately in each of the two sizeable markets available in the Pacific Island states. The systems would then be commercial and privately financed from Australia in some combination with shareholding by the government concerned and perhaps its private citizens.

THE ABC PUBLIC BROADCASTING PROPOSAL

145. One alternative public and comprehensive proposal was prepared by the Australian Broadcasting Corporation in 1985 at the invitation of Australia's Department of Communications. The *Business Review Weekly* reported that the plan "for a cost of about A\$25 million a year would cover the 5.5 million people in the dozen Melanesian and Micronesian states"⁴—although among them it listed Polynesian countries and autonomous territories as well. The Australian Minister for Communications was said to be "looking at changing the policy governing the use of AUSSAT to . . . one with a regional or international charter. Such a change would facilitate the use of AUSSAT by the ABC or a local commercial broadcaster to beam signals into the islands."⁵

146. The *Review* article went on to emphasise Australian funding and priority for the Telecommunications Development Programme of the South Pacific Forum. It noted however that, if the Forum countries did not opt for some co-ordinated package of communications and broadcasting financed with Australian aid and delivered on AUSSAT, then the Federal Government might "sponsor a commercial broadcaster as part of the Telecommunications Development Programme. Its interest is in seeing that Australia and its communications service play a role in the developing economies of the region."⁶

147. Thus the options for initial programming, financing and execution remained primarily Australian whether the major Island states favoured public or private television broadcasting and whether a collaborative, comprehensive system was pursued or the outcome was determined by

the key Island states each taking its own decision. The real difference between the options would be most felt by the minor and micro states with the greatest difficulties of distance and spread. As the *Review* concluded: "For the smaller countries the ABC presents their best prospect of getting television, but that will depend on the larger countries accepting a regional package."⁷

A NEW ZEALAND TELEVISION ROLE

148. Recommendations for an appropriate role for New Zealand must be set against this background but need not be dictated by it. The evidence of Mr Ian Cross, the former Chief Executive, suggested that New Zealand should think of television as the medium for broadcasting to the Pacific while at the same time noting that Australia's Channel 9 was "making deals to provide television programming to the South Pacific".⁸ Mr Cross warned against being party to an assertion of "communications superiority" and concluded that "Maori programming and approaches for television would in the future be far more relevant to the Pacific than the offerings from Australian commercial channels."⁹

149. A different but not entirely dissimilar view was taken by the retiring Director-General of Television, Mr Alan Martin, who tentatively advocated New Zealand participation in a South Pacific Television Service "possibly in partnership with an Australian broadcaster".¹⁰ However he went on in a supplementary paper to prefer a Service achieved through the South Pacific Commission or the Telecommunications Development Programme of the South Pacific Forum. Television New Zealand's role would then be to make its news reports available to a Pacific news service, to provide access to New Zealand-produced programmes and to arrange facilities and help for any additional programmes the representative Island authority might require.

150. Both executives were wary of imposed programming coming from the outside. Both favoured New Zealand co-operating with and giving assistance to indigenously directed broadcasting. And both wanted, in the words of Mr Martin, to "ensure that the Pacific countries themselves have an opportunity to develop their own television and thus protect their own cultures and institutions before any inundation of programmes from other sources".¹¹

THE BCNZ AND THE CO-OPERATIVE TELEVISION CONCEPT

151. Mr Martin on behalf of the Corporation investigated the situation as Island broadcasters viewed it and his report was followed up by the new Director-General of Television, Mr Mounter, at a Pacific Island News Association Conference in May 1986. Mr Mounter reported interest in a plan for a New Zealand-based service from Tonga, the Cook Islands, Western Samoa and Fiji. In consequence an experimental four hours a day of programming with Polynesian relevance was transmitted by satellite from New Zealand for the three days of a communications conference at Rarotonga. A skeleton scheme was presented for a

nightly four hour programme from New Zealand via INTELSAT 5. Each country involved in a common South Pacific Broadcasting Council would have a video camera team and recorder and contribute news and background programmes to be packaged in combination with New Zealand and imported material in a balance that the Council would guide and determine.

152. The core problem naturally was financial since the receiving dishes, team equipment, camera crews, programme rights and the lease of the transponder would represent a cost to governments and aid schemes variously reported as from \$2 million to \$5 million annually. The project was referred to the August meeting of the Pacific Forum but inevitably the generally favourable reception of the initiative will have to be translated into detailed planning, consultation and comparison with alternative uses of resources by governments with little to share and the example of Fiji to watch and assess.

153. A further element in the project was that the same leased transponder could transmit a radio signal at no further cost and thus leap over the need to replace New Zealand's antiquated terrestrial transmitters. Like the co-operative television service concept itself, the attached idea of satellite radio signals to the stations of Island medium wave broadcasters did not settle the basic question of what form New Zealand's external services should take. Instead they have opened a fresh period of debate, investigation and much patient diplomacy while it is discovered what is wanted by governments and viewers and what is possible to finance under the aegis of the Pacific Forum, participating governments if they join, and direct support from the New Zealand Government as an active partner in the Forum.

PRIOR INVESTIGATION AND RESOLUTION

154. Until such time as the intentions of Forum governments are clarified and until a thorough investigation of audience size, location and preferences, the availability of power, the distribution of television receivers, their market and potential number has been conducted there can be no firm base for calculating the benefits or costs at the receiving end of the New Zealand project. At the same time precise figures will need to be placed on the plan for a New Zealand contribution. The valuable links, the co-operative aid aspect, and the commercial and development consequences are plain enough. But until the details are known we believe there is no firm basis for long-term recommendations as to policy on an external television service. Instead we put forward the following interim conclusions.

INTERIM RECOMMENDATIONS ON TELEVISION IN EXTERNAL SERVICES

1. That the New Zealand Government and the Corporation contribute to the thorough socio-economic investigation of Island needs and resources for television services in Forum countries commencing with those wholly unserved.

2. That the technical, production and financial implications of the possible television service to South Pacific countries be fully investigated.
3. That BCNZ at an appropriate time offer to negotiate agreements covering news exchanges relating to Pacific Islanders in New Zealand, relevant developments in New Zealand generally, and events and developments in participating Pacific countries.
4. That Television New Zealand in its planning and commissioning of documentaries, news, and current affairs programmes develop an increased understanding and expertise on the life of the peoples of the Pacific Islands and of Islanders living in or citizens of New Zealand with a view to contributing programmes to Pacific television as well as to television at home.
5. That the BCNZ offer to exchange facilities and specialised advice with Island public television broadcasters seeking to produce programmes in each other's countries.

155. Such a programme would allow New Zealand's co-operation to be focused on assisting an increasingly self-sufficient Pacific Island contribution to what at first must appear as largely a one-way flow of televised cultural and commercial influences—however popular the entertainment and information components prove to be. At the same time the recommendations give an indicative lead for New Zealand television to increase its own capacity to contribute relevant, informed and sensitive programmes based on the manifold past and present connections of migration, culture, education, trade and tourism which this country has with Polynesia especially and the South Pacific generally.

STRENGTHENING NEW ZEALAND'S RADIO PRESENCE

156. These connections are widely recognised in New Zealand and produced much evidence before the Commission saying that these connections should be strengthened by completely altering the scale of our radio presence in the Pacific. With startling unanimity witnesses pointed out that the two 7.5 kW transmitters were utterly inadequate to their task. Were it not for an even smaller Uruguayan 5 kW transmitter broadcasting over a short sea path to Argentina, New Zealand could apparently claim a world record of sorts. It was realised that past governments had cut funds instead of increasing them, just as these reductions were seen to contradict a succession of Ministerial speeches on the mutual importance of this country's links with Polynesia and the South Pacific, on the need to concentrate our aid effort there and on the need to take a diplomatically co-operative and leading part in the affairs of our own international neighbourhood.

157. The evidence suggested that New Zealand's external broadcasting should follow through on the generally agreed purposes of this country's foreign policy towards its nearest neighbours. That must mean equipping Radio New Zealand with the means to be reliably and clearly received. Our foreign policy in the South Pacific seeks to help

through co-operatively planned and executed projects. Its initiatives such as the shipping line or on nuclear testing depend for their strength on general recognition of common interests with and between the Island states. It is therefore a foreign policy which relies on a climate of mutual understanding and on respecting the autonomy and cultural integrity of our partners.

RADIO AS THE ACCESSIBLE MEDIUM

158. Radio remains the right medium to assist such a policy. It can speak in the language of the villager as well as in the terms of the technologist or trader, the administrator or tourist. Radio is the fastest and most comprehensive medium for news, background and analysis which are the prime means to understanding. Radio is flexible. It can accompany its audience into the fields, the store and the workshop as well as to the kitchen in a way television cannot. There is no cost imperative driving radio to be as culturally invasive or as socially dislocating as the impact of largely imported and unadapted commercial television is likely to prove.

159. What is more, by comparison with paying to generate or to receive television, let alone meet the cost of all Island states contributing to it, shortwave radio is already within the horizons and the means of both senders and listeners. The existing Island radio systems will continue to need news of their kinsfolk and New Zealand developments which affect them. Island stations will continue relaying and quoting from regional and international news services they find to be fair-minded, frequent and addressed to Pacific concerns. Island and Commonwealth journalists in conference have, indeed, called upon New Zealand Ministers to restore Radio New Zealand's service to its preferred and specialised place alongside the ABC and the BBC.

160. For our Commonwealth counterparts plan on the expansion of radio as an international medium both for relay and directly. Others agree. As mass-produced electronics have improved, cheapened, and multiplied shortwave receivers, so have the Soviet Union, the United States, Japan, Germany and France all strengthened their world and Pacific services. Such competitors, had they the motive, could overwhelm even our best efforts were it not for the international allocation of frequencies which reserves a place for New Zealand providing the country goes on using it. When we do so with a revitalised service, however, our status as a small state will become an advantage which, like our presence and co-operative participation in the region, will give reassurance to our neighbours that we are not simply deploying information as one more form of preponderant power.

THE MAIN NEW ZEALAND OBJECTIVES

161. To present an honest view in depth would act to establish New Zealand's identity, to demonstrate its perspectives and policies, and to heighten interest in the variety of its people and opinions. Over time Radio New Zealand International programmes will build a solid base of

understanding and specific knowledge about New Zealand among our partner states and for the endeavours of our own diplomats, businessfolk, expatriate professionals and visitors. The second broad objective for Radio New Zealand International is to contribute to and help set the news and information agenda of the South Pacific region. Here again readiness to train and exchange staff to obtain on-the-spot experience and provide facilities for making programmes on a reciprocal basis will strengthen regional links and sharpen the relevance and appropriateness of programme design.

162. These objectives have been set in a future when New Zealand equips itself once more with the power to speak and be heard. But Radio New Zealand International can look back to an interrupted tradition of regional broadcasting as illustrated in *Pacific Link*, the 5,000 hours per year of cassette programmes, and the enthusiastic acceptance of Te Reo O Aotearoa's productions. It is a tradition which can and should be built upon for the good of the region and for the benefit of New Zealanders within the region. As the head of Te Reo, Henare Te Ua, said to us when talking of the rapport a common history brings: "They are islands which are scattered far across this... great ocean that took their forefathers perhaps generations to cross... What a fantastic feeling it is to [broadcasters and audience] to hear their own voices crossing it in micro-seconds."¹²

FOREIGN AFFAIRS FUNDING

163. We agree with the bulk of evidence presented to us in believing that New Zealand's international relations need the programmes of a revitalised Radio New Zealand International and that the funding from Vote: Foreign Affairs, cut off in 1982, should be restored. We require external services to clarify our country's nature and policies in the minds of neighbouring and more distant peoples and states, to improve our relationships with them, and to contribute to our region as part of our role in the community of nations. These are national goals and foreign policy purposes. Because they are so, they should be a charge on the general revenues of New Zealand through Vote: Foreign Affairs rather than be supported by viewers and listeners through domestic advertising costs and licence fees.

EDITORIAL INDEPENDENCE AND STAFF SPECIALISATION

164. These are foreign policy purposes carried out by other means—not by diplomats but by means of broadcasting. Therefore the condition governing broadcasting credibility, namely editorial independence, necessitates that the Corporation should conduct its international responsibility under the guarantees of the Broadcasting Act. Editorial freedom, however, does not obviate the worth of mutual recognition and liaison between Foreign Affairs staff and broadcasters. Each group needs to be aware of and understand what the other is doing. This is particularly so in an age when the main public arena for political developments has moved to the electronic media, and even in some quite remote parts of the Pacific this is already the case.

165. The second precondition for Radio New Zealand International in meeting its broad objectives is to attain a steadily improving level of staff skills as editors, reporters, and analysts of regional and international news. Radio New Zealand International for its part, has the advantage of cultural knowledge and language expertise for the Southwest Pacific which Te Reo has put to good use, besides broadcasting in a "very relaxed" style, which evidence has favourably commented upon. Nevertheless they will need training programmes and exchanges with Island and Australian systems. Co-operation will be vital in sharing news, current affairs and entertainment resources with other production units within the BCNZ. Certainly the type of unit isolation which sometimes leaves our television news some hours behind home and foreign radio events and comments cannot be afforded. For the bulletins of Radio New Zealand International will be judged against stern competition especially when broadcasting to Australia.

166. We have followed the weight of evidence in judging the role of external services to be valuable to New Zealand and principally a role in the radio and cassette mediums. These we can afford and reach the region we need to service. Ours is a small, trading country, with a much-travelled population and a strong interest in friendly foreign relations within and beyond our region. There is therefore a powerful motive for having our perspectives and identity fairly and clearly expressed. That task can be much assisted by a revitalised and re-equipped Radio New Zealand International and at a cost which compares very favourably with many lesser national objectives.

SHOULD EXTERNAL SERVICES REACH FURTHER?

167. A concluding set of questions concerns whether Radio New Zealand International should aim also to broadcast beyond Australia and the South Pacific and, if so, in what form and at what point in Radio New Zealand International's development? Because New Zealand's trading and diplomatic interests are, of course, world-wide. Taking only the countries within the Pacific rim, Japan, the western United States and Canada, China, Indonesia and the other Asean states, all represent markets it would technically be possible for New Zealand to reach with sufficiently powerful short-wave broadcasting. The evidence of Mr Norman Collinson, BEC, presented to us in the paper "A Soft and Reasonable Voice", gave the costs of building a station with two 250 kilowatt transmitters fully housed, serviced and linked, as being \$9,300,000 in October 1984. With such equipment Radio New Zealand International could transmit news and current affairs programmes to Southeast Asia and perhaps further north. Our exporters, trade representatives, diplomats and others working abroad would undoubtedly welcome being put in daily touch with New Zealand developments and opinion.

168. Beyond the initial and operating costs of this "Completed Scheme", however, there are other barriers to be overcome. The links with Polynesia and the manifold parallels with Australia, which Radio

New Zealand International can count on for interest and a degree of understanding when broadcasting to Australia and the South Pacific, will not be there for a Southeast Asian Service. Programmes broadcast in English could be of significant service in informing foreign official and commercial circles of New Zealand policies and attitudes while local broadcasting services and news agencies would excerpt items which struck them as important or interesting. But the prospects of directly reaching visiting business people or tourists in their hotels would be slight indeed, for few travel equipped with short-wave receivers.

THE BARRIERS TO BROADCASTING IN REGIONAL LANGUAGES

169. To reach outside the English-speaking official and business elite in Southeast Asia would require transmitting programmes in the languages of the region presented by native speakers or others with a mastery of the culture, tastes and attitudes of the peoples being addressed. Moreover the competition would be fierce. Not only would the major broadcasting powers be already present on short-wave but also, as the Communications Advisory Council pointed out in its evidence, in the languages of the "developed countries of Asia, such as Singapore, Japan, Hong Kong and Taiwan, there is an abundance of high fidelity radio programmes and television programmes readily available to homes."¹³

170. Radio Australia's services, for example, have been patiently built up, its multilingual staff carefully recruited and its news services backed by correspondents and stringers in dozens of centres all round the Pacific. This has required support at nine times the level per capita which has recently been available to Radio New Zealand International. To bring together such a staff for Radio New Zealand International would be the work of years.

SOUTHEAST ASIAN BROADCASTS IN ENGLISH IN THE MEDIUM-TERM

171. Logically what would follow on from successful experience with programming for the role at hand in the South Pacific and Australia is broadcasting in English not Asian languages. At that point Radio New Zealand International could find itself ready to research and prepare for broadcasting news, current affairs and features to Southeast Asia. At the same time the necessary step up in transmitting power and expert staff would have to be carefully evaluated in terms of return on resources and this country's pattern of trade and its financial circumstances. This more selective aim for Radio New Zealand International of broadcasting beyond our region in English is the medium-term development which can at present be foreseen as most likely to prove both affordable and worth pursuing in the national interest.

REVIEW

172. Considerations of immediate usefulness, staged development and a proper regard for New Zealand's present financial circumstances must determine what should be recommended now. The BCNZ in its

extensively supported submission centred its attention on rebuilding its continuing function as a short-wave radio and cassette broadcaster to the South Pacific and Australia. Therefore it sought the restoration of Foreign Affairs funding and the provision of a "Basic System" for 100 kW transmission. The other very substantial submission was received from the Communications Advisory Council in the form of a second edition of their *Report* on "New Zealand's External Broadcasting Services" revised in September 1984. The Council agreed "that external services... be funded directly by Government through Vote: Foreign Affairs with support provided from other Government Departments".¹⁴ They went on to agree that "the South Pacific be given the highest priority for service;" and that "services to Southeast Asia, where trade opportunities exist, be given the second priority."¹⁵

173. What has confused the issue and this consensus as to what to do next is the introduction of an alternative method of transmitting our radio signals. Because this method was attached to the fate of the scheme for a co-operative South Pacific television service based in New Zealand, it may seem that decisions on radio services must also await the lengthy and consensual Forum process. But this is not so. INTELSAT is available now, and if the costings demonstrate a satellite radio signal is preferable, action can follow. The BCNZ can establish whether the Rangitaiki scheme or the satellite signal is the cost efficient mode of transmission and explore whether Island stations have or will acquire the equipment to pick up New Zealand's transmission thus reviving our radio connections through local radio quotation and programme retransmission.

RECOMMENDATIONS ON RADIO

1. That the prospect of using a satellite to transmit the external service radio signal be fully and actively investigated as to its potential for reception by Island radio stations and by domestic receivers and that the costs of such satellite transmissions be compared with the Rangitaiki scheme in terms of economy and effectiveness in reaching Island audiences and those in Australia.
2. That the BCNZ continue to operate New Zealand's external broadcasting and cassette services through Radio New Zealand International as a division of Radio New Zealand fully costed and separately accounted for, and with its editorial independence guaranteed as part of the Corporation's activities under the Act.
3. That funds for the transmission and operation of Radio New Zealand International should be provided from general revenue under Vote: Foreign Affairs, initially at the level of service and costs given in evidence by the Director-General of Radio New Zealand, but with future provision for improvements to the range and quality of the service.
4. That either a satellite signal or the "Basic System" for high frequency transmission from Rangitaiki to the Pacific plus Australia, as set out in Appendix 2 of the BCNZ evidence on 6(e),

should be proceeded with as a priority project according to the results of the investigation under Recommendation 1.

5. That the BCNZ offer opportunities for production, presentation and technical training and staff exchanges to citizens of Pacific Island countries establishing and operating a public radio service.
6. That the New Zealand Government provide within the Official Development Assistance Programme the scholarships and funds for such training and staff exchanges.
7. That the BCNZ continue to participate and play an active role in programme supply, Pacific news exchanges and organisations for the promotion of Pacific broadcasting.
8. That the BCNZ offer to exchange facilities and specialised advice with public radio staff from Island services seeking to produce programmes in each other's countries.
9. That the extension of Radio New Zealand International broadcasts in English to Southeast Asia should be actively considered by the BCNZ and interested Departments once the Radio New Zealand International services to Australia and the South Pacific are firmly established.

Term of Reference 6(f)

"6(f) The opportunities for development of a wide range of programmes for rural, regional, and urban interests and for specialised audiences:"

174. A number of the programming areas which might arise under this 'catch-all' term of reference have been or will be dealt with at other terms of reference. We have discussed Maori and Pacific Island programming and other minority special interest programming under various parts of terms of reference 6(a) and will discuss this further under term of reference 6(g) which assesses access broadcasting. Educational programming and children's programming will be dealt with at term of reference 7.

175. However there were a number of submissions made to us which dealt with programme strands not covered elsewhere. Some made a general case for special interest programming and the responsibility of public service broadcasting to provide this. Other submissions put arguments to us for particular interests based on the existence of a target audience or the educative aspects of such programmes for the general audience as a whole.

176. Our discussion here concentrates on what the Corporation does and what opportunities might arise in the future, and what a third channel might also be expected to do. Private radio stations, because of the nature of their warrants, are exempt from the requirements of the Act for the provision of a range of programmes which will cater in a balanced way for the varied interests of different sections of the community.

177. Both radio and television provide programmes which fall under this term of reference but a different approach to this is taken by each medium and, in respect of radio, within the medium. Radio New Zealand's urban audiences have a wider choice of stations and special interests can more easily be catered for. Rural radio listeners do not have the same programme choice. Radio New Zealand's community stations incorporate material for urban, regional and rural listeners, but they are intended to be mass-appeal stations.

178. Radio New Zealand's Rural Radio, which is a specialist arm of the News Service, provides an informational programme with current affairs style interview reporting and an emphasis on wider listener interest. Rural news packages are provided for community commercial stations and rural broadcasters also provide inserts for the National Programme's daily *Rural Report*. Radio New Zealand told us of plans to increase its network rural staff so that a syndicated service could be provided for commercial stations. Seven regional Rural Broadcast centres were planned to continue to serve the network as well as local and neighbouring rural communities. The National Programme also broadcasts *Landline* which is produced in association with the Ministry of Agriculture and Fisheries.

179. Regional programming by Radio New Zealand has declined with the establishment of more stations in small communities although there are regional breakouts of the National Programme for news, etc. Urban interests are served by all Radio New Zealand stations at local city level and in major metropolitan centres.

180. Programmes for specialised audiences are broadcast on both the National Programme, which is the main channel for specialised programming, and on community stations. Radio New Zealand's Continuing Education series, for example, serves such specialised interests. The National Programme covers a wide range of audience interests including "older listeners, the farming community, the Maori and Pacific Island populations. . .[and] such interests as jazz, brass bands, sport, the disabled, religion, science and technology, Parliamentary broadcasts, business and finance, archives, book reviews, consumer matters and schools and education."¹ The Concert Programme can well be said to serve a compact series of specialised audiences. The ultimate in special interest programming is that provided by Access Radio.

181. Television New Zealand serves specific audience elements mainly through the programming of its General and Special Interest Department. Programme content which is addressed by this term of reference, and the approximate hours produced are: Religious (22); Consumer, Business and Industrial (19.5); Rural (16); Arts (24); Leisure, Recreation and Lifestyle (92); Continuing Education and Special Training (11). Television New Zealand produces *Agreport* in association with the Ministry of Agriculture and Fisheries, which is specifically designed for farming audiences. Rural programmes such as *Country Calendar* and *A Dogs Show* are designed to appeal to city as well as

country people. Television New Zealand has also produced such programmes as *Production Line*, *Fast Forward*, and the new *Money-Go-Round*. Because of the nation-wide coverage of both television channels it is important, we were told, that such programmes appeal to a wide audience.

182. The Corporation submitted that "within the constraints of its networked television services, and limited alternative radio services for rural audiences, the existing output for rural, regional and urban interests and specialised audiences adequately meets its responsibilities under the Broadcasting Act."² It acknowledged, however, that there are interests still to be met, some of which are represented by small and scattered audiences.

183. Meeting such needs involves two main factors—resources (financial and personnel) and outlets. It is necessary to have staff with the available skills and knowledge to produce such specialist programmes and, in television especially, to craft them in such a way that they will appeal to the general audience. Production costs for programmes to meet the needs of specialised audiences may be high per head of interested audience and broadcasting administrators must be conscious of the needs of more general audiences, and the problems associated with alienating wider audiences by scheduling too much minority interest material. This also applies to radio where a balance between minority interest and general interest programming is required to prevent listeners switching to other stations. This "tune-out" can affect ratings and ultimately revenue.

184. Television New Zealand told us that they would hope that specialist programmes would be available from independent production sources. Opportunities within Television New Zealand are limited by constraints of funding and specialised staff, the physical limits of viewing hours and the relative inflexibility of television as a medium compared with radio.

185. We certainly believe that the rural sector is well served by both services of the Corporation. This is, of course, partly because of the involvement of the Ministry of Agriculture and Fisheries which provides an independent source of funding and we would hope that this would continue.

186. Television New Zealand broadcasts regional news programmes as part of the network *6.30 News*. Warrants for the third channel are to be awarded on a regional basis and the warrant holder, or holders, will be required to provide programming on a regional as well as network basis. As Radio New Zealand told us, there are few demands for regional radio programming. We note, however, the problems encountered by certain regions of the country in terms of poor reception of existing programme services from both television and radio. We would applaud moves by the Corporation to extend transmission facilities to ensure that these parts of the country, and many people from the West Coast of the South Island made submissions to us on

this, are able to receive the basic services already available to the rest of the country.

187. Certain sections of the urban audience are not, we feel, well served when contrasted with the rural sector. While urban communities are well served as a general audience, there are a number of specialised audiences within that community to whom few programmes are directed. We are thinking here of specialist programmes for the business and manufacturing sector, and programmes which deal with various aspects of the lives of wage and salary workers and the realm of worker education. It may be that the medium of radio is best suited to providing such programmes but we would certainly wish to see steps taken within the General and Special Interest department of Television New Zealand, perhaps in consultation with outside organisations, to provide such programmes.

188. As we have mentioned a number of people put cases to us for increases in specific types of programming. Many of the submissions called for increases without, it appears to us, an appreciation of the funding and personnel constraints under which the Corporation operates and the production processes involved in programme making.

189. Representatives of a number of church organisations made submissions commenting on religious programming on both radio and television. We were told that "religious broadcasting is not receiving the attention it warrants, and that it comes across both radio and television as an anachronism, irrelevant to everyday life."³ Submissions from church organisations were reluctant, in fact, to accept religious broadcasting as "special interest" maintaining that "religion is a universal interest of mankind that transcends a majority/minority head counting."⁴

190. The main thrust of submissions was that religious broadcasting should be in the hands of the theologically trained and the religiously aware. This also applied to the purchase of overseas programmes which dealt with religious themes. Submissions recommended the formation of a religious advisory body within Television New Zealand which paralleled that in Radio New Zealand and we would support this. We note that Television New Zealand does engage two religious advisers who are nominated by the Churches Committee on Broadcasting. We also note that third channel warrant applicants proposed to appoint religious advisers. It may be that there is some justification for an independent religious advisory body to advise both television warrant holders and this could be considered when the third channel warrant has been awarded. Those who presented submissions on religious broadcasting did so from the point of view of the Christian faith and comment was made to us by others who requested attention to non-Christian faiths and to secular belief systems.

191. A submission came from Seven Seas Television, an independent production company which has made religious programmes for Television New Zealand and, although we did not receive submissions from them, we learned that similar production is done by the Christian

Broadcasters Association for Radio New Zealand. Television New Zealand has told us, and we have discussed this more fully at 2(g), that it intends utilising the resources of independent producers more extensively and it may be that this should also be pursued in respect of religious programming.

192. We received submissions from sporting bodies on the desirability of increased coverage of their particular codes either on television or radio. We are certainly well aware that a large number of New Zealanders are interested in sports, either as participants or spectators. We have observed at term of reference 2(f) that a large percentage of local production on television is in fact devoted to sports coverage. It is a good measure of established priorities that Radio New Zealand told us that extension of sports programmes is dependent upon the availability of station outlets rather than financial or staffing considerations.

193. A number of submissions referred to recent surveys which showed the paucity of coverage of women's sport. Within the present constraints of funding and staff we would hope that both Television New Zealand and Radio New Zealand would provide a balance of the sporting codes both women's and men's available in this country, including a liberal sprinkling of those considered to be new or of limited appeal to wider audiences.

194. Submissions were also put to us on the desirability of extending programme services for the disabled and print handicapped in terms of programme services and programme content on both radio and television. This relates partly to technological advances such as the use of teletext subtitles for the hearing impaired.

195. Many of the programme categories that we have discussed here and elsewhere will provide content which will be of use to those who are disabled and, because of that, socially isolated and homebound. In particular we note that the Disabled Persons Assembly mentioned improved access to education and the role of radio in general community programming. Certainly we would hope that as Radio New Zealand develops its programming strands it takes account of that section of our community which has less access to other forms of information.

REVIEW

196. Most submissions accepted without question the desirability of providing programmes for varied geographic interests and specialised audiences. The Public Service Association submitted that the broadcasting system, both public and private, had exhibited serious shortcomings in these areas, believing that programming decisions were made overmuch on the basis of the size of the audiences for the purposes of gathering revenue.

197. Submissions from the advertising industry, however, contended that "in a population of just over three million, it is totally unrealistic and raises false expectations to suggest that every group can have a share of the broadcasting system the way they would like it."⁵

198. The Communications Advisory Council was concerned that "with a competitive environment developing in both radio and television. . . several non-profitable services, traditionally funded through the Broadcasting Corporation, may suffer."⁶ Certainly most people are a minority some of the time and their wants should be attended to but in balance with most of the people most of the time.

RECOMMENDATIONS

1. That radio and television consider programmes about aspects and problems of urban living in manufacturing as well as business and among both the salaried and wage-earners.
2. That Television New Zealand consider forming a religious advisory body parallel to that of Radio New Zealand.

Term of Reference 6(g)

"6(g) The extent to which various forms of access broadcasting are being presented and could usefully be extended:"

INTRODUCTION

199. Although a number of submissions made reference to the issue of access broadcasting, and access radio in particular, only a small number addressed this topic in depth. Nevertheless those who did so were those involved in the presentation of access broadcasting, via the medium of radio.

200. The International Institute of Communications has defined access broadcasting thus:

"Access involves the [broadcasting] organisation's temporary abdication of programme management in order that an individual or group might broadcast messages subject only to the laws of the land and general broadcasting regulations. . . Access to broadcast time should be a separate and essential component of a broadcasting system".¹

ACCESS RADIO 2YB

201. The main form of access broadcasting currently being presented in New Zealand is that provided by Radio New Zealand's 2YB Access Radio based in Wellington, providing 120 hours per month of access radio programmes, and transmitting on a frequency used at other times for the broadcast of Parliament.

202. 2YB Access, which was launched in April 1981 after a successful application by the Broadcasting Corporation of New Zealand to the Broadcasting Tribunal, provides a forum for individuals and community groups to produce and present their own programmes. It is free in that users do not pay for air time; neither do they receive payment for programme contributions. Professional Radio New Zealand staff assigned to the Access station provide production assistance and

training if required but do not maintain editorial control, although as publisher the Corporation is legally responsible for material broadcast. There is a requirement only of the users that they operate within the laws of the land, the Broadcasting Act and Broadcasting Rules and Regulations, and the terms of the station's non-commercial warrant.

203. The aims of the Access operation are to provide an effective voice for minority groups, a community service, and an outlet for alternative programming that would not otherwise be heard in the programming spectrum for either public or private radio operators. 2YB Access is funded by Radio New Zealand, at a current budget of approximately \$110,000 per annum.

204. The BCNZ expressed concern that its continued funding of 2YB Access meant a "diversion of scarce resources away from mainstream programme activity".² It was suggested that the community should share in the financial support of Access Radio, that alternative sources of funding should be established and that the time may be appropriate for community groups to take over the Access operation. The Director-General of Radio New Zealand was clear in her evidence, however, that this should not be read as a move towards a "user pays" policy which would effectively disenfranchise many users of Access Radio; nor should it be read as any indication of lessening of Radio New Zealand support for the continuation of Access.

205. The Access Radio Users' Group, which was established in July 1985 partly in response to proposals by Radio New Zealand to alter the funding base of 2YB Access, opposed such proposals, submitting that the provision of access broadcasting was a public service broadcasting responsibility and that the funding onus should fall on Radio New Zealand. Nevertheless they recognised the difficulties facing public broadcasting in terms of scarce licence fee revenue and expressed satisfaction at the working relationship established with the Radio New Zealand staff assigned to 2YB.

206. Access Radio Users' Group do not favour a move to access users having total responsibility for programming to the extent of being required to apply for a programme warrant and rely on community funding; rather they favour a "shared" control, an equal partnership with Radio New Zealand management, involving consultation in respect of the direction of Access Radio, perhaps with a national (consultative) controlling authority.

207. The Users' Group recommended the establishment of an Access Charter embodying the principles of access radio. They also favoured extending access radio to local stations for the broadcast of local access programmes. This was supported by the Talking Union Collective, one of the users of 2YB Access, who also gave evidence to the Commission.

OTHER FORMS OF ACCESS RADIO

208. Other forms of access broadcasting are presented via Radio New Zealand's community stations, in conjunction with educational

institutions. In Hamilton there is regular liaison with the University of Waikato and the inserted programme is broadcast also in Taumarunui, Rotorua and on 2YB in Wellington. In Dunedin there is a long-standing and productive connection with Otago University. In Nelson access programmes are produced and broadcast on a periodic basis in conjunction with community education interests while the new Polytechnic station in Christchurch is intended to have a community access dimension.

209. There have also been experiments with short-term licences for access radio stations, most notably Radio Wireless in Hamilton in 1983/1984 which grew from a magazine/access type programme produced by the University of Waikato and broadcast on 1YW. The motivation for Radio Wireless was, in effect, external to RNZ and was based on community funding.

THE CONTINUATION AND EXTENSION OF ACCESS

210. Evidence given by the Director-General of Radio New Zealand on behalf of the Corporation supported the continuation of access radio, especially in its 2YB format, although preferably with increased community programme management responsibility and funding. Ms Wakem also favoured the eventual extension of access services to other centres. Radio New Zealand supports the concept of Access/Polynesian stations with a strong Pacific Island element existing alongside access for other community and ethnic groups operating under a sponsorship funding scheme. While noting that this depends on the availability of suitable frequencies, Radio New Zealand proposed that such a mixed service could operate initially in Auckland and possibly be linked with 2YB in Wellington.

211. Radio New Zealand has suggested that the ZM-AM frequencies might be suitable for a 1YB station in Auckland and possibly for the transmission of 2YB in Wellington if these frequencies were to be released as the result of successful ZM-FM applications to the Broadcasting Tribunal.

212. Evidence given to the Commission by Access Radio Hamilton, the group which ran Radio Wireless, indicated there was some willingness in the Waikato for community and educational groups to be involved in the management of an access station broadcasting on a Radio New Zealand frequency but with funding to come from community groups and local bodies. The proposal was made that smaller communities in the Waikato, such as Paeroa or Te Kuiti, could establish mini-studios in community rooms or libraries to provide local material for occasional "breakouts" or contributions to the access station. Such enthusiasm obviously should not be discouraged but, again, the commitment of such groups has shown a tendency to fluctuate and providing successful funding and material for access programmes proved to be a matter of personal and group enthusiasm coupled with a measure of local prosperity. Instances were cited of

groups in provincial centres succeeding for a year or two and then just waning away under the insistent demand of sustaining the programme.

213. Radio New Zealand community stations in smaller localities may already fulfil some of the functions that are required of access radio in larger urban areas. The Commission acknowledges the difficulties for Radio New Zealand of staffing and funding access stations serving less populous areas. It may be that there is a use here for small mobile "van" studios, such as those that have been used by the BBC, to visit small towns and villages for the purpose of allowing local groups and individuals to make access programmes for broadcast on the appropriate community stations.

REVIEW

214. Radio New Zealand's 2YB Access, in its operation and output, reflects the philosophy of access broadcasting expressed in the ILC definition which this Commission endorses. Access provides a natural mode of articulation for the surprising variety of groups and individuals who make up our community. The wide range of organisations and individuals who make programmes, the existence of a "waiting list" and the positive comments made in evidence are testimony to the success of the access operation in Wellington. For example over 1,000 groups have used 2YB Access since its inception and programmes have been broadcast in thirty-five different languages.

215. Furthermore the operation is not expensive at approximately \$80 per hour of broadcast time. Evidence was given that the concept of freedom of access to air-time has not been misused by programme makers, and the very concept of access provides opportunity for a spectrum of views to be presented by different users.

216. The provision of access radio is primarily a public service broadcasting function that includes not only transmission and studio facilities, and staff to act as "facilitators", but also calls for at least a basic quota of funding. As forward planning by the Corporation now stands, Auckland as the largest and most various community in the country is intended to be the next centre for access broadcasting, possibly in conjunction with a Polynesian radio service or the proposed Parliament, education and sports station. But that will depend upon a successful application to the Broadcasting Tribunal for the old ZM-AM frequency at some point when priority can be assigned to its funding.

217. Access radio has a value to community groups which grows as it is heard, thought about, and gathers more variety by the example of use and enjoyment. For the largest centres even their size has not disposed of the problems of management and funding because success adds groups and adds to the problems of cost and co-ordination. In the provincial and smaller centres access programmes on community stations appear to be the sensible answer to tapping community expression at a sustainable cost to the participants and the station staff.

218. In Dunedin, Christchurch and Hamilton the presence of educational institutions has acted as the catalyst to create programmes

as in Nelson also, and in one case it has produced a station. Auckland has a vigorous student station and a production and broadcasting centre at the University, but awaits its access station. It is almost as if access is right on the border between BCNZ public service radio and the tentative beginnings of future community public radio, a strand of development which may take as many different forms as the groups drawn in to support it. Both for Radio New Zealand assistance and for community experiment it will be a matter of funds.

219. One possible source of funds for the encouragement of community public radio developments is touched on under term of reference 4 where charges for the right to broadcast and advertise are examined. A proportion of receipts, very small but growing, could thereafter be allocated by the Broadcasting Tribunal to programme or station warrants or short-term authorisations when an adequate spread of access and community programming is being presented.

220. In any event, the slow and hybrid growth of access broadcasting must not be allowed to divert funds from the prior responsibility of the BCNZ to produce programmes for and about easily identified minority and special interests in the community. A Maori service, religious programming, an educative and educational emphasis, these are all long awaited or long begun, but they have a priority. When public service radio is strengthened by adequate fee support then priorities for access should follow because minority programming and community access are directly related.

RECOMMENDATIONS

1. That development of access programmes within the BCNZ's community service stations be encouraged as an interesting and economic way of tapping local and regional interests and talents.
2. That the programmes in Dunedin, Hamilton and Nelson be given every encouragement including accessible time-slots in station programming.
3. That while the Corporation's responsibilities for minority programming and services must retain priority, the Corporation's role in assisting access broadcasting is regarded by the Commission as valuable to maintain and to extend when resources increase.
4. That should funds from charges become available for non-commercial public broadcasting, reports to the Minister of Broadcasting should be called for from both the Corporation and the Tribunal on the principle and mechanics of setting aside a proportion of the funds to assist community public broadcasting including access programmes and stations as they develop.

References

TERM OF REFERENCE 6(a)(i), 6(b), 6(c), 6(d)

1. Finding of the Waitangi Tribunal on the claim lodged by Huirangi Waikerepuru and Nga Kaiwhakapumau i te Reo Incorporated Society, April 1986, para 7.2.5.
2. Arthur Reginald Russ, written brief of evidence, terms of reference 6(b) and 6(c), p.7, para 7.2.
3. Allan Wilfrid Martin, written brief of evidence, term of reference 6(a), p.2, para 1.1.
4. Beverley Anne Wakem, written brief of evidence, term of reference 6(a), p.1, para 1.3.
5. Robert Mahuta, transcript of oral evidence, 14 February 1986, p.33.
6. Wakem, transcript of oral evidence, 2 August 1985, p.125.
7. Broadcasting Corporation of New Zealand, written submission, term of reference 6(a), p.1, para 6(a)4.
8. *ibid.*, p.2, para 6(a)5.
9. Wakem, written brief of evidence, term of reference 6(a), p.4, para 2.6.
10. *ibid.*, p.4, para 2.7.
11. George Ian Andrews, written brief of evidence, p.2, para 1.5.
12. Professor Whatarangi Winiata, transcript of oral evidence, 18 October 1985, p.7.
13. Heughan Bassett Rennie, transcript of oral evidence, 4 March 1986, p.84.

TERM OF REFERENCE 6(a)(ii), 6(b), 6(c), 6(d)

1. Auckland Chinese Community Centre Inc., written submission.
2. Office of the Race Relations Conciliator, written brief of evidence, p.1.
3. *ibid.*, written submission, p.10.

TERM OF REFERENCE 6(e)

1. *The Broadcasting Future for New Zealand, Report of the Committee on Broadcasting*, Professor K. Adam, Chairman, July 1973, Wellington, Government Printer, p.106.
2. Ian Johnstone, *Report on the Pacific Islands News Association Conference*, 1985, p.7, para 7(a)(vi).
3. "Packer TV for Fiji", *New Zealand Herald*, 24 March 1986.
4. *Business Review Weekly*, 24 January 1986, p.26.
5. *ibid.*
6. *ibid.*, p.27.
7. *ibid.*
8. Ian Robert Cross, written submission, p.23, para 6.1.

9. *ibid.*, p.24, para 6.3.
10. Allan Wilfrid Martin, written submission, p.9.
11. Allan Wilfrid Martin, transcript of oral evidence, 24 February 1986, p.4.
12. Henare te Ua, transcript of oral evidence, 18 October 1985, p.5.
13. Communications Advisory Council, *New Zealand's External Broadcasting Services*, 2nd edition, September 1984, p.13.
14. *ibid.*, p.26.
15. *ibid.*

TERM OF REFERENCE 6(f)

1. BCNZ, written submission, term of reference 6(f), p.3, para 6(f)12.
2. *ibid.*, p.4, para 6(f)18.
3. All Saints Anglican Church Palmerston North, written submission, p.2.
4. Presbyterian Church of NZ, Communication Committee of the General Assembly, written brief of evidence, p.2.
5. Association of Accredited Advertising Agencies, written submission, p.11.
6. CAC, written submission, p.37, section C5.

TERM OF REFERENCE 6(g)

1. BCNZ, written submission, term of reference 6(g), para 6(g)1.
2. Beverley Anne Wakem, written brief of evidence, term of reference 6(g), p.5, para 4.2.

CHAPTER 7

Term of Reference 7

"7. The desirability of developing a more direct and specific association between television as a medium and education as a lifelong process so that television would offer, at suitable times, both local and overseas educational programmes to link with pre-school, school, tertiary, extra-mural, continuing education, vocational and re-training courses:"

1. The submissions we received on this term of reference almost universally saw enormous benefits to be derived from educational television. Few questioned the value of television as an educational medium, or the desirability, as our Warrant puts it, "of developing a more direct and specific association between television as a medium and education as a lifelong process". Television, we were told, is "a positive medium for education, providing knowledge, teaching personal, social and vocational skills, and expanding and liberalising attitudes";¹ it is a "leader and shaper of public taste"² and a moulder of public opinion;³ and it can stimulate viewers and motivate them to take up activities which they might not otherwise have contemplated. It can perform these functions at a particular point in time for all age groups within society, and for the individual over the course of a lifetime.

2. It does so in a variety of ways. Programmes can, for example, be explicitly designed to form part of or to supplement the content of formal courses of instruction taught by educational institutions. They can set out to be explicitly instructive and informative *without* being related to the curriculum of an educational institution. Other programmes whose avowed intent may be simply to entertain can nonetheless educate through the information which their content incidentally embodies and unavoidably conveys. Some of those who made submissions to us marked this distinction by describing programmes of the first two types as 'educational', and those of the latter type as 'educative' (a usage which we frequently adopt in what follows). A good many put it to us that, in their view, the BCNZ had interpreted its statutory requirement to produce programmes which educate as a requirement to develop 'educative' general information programmes. They believed that the Corporation had avoided making specifically 'educational' programmes designed to provide learning resources for particular target groups among a more general audience. Most thought that the requirement to educate embraced both these kinds of programming.

3. Another common opinion expressed to us was that educational television is ineffective by itself, or less effective than it might be if co-ordinated with resource materials from other media which would supplement its content and reinforce its impact. A cautionary note was entered, too, by Dr John Tiffin, Professor of Communications at Victoria University, whose experience with broadcast television had led him to conclude that it was ineffective as an educational medium: it was useful as a means of delivery, but not as a pedagogical instrument. What was

9. *ibid.*, p.24, para 6.3.
10. Allan Wilfrid Martin, written submission, p.9.
11. Allan Wilfrid Martin, transcript of oral evidence, 24 February 1986, p.4.
12. Henare te Ua, transcript of oral evidence, 18 October 1985, p.5.
13. Communications Advisory Council, *New Zealand's External Broadcasting Services*, 2nd edition, September 1984, p.13.
14. *ibid.*, p.26.
15. *ibid.*

TERM OF REFERENCE 6(f)

1. BCNZ, written submission, term of reference 6(f), p.3, para 6(f)12.
2. *ibid.*, p.4, para 6(f)18.
3. All Saints Anglican Church Palmerston North, written submission, p.2.
4. Presbyterian Church of NZ, Communication Committee of the General Assembly, written brief of evidence, p.2.
5. Association of Accredited Advertising Agencies, written submission, p.11.
6. CAC, written submission, p.37, section C5.

TERM OF REFERENCE 6(g)

1. BCNZ, written submission, term of reference 6(g), para 6(g)1.
2. Beverley Anne Wakem, written brief of evidence, term of reference 6(g), p.5, para 4.2.

- (v) Advice and encouragement to agencies prepared to take a decisive initiative to commit themselves to a serious feasibility study (in association with the Corporation) of curricula-related broadcasts, which the Corporation would consider if funds were provided."⁹

7. The Corporation emphasised to us that it does not envisage itself taking the initiative in developing "curriculum-based" broadcasts. It has expressed its readiness to co-operate in the production of programmes to meet educational needs, but it does not see it as its function to determine what those needs are. In 1981/82, for example, a number of programmes were made and broadcast for the Correspondence School: these were, however, experimental, and no permanent working arrangement or provision for funding was established.¹⁰ In line with these views, Television New Zealand provides no curriculum-related programmes for the groups enumerated in our term of reference. Continuing education is currently confined to general interest and creative leisure programmes which are designed to encourage imaginative use of spare time. Only the special training broadcasts mentioned earlier cater to any degree for vocational and retraining needs.

COMMENT

8. Having heard these various strands of opinion and the evidence presented for them, we concluded that it is through general programming of an 'educative' or incidentally educational nature that television can best perform the role of fostering lifelong, non-curricular education. The design, content, and production of such programmes is, we believe, the proper business of television itself, and the initiative in this area rightly rests with Television New Zealand. On the other hand, television programmes used as an adjunct of formal curricular education normally taught by schools, colleges, institutes and universities need to be designed to the prescription of the educators concerned. The BCNZ has always been willing to make curricular educational programmes to the order of the Department of Education, providing they were commissioned and their content designed by the Department. In the same way the Corporation is prepared to produce and direct programmes for other departments, as it could do for other educational institutions, again if the commissions and funding were made available. There is a provision in the existing Act which has not been used allowing departments to apply for funds for such projects. In short, we see a role for television as a medium in the provision of both types of educational programming. But the use of television and video for purposes of formal, curricular education should, in our view, be part of a process shaped not by broadcasters, but by the educational institutions themselves. We believe, along with many of those who made submissions to us, that the elements identified in the Corporation's policy on educational television, and the balance among them, are the right ones. We share the disappointment frequently expressed to us that greater progress has not been made to date in implementing them,

and would urge the Corporation to accord greater priority than hitherto to this area of its activities.

9. These general conclusions underlie our more detailed consideration of the issues in the following sections. We should add, however, that not all our conclusions on the matters in this term of reference lend themselves readily to straightforward prescriptions for action. Where we have been able to, we have embodied our conclusions in concrete recommendations, but we have not striven to do so in instances where it seemed inappropriate.

Term of Reference 7(a)

"7(a) The needs of educational institutions and Government departments for programmes in some or all of the areas listed:"

10. We referred earlier to the two-way distinction commonly made between curricular and educational programming on the one hand and non-curricular and educative programming on the other. It would be fair to say that the submissions made to us by the Department of Education on this sub-term of reference placed more emphasis on the latter category of programming than on the former.

SCHOOLS

11. The Department told us that where 'educational television' was concerned, similar developments were taking place now to those which the Department had experienced with radio broadcasting to schools since its beginnings early in the 1930s. Till about 1980, a comprehensive range of radio programmes had been broadcast direct to schools during school hours. If the schools wished to avail themselves of these programmes, they had to do so at the time they were broadcast. The advent of the audio cassette recorder changed all that, and introduced a valuable element of flexibility into the use to which schools broadcasts could be put. Since 1980, direct broadcasts have been reduced to a pre-school programme (*Grampa's Place*), a current affairs programme, and Correspondence School broadcasts. The Department has established an Audio Production Unit which has taken over the production of other types of programme, such as school music, and distributes them to schools on pre-recorded audio cassettes. The Department also runs a tape duplication service: selected master tapes supplied by Radio New Zealand's Continuing Education Unit are copied and supplied to schools for the cost of the cassette.¹

12. With the increasing acquisition by schools of video cassette recorders, the Department sees educational television following a similar path. Basically the BCNZ is producing audio cassettes which are designed to fit in with curricular needs. If funding were forthcoming from the Department of Education and the content supplied, video cassettes could similarly be produced as programmes and, if the demand was sufficient, no doubt the BCNZ would find itself forming a production unit which specialised in video cassette production which was the

equivalent of the audio cassettes from Radio New Zealand. It is to be noted, however, that universities, for example, have developed audio visual centres up and down the country which produce programmes to the order of departments within them. At Auckland, for example, programmes have been produced for the faculties of Law, Architecture and Medicine, and for the departments of Psychology and Education. There is thus a very real expertise developing outside the BCNZ which confirms that curricular education is most easily geared to production units used to thinking of class-sized audiences rather than the mass audiences of the Corporation. To a degree the same thing can be said about our training colleges and some of our technical institutes. Again, the trend which the Department of Education saw as having split audio production into professional and curricular as against broadcasting in general is reflected in the autonomous developments of video production within educational institutions, leaving the educative job to the broadcasters.

13. As for schools' requirements, Mr Peter Brice, Assistant Secretary, Schools and Development, told us that "the Department's policy has been for a number of years that direct broadcast of both radio and television are not entirely suitable as a general measure for primary and secondary schools."² As with radio programmes, it believes that direct broadcast to the classroom deprives the teacher of flexibility: a better use of the resource would be to record programmes and use them subsequently at appropriate times and in association with other supporting material.³ There are two ideas here. The first is that the teacher needs in fact to plan his or her lesson to complement the material. In this respect, there can be no doubt that teacher-designed programmes are better tailored for the classroom and better made as commissioned series. The second concept is that of using dead broadcast time, in the early hours of the morning, for example, as a time to transmit programmes to pre-set video recorders, thus allowing the material to be used according to the individual timetable of the school and the teacher. Both aims could easily be accommodated providing the funding came from the source of the need.

14. The Department placed even more weight in its submission on the desirability, in its view, of doing more to facilitate the use by schools of existing programmes. It argues that many of the programmes already being broadcast by Television New Zealand contain material which could well be used in schools to support classroom courses. The problem is that present copyright rules allow the recording of such programmes only if they are designated as "schools broadcasts" by Television New Zealand. Television New Zealand is not prepared to apply this designation more broadly unless the Department makes substantial payments to it, or otherwise contributes significantly to the development of such programmes. The Department claims that it is not funded to make such payments, and asks rather that the "schools broadcast" designation under the Copyright Act 1962 (21)(8) be applied

immediately to all programmes produced or commissioned by Television New Zealand or any private warrant holder.⁴

15. The Department is here stressing that schools and especially the intermediate and secondary levels of schooling rightly take an extensive view of what is instructive. They expect to include in formal instruction a good deal that is educative in the general sense. There are many programmes, from Shakespearian plays to modern drama, from nature programmes like *Wild South* to surveys like *Landmarks*, which are ideal for extending the principles and analysis of a subject, the hard core of what must be understood and learned. What is more, teachers grasp that their students are more used to visual presentation of incidental and even basic information than they are to Caxton's methods. So taking a programme off-air and using it in the schoolroom, surrounded by lessons which evoke the structure of ideas in the programme, is an educational use of an educative programme.

16. The Commission is hopeful that the current review of the Copyright Act being undertaken by the Justice Department will clarify the rights of educational institutions to videotape off-air and provide a framework in which their rights can be balanced against the rights of the copyright holder.

17. The warrant holders must then resolve the problems of the supply of programmes which may be copied and the establishment of a fair price.

18. We are unwilling to make a firm recommendation until the Copyright Act has been amended. However, it is possible to outline some principles. In the course of evidence proposals were heard by the Commission that the most effective way in which warrant holders could meet their responsibilities to educational institutions is to make copyright material available to licensed educational institutions for videotaping off-air. Warrant holders should purchase copyright of educationally valuable overseas material and pass copying rights to licensed institutions, along with the right to copy locally produced material. Costs could be offset by the payment of a licence fee.

19. We heard from Mr Robert McPherson, Assistant Controller of Programmes, Scottish Television, that this method of controlling and paying for copies of educational broadcasts is used in the United Kingdom, and the Commission trusts a similar scheme would work in New Zealand.⁵

20. It is clear that educational institutions lack the resources to pay commercial rates for video tapes of television programmes, so some balance must be struck between an affordable licence fee and a modest return to copyright holders. With the co-operation of educators and broadcasters in a licensing scheme both parties could clarify the understandings which presently exist, and could bring some order to what the Post Primary Teachers' Association described as a chaotic situation.⁶

21. Liaison is required between educators and broadcasters, and a working party should be formed as soon as the review of the Copyright Act is complete. It should devise a scheme whereby suitable programmes are made available to educational institutions within the bounds of copyright.

22. The Correspondence School put forward arguments on this subject similar to those of the Department of Education. Unlike the Department, however, it sees distinct benefits from broadcast educational television for its students, who are not in a classroom situation. They cannot, like other students, observe practical demonstrations, nor do they have access to the conventional resources of the classroom. Broadcast educational programmes can remedy these deficiencies, as well as present pupils in small compass with a wide range of information which could only with difficulty and in bulk be supplied in print.⁷ The Principal of the School, Mr Tate, told us, "The view that my staff and I take is that we have to use television and broadcasting because we can't afford not to".⁸ He favoured broadcast television rather than video cassettes because while most correspondence school pupils had television sets, not all had video recorders.

23. The Commission agrees that the position of the Correspondence School is unique insofar as it has 18,000 students for whom the main problem is communication over distance. To a degree principle must bend to the practical necessities, and, to the extent that the Correspondence School's task requires a visual extension of what is done by correspondence, it must perforce make more use of scheduled television broadcasts. Nevertheless, providing for the needs of even 18,000 students cannot be allowed to push out of shape the programming for an audience of hundreds of thousands. Up to a point, the correspondence students can be accommodated by programmes which appeal to the informed interest of those at home in the morning and afternoon and older people who relish relief from the undemanding regularities of afternoon programming. They can be suited together. At the same time, the appropriately designed lesson for 10 or 12 year olds cannot be the stuff of general programming. The rapid spread of VCRs is providing the Correspondence School with a partial answer. A subsidy on video cassettes for remote families who cannot meet the cost would be a possible solution though one which it would be necessary, albeit administratively difficult, to control. It should be noted that evidence given made it clear that some who were not really remote from all educational institutions were now utilising the Correspondence School. While a minority, they are more likely to be able to cope with the cost of a video recorder, just as there are many in remote places who could choose to do so if there was a proven need for their children's sake. Only investigation would establish solid figures for the various categories.

TERTIARY INSTITUTIONS

24. Those tertiary institutions which made submissions did not, on the whole, suggest that television should provide programmes for degree courses. They tended rather to emphasise that they have a very strong interest in acquiring the right to record and use programmes off-air. We have already discussed the problem which this currently involves. We would reiterate here that production of programmes by audio-visual departments within the universities is increasing because of its proven effectiveness. Moreover, by doing it internally the efficient use of these methods and resources is maximised. We believe it should be borne in mind, when tertiary funding is being considered, that this is a necessary tool of modern tertiary education, and that it is less expensive to do it as a specialist service and with the role of recording recognised in copyright statutes, than to endeavour to meet the same need through general programming.

EXTRAMURAL, CONTINUING EDUCATION AND VOCATIONAL AND RETRAINING COURSES

25. It is perhaps in these fields that television has its greatest opportunity to contribute to the process of lifelong education. We received submissions from organisations such as Massey University, which has special responsibility for extramural studies, and the Centre for Continuing Education at Victoria University which identified areas where, in their view, television could play an important role. The list of audiences and subjects is long and wide ranging. Audiences include, in the words of the Massey University submission:

- “extramural students receiving tuition to obtain formal credits towards an academic qualification;
- advanced students and researchers at a distance pursuing individual projects enhanced by data communication and computer access;
- vocational students undertaking training or retraining within the community by specialised programmes of study;
- special interest groups pursuing educational courses under extension programmes for non-credit personal development;
- community groups contributing to and receiving information from data banks and library resource centres;
- the public at large receiving standard general entertainment programmes with an educational content.”⁹

26. The Centre, under four general headings (Individual Development, Family and Primary Group Needs, Vocational, and Civic and Social Needs) set out twenty-four topics which, it was felt, were suitable for treatment on television. These included, but were not confined to, personal communication skills, understanding the cultural environment, the creative use of leisure time, child development, health and consumer education, industrial health, safety, and communication, technical training (including upgrading and retraining), participation in

public or voluntary activities, community understanding, race relations, town planning and the environment, and international understanding.¹⁰

27. All these are, we agree, areas in which the potential of television is extensive, and we are pleased to note that the BCNZ's educational policy makes such programming one of its priorities. Moreover, programming in such areas should in our view, be the responsibility of all warrant holders.

28. The key to discharging this responsibility lies, it seems to us, in effective liaison and consultation between broadcasters and the educational institutions who cater specifically for the audiences identified above. An essential and obvious first step is for warrant holders to keep educational institutions informed in good time of their current programming so that the most effective use may be made of existing local and overseas material. Production staff should be closely involved in the day-to-day decision making of their respective programme departments. Where the scheduling of programmes is concerned, ample lead time should be allowed for the institutions concerned to obtain or produce associated materials and to distribute them to the prospective audience. A readiness to adjust schedules for this purpose may also be necessary. If such simple practical steps were taken, then the general, creative leisure, and informational programmes which currently form part of the standard schedule could be better integrated with community needs, and more fully exploited by community educational institutions. The extra cost would be minimal, and more would be got out of what is already being broadcast.

29. The need for all these measures is acknowledged in the BCNZ's policy on educational television. But it cannot, of course, be a one way process. For their part, educational institutions will have to identify areas of need, and provide warrant holders with guidelines on curricula. Moreover, in developing programmes, close liaison will be required between educational institutions on the one hand and television production staff on the other. Warrant holders will require specialist production staff, organised in separate units. In the case of Television New Zealand, much valuable information could be provided, we think, by the Executive Producer of Radio New Zealand's Continuing Education Unit. The work of the Unit was praised by all the educational agencies who appeared before the Royal Commission. The New Zealand Association for Community and Continuing Education, for example, expressed the opinion that the Unit "has pioneered methods and procedures which more accurately reflect effective adult learning processes", and went on to urge that television develop units on this model which would be responsible for determining adult education priorities suitable for television, for programme production, for contact with sources of adult education to ensure the integration of broadcast material with existing resources and, where appropriate, for publishing suitable printed resources to accompany broadcasts.¹¹

30. We endorse the approval of the Unit's work, and believe that the suggestion put to us by Television New Zealand, that the Unit's

Executive Producer be an *ex officio* member of any educational television unit is a sensible one. We see mutual benefit for both units in such an arrangement.

31. This is perhaps the point to pick up the suggestion referred to earlier that to be fully effective, educational programmes on television need to be supported by other resources. The New Zealand Workers' Educational Association Inc. told us that "television and radio on their own may only provide superficial learning to listeners, but given reinforcement by group learning situations, printed material, and access to repeat presentation of material through video and cassette, we will see far greater use of the media material for the educational needs of our communities."¹² The Department of Education cited as examples of such support materials, books, periodicals, film, audio and video cassettes, pictures and charts, and computer software. In our view, it would be most desirable for television warrant holders and educational institutions to co-operate in the preparation of suitable materials for this purpose. And there should be no legal, institutional or other barriers to all parties, including Television New Zealand International, doing so.

32. A related point is that programmes of an educative nature would often benefit from being given an introduction and being followed by a discussion or epilogue. Too often, it seems to us, they simply crop up in a programme schedule without accompanying comment to place them in context or to highlight their implications. Rather than resorting to a few bland words of introduction from continuity announcers, we see good reason for the pool of expert and travelled professionals in the New Zealand community to be drawn upon for this purpose.

RECOMMENDATIONS

1. The requirement to produce programmes which educate, which is laid upon the BCNZ by section 22 of the Broadcasting Act 1976, should apply to all warrant holders.
2. Warrant holders should establish appropriate mechanisms perhaps along the lines of Radio New Zealand's Continuing Education Unit and staffed by full-time specialists, to undertake the production of educational programmes, to facilitate liaison with educational institutions, and to co-operate with them in the production of supporting materials.
3. When the review of the Copyright Act is complete, a working party be set up to devise a scheme whereby suitable programmes are made available to educational institutions, within the bounds of copyright.
4. The Act be amended by adding a section to read:
"Warrant holders shall be authorised to produce for sale to third parties, educational materials in support of educational (broadcast/cassette) programmes in various media including books, periodicals, film, audio-visual slide presentations, audio and visual cassettes, pictures and charts and computer software providing that the Warrant Holder has the appropriate copyright rights for the sale of such educational materials."

Term of Reference 7(b)

"7(b) Whether sufficient use is made of appropriations under section 23 of the Broadcasting Act 1976 to fund the employment of Corporation production staff and the provision of facilities for the editing and preparation of educational programmes, and whether the Corporation and private broadcasters should draw a proportion of New Zealand programmes from educational institutions and private production companies:"

33. Section 23 of the Broadcasting Act 1976 provides that "There may from time to time be paid, out of money appropriated by Parliament for the purpose, expenditure incurred in the provision by the Corporation of specific educational broadcasts made for reception and use in educational institutions." From the sparse evidence available to us on this sub-term of reference, section 23 appears to be a largely untapped and unknown resource. The BCNZ expressed to us its willingness to co-operate in productions funded in the way envisaged by this section, but told us that no money whatever had been appropriated for this purpose.¹

34. The examples of co-operation to date between the Department of Education and the Broadcasting Corporation cited to us in evidence appear to have been funded in other ways. Indeed, there appears to be little familiarity amongst educational institutions with the provisions of section 23, or even awareness of its existence. Frequent questions on our part elicited only surprised and remarkably vague responses. The University of Waikato expressed the opinion in its submission that section 23 had been inadequately publicised.² We formed no view as a Commission on whether or not this was so. We do, however, believe, along with most of those who made submissions to us on this topic, that greater use should have been made of the opportunities which it offers; and that the onus for taking the initiative in doing so rests with educational institutions themselves. We would urge them strongly not to let this source of funding for educational television continue untapped. When The Treasury cited social service programmes as examples of the kind of programmes which should appropriately be commissioned and subsidised by departments, it described exactly the process which would suit the production of many formal educational and publicity programmes which should be issued on video rather than on television, and would fall under section 23 for the requisite funding.

35. Few of the submissions which we received addressed the second part of this sub-term of reference. The Corporation, for its part, made it clear that it would accept programmes from any source provided they were of a sufficient standard and met the educational objectives of the authorities.³ We were shown examples of educational programmes produced by educational institutions and private production companies both in New Zealand and abroad, and are confident, on the basis of what we have seen, that material from these sources can be of a highly acceptable standard. It would be difficult to extend a blanket approval

in advance to the production standards of all such programmes, and each item would have to be considered on its merits. We would expect that warrant holders would demand standards of production which are realistic, and which would not constitute an unnecessary barrier to the use of programmes produced by educational institutions. Of course, educational institutions are not always particularly sophisticated about the way they separate educational from educative material. There is often an impulse to mix the elements in a way that would lead the larger audience to jib at what was unconsciously made for a small viewership. But it is not always so, and educational institutions such as audio-visual centres have produced programmes which have been shown with success on the mass screen. Their problem usually is that their equipment falls just short rather than far short of the specifications for sound and visual clarity that the professional engineer insists on. As for private producers, they can both make educational programmes to order and produce educative programmes because the larger houses are set up to do either. Co-operation with them by the Corporation and the third channel warrant holder is, in our view, something to be encouraged.

RECOMMENDATION

1. We would suggest, accordingly, that
 - (i) educational institutions make greater use of the funding opportunities provided by section 23 of the Broadcasting Act 1976.
 - (ii) the BCNZ and the third channel warrant holder actively explore with educational institutions and private production companies the opportunities for drawing educational programmes from these sources.

Term of Reference 7(c)

"7(c) Whether specified hours of the week, outside of peak viewing periods, should be reserved as non-commercial and educational community service hours:"

36. No single view was held by those who made submissions on this term of reference. A good many believed special hours in off-peak periods should be set aside. It was not always clear whether those who expressed this view intended that educational and community service programmes should be broadcast *solely* in off-peak periods, or whether they saw such special hours as supplementing broadcasts scheduled during periods of peak viewing as well. The Department of Health and the New Zealand Institute of Agricultural Science were explicit that both were desirable.¹

37. The Victoria University Centre for Continuing Education thought that the spread of video cassette recorders obviated the need for scheduling at specific periods, and advocated the use of off-peak hours for access television.² The Art Galleries and Museums Association of New Zealand, too, believed that access and experimental broadcasting

should be permitted at these times.³ The New Zealand Secondary School Boards' Association argued that general interest and educational programmes should be screened in peak hours, and curriculum-related material in off-peak hours.⁴ The Friends of the Concert Programme went further, advocating a separate channel which would be mainly cultural and educational.⁵ But the Correspondence School argued that there should be "no divorce of instructional from general educational television (as by placing it on a separate channel) nor of both from ordinary television provision, if possible."⁶

38. The very spread of advocacy for different kinds of programming under the head of 'educational community service hours' shows that, even among educational and cultural bodies, there is no consensus on what community service hours might be devoted to or where they should best be placed. If we are to take radio as a model for access programming, such programmes will await low power stations in the cities with the possibility of large enough special interest communities to sustain the necessary mixture of contributors. The School Boards' argument for educational programmes in off-peak hours we have already discussed, as also the Correspondence School's advocacy to meet their own needs. Both Health and Agricultural Science came nearer to the idea of community service in contemplating instructional programmes, but wanted them scattered where they would do the most community good. For our own part, we incline to the view that there ought to be more educative programming than there is, that the hours before 6.00 pm should see more of it than peak commercial periods, but that it should not disappear from peak hour viewing. As to being confined in specific community service hours, that would impoverish the rest of the programming: that conclusion can be derived from the very mixture of the evidence.

39. Of the relatively small number who expressed a view on whether such broadcasts should be non-commercial, most thought they should be free of advertisements. Even fewer said why, though we suspect Mr David Lee summed up their reasons when he pointed to the disturbance of concentration and distraction of the attention which advertisements might be expected to cause.⁷

40. The BCNZ, for its part, claimed in its submission that "it is essential that it has the flexibility to decide its television transmission hours and which of them will carry commercial content...The Corporation itself is conscious of the need to provide community service programming which it does not see, however, as being confined to specified hours, nor necessarily outside peak viewing times".⁸ At the same time, it acknowledges "the potential for the transmission outside scheduled hours of certain types of material which do not readily fall into general programme interest categories for VCR recording...", and would, it says, consider providing this type of service.⁹

REVIEW

41. Although, as the foregoing survey of the views put to us indicates, there is significant support for filling community hours, there was no agreement on how they should be filled. Moreover no strong arguments in favour of confining them to specific hours were put to us. Many submissions appeared to rest simply upon an assumption that this would be a "good thing". We are conscious however that there are also practical considerations which cannot be ignored. For example it would, we think, be very difficult, and perhaps unwise to attempt to isolate and fix a specific time for anything so various as community service, educative and/or occasionally a directly educational programme. Transmission times, it seems to us, must be influenced by a number of factors including the type of programme, the target audience, the rest of the day's programming, and revenue considerations. Programmes such as *Our World*, for example, rate highly at peak time, and we would not wish to see restrictions placed upon broadcasters which would have the effect of discouraging them from scheduling such programmes at times when they are likely to attract their largest audiences. We are conscious, too, of the BCNZ's argument that it needs to be able to respond to programming and commercial needs. "With private television, revenue earned by Television New Zealand will reduce, and rate structures will be highly competitive." Given the Corporation's preference for not increasing the present hourly level of commercial content, "the remaining option for retaining as far as possible the necessary levels of revenue lies with the Corporation's authority to decide transmission and advertising hours."¹⁰ Moreover the argument that advertising banishes concentrated viewing seems to be belied by most research on the extraordinarily mature and uninhibited way in which people watch television. Their life goes on despite the programmes, and advertising breaks are used for turning the mind to other things and returning with interest at the end. Advertising may well constitute an aesthetic interruption but patterns of study do not proceed in long uninterrupted spans. The world is too much with us for that.

42. We think, too, that the BCNZ's argument has some force. And it is only realistic to recognise that extended educative television will not be able to be funded from present resources, and that advertising and sponsorship will be necessary.

43. As for broadcasting during off-peak hours, we believe that the BCNZ's current special training broadcasts are a sensible use of time outside normal transmission. Video cassette recorders, too, will clearly offer more scope for broadcasts of training and curricular educational material outside normal hours, and within the bounds of copyright.

44. At present video cassette ownership is quite high in New Zealand and growing fast, and it is concentrated in groups which might be expected to be interested as professional and skilled folk or as parents in using their machines to record training or educational material properly so described. We would therefore expect a growing use of the

early hours as a distribution time for such programmes and one which could bring at least enough marginal income to reward the broadcasters for keeping their transmission in use.

45. We would not, therefore, recommend that specific off-peak hours be set aside for educational community service programming. The scheduling of such programmes should continue to be left to the discretion of broadcasters. Nor are there, in our view, compelling reasons for such programmes to be free of advertisements.

Term of Reference 7(d)

"7(d) Whether, with a view to further improving the quality of programmes for children, additional or different requirements should apply to the Broadcasting Corporation of New Zealand and private broadcasters, and whether advertising should be permitted during such programmes:"

46. New Zealand children, like those in other countries, watch a lot of television: according to the BCNZ, 24 hours per week for those aged between five and fourteen, and 27 hours a week for those between three and five.¹ Since 1980, their needs have been catered for mainly by the Children and Young People's Department of Television New Zealand. The Department adopts what its Head, Mr Hal Weston, described to us as a "policy of pro-social programming" which

"fosters the child-parent relationship, encourages healthy living, the constructive use of leisure, social and moral responsibility, respect for social equality and cultural diversity, consideration for the handicapped, care for the environment and national pride."²

47. Children's programmes are shown on weekdays for four hours per day on one channel, and for five hours at weekends, a monthly total of 25 hours of children's programming. Most of this material is imported: about 1,000 hours annually, mainly from Britain and the United States. Local content amounts to some 400 hours of programmes each year (including repeats). Within this overall figure for local programming, the balance between new material and repeats varies from year to year. The target for 1985 was about 200 hours of new programmes.³

48. As well as this output from the Children and Young People's Department, the Corporation's current affairs group produces *Video Despatch*, a twice weekly current affairs programme for young viewers, and its Drama Department has produced a number of young adult productions, such as *Hunter's Gold*, which have achieved acclaim both in New Zealand and abroad. The Corporation emphasised to us Television New Zealand's commitment to high standards in its children's programming, both imported and locally produced, and cited as evidence of this commitment its successful negotiation of an arrangement with Children's Television Workshop for the introduction of Maori language segments into *Sesame Street*, whose producers are noted for their concern for the integrity of their programme.⁴

49. Mr Weston put it to us in his evidence that "Television New Zealand's programming for children and young people goes well beyond the strict requirements of the relevant Acts and Rules".⁵ Looking to the future, however, he warned us that "Television New Zealand's programming provision for children and young people are now at an optimal level and no significant extension or improvement is likely to occur unless additional funding in real terms becomes available".⁶

50. He voiced concern, too, at the effect which the advent of a private third channel might have. Unlike public service television, private commercial television had to use its programmes to attract advertisers, who were, in general, not interested in children as a market. For this reason, "private television everywhere is generally reluctant to invest in quality children's programming".⁷ We have heard this argument elsewhere. The ABC in New York informed the Commission that there was virtually no children's programming on the major US networks because advertising will not support children's programmes. In the United Kingdom too, the Independent Broadcasting Authority told us that the ITV companies had been prepared to improve the quality of their programming for children only after considerable pressure had been brought to bear upon them to do so.

51. The BCNZ put it to us that "the BBC, the ABC (Australia), the CBC (Canada), PBS (United States) and Television New Zealand are all public broadcasting services, and all have a good record in the area of children's programming. It is significant that their performance is matched only by the heavily regulated companies that make up the British ITV system".⁸ As well as fearing that an unregulated private third channel in New Zealand would feel no imperative to provide quality children's programming, Mr Weston foresaw a danger that, if the Corporation lost to a third channel a significant part of the advertising on which it depends, the quality of Television New Zealand's own children's programming would suffer. The third channel might offer no programming for children at all, or provide only cheap, low quality, imported material, with the Corporation being forced to follow suit. His solution was to propose a quota for the private third channel.⁹

REVIEW

52. We received remarkably few submissions on this term of reference. The incidence of violence in children's programmes was a major concern of those who did address this topic, and we deal with this aspect under term of reference 8(h). For the rest, in the absence of strong evidence to the contrary, we can only conclude that New Zealanders are by and large satisfied with the present quality of children's television. We would agree: the current output of the Children and Young People's Department seems to us to be conscientiously produced to a commendably high standard.

53. Those standards need to be preserved and protected from the dangers to quality and quantity posed, as Mr Weston rightly foresees,

by the advent of a third channel, and by the "lowest common denominator" effect of competition. He proposed a quota for the third channel of 572 hours of children's and young persons' television per year (substantially less than the 1,400 hours currently broadcast by the BCNZ).¹⁰ We take the point that children's programmes, from whatever source, are not attractive to advertisers, and, in a competitive situation, may well be given low priority. We therefore see merit in the idea of a quota, though, unlike Mr Weston, we believe it should be required equally of all warrant holders. As for the size we would set the level at a minimum of one and a half hours per channel per day, i.e. 548 hours per year. Programmes should, in our view, be drawn from both local and overseas sources; and locally produced programmes would attract points under the system described under term of reference 2(i). Although, as noted earlier, we are generally reluctant to intrude into the area of programme scheduling, we would, in this case, expect these programmes to be screened at children's peak viewing hours. We would recommend that the Broadcasting Tribunal monitor scheduling to ensure that programmes for pre-schoolers and school children are broadcast at times when they are able to view them. Where the latter are concerned, figures given to us by Mr Weston suggest that only 30 percent of school children are home by 4.00 pm, 60 percent by 5.00 pm and 75 percent by 6.00 pm. In other words, as things stand at present, a large proportion of children are not home when most children's programmes are screened.¹¹

54. One concern expressed to us by Mrs Betty Gilderdale of the Children's Literature Association was that television producers were not sufficiently trained in children's educational requirements, and that young and inexperienced producers were assigned to children's programmes.¹² We express no view on the accuracy of that complaint, but as a general principle we think it desirable that advice from pre-school educationalists be available to producers of children's programmes, and that they be encouraged to develop their expertise through specialist training. For example, children like being read to, and a segment of scenes in which a story, interspersed with illustrations, is read out to a group of children from a book of very short tales has been successful overseas and would certainly be a help for parents acquiring the valuable habit of reading aloud themselves. Accessibility to advice from specialist interest groups and the public at large is also important. In this latter connection we would recommend that warrant holders be required to consult their Advisory Committee on the educational aspects of children's programmes.

WHETHER ADVERTISING SHOULD BE PERMITTED DURING PROGRAMMES FOR CHILDREN

55. The Broadcasting Rules Committee has, under section 26 of the Broadcasting Act 1976, laid down rules on this matter. Advertising Rule 2.2, entitled "Advertising and Children", reads as follows:

- "(a) Advertisements should not be framed in such a way as to take advantage of the natural credulity of children.

- (b) Children should not be urged in advertisements to ask their parents to buy particular products for them.
- (c) No advertisement should suggest to a child that he will be in any way inferior through not owning the advertised product.
- (d) Vacant.
- (e) Advertisements for cinema films must comply with the Corporation's requirements to meet its censorship classifications."

56. The Corporation's current practice is that no advertisements are shown during the pre-school time-slot on channels between 2.30 pm and 4.00 pm. It believes that these rules and policies provide suitable guidelines to broadcasters.¹³

THE ARGUMENTS

57. The arguments about whether advertising should be permitted during children's programmes are familiar. Those opposed to it claim that children are not always able to distinguish commercials from the programmes during which they are shown, and that this makes them vulnerable to exploitation. Advertising, it is alleged, creates demands which parents may be unable to satisfy. And it can adversely affect children's values, attitudes and behaviour. Others point out that, in addition to those explicitly intended for them, children watch other programmes which contain advertising, and are exposed to advertisements in other media. In these circumstances, so the argument runs, it is unrealistic to try to shield them from the effects of advertising simply by banning advertisements from children's programmes. The advertising industry, for its part, put it to us that the available evidence showed that children were not affected by advertisements, and that the question of whether advertisements should be shown during children's programmes was "not an issue" in New Zealand. This was a matter, they argued, in which the industry could safely be left to regulate itself: its record hitherto, and the fact that there had over the past three years been only one complaint—about a cinema trailer—to either its own regulatory body, the Committee of Advertising Practice, or to Television New Zealand proved that it acted in a socially responsible manner.¹⁴

58. Others again, while not prepared to accept that children were wholly unaffected by advertising, thought that advertisements scheduled during children's programmes should be carefully vetted, to exclude undesirable content and insidious appeals. Permitted advertising should be minimal and non-intrusive.¹⁵ The Department of Health saw positive value in community service advertisements promoting healthy behaviour being screened during children's programmes.¹⁶

REVIEW

59. Despite the advertising industry's confidence that children are unaffected by television advertising, we would frankly be uneasy with a situation in which no regulation existed at all. Something more binding

than voluntary restraint is required, in our view. We believe that the current convention that pre-school programmes are free of advertisements should be mandatory for all warrant holders: this should apply to all programmes for an audience of children up to six years old. Where experienced school-age children are concerned—after the introductory year—we accept both that they will inevitably be exposed to advertising at other times on television and in other media, and that they are better able than pre-schoolers to distinguish between advertisements and the programmes in which they occur. Hence it is unrealistic to require that programmes designed for them should be entirely free of advertisements. We believe, nonetheless, that a more detailed set of rules than the current ones is required, and recommend that a code along the lines of those set by the Independent Broadcasting Authority in the United Kingdom be drawn up and adopted. Such a code should contain provisions to ensure that advertisers show restraint in the placing of advertisements in and around children's programmes.

60. We would expect that compliance with these rules would be monitored by the Broadcasting Tribunal while the Tribunal Rules Committee would add to or amend them from time to time, as circumstances require.

61. We also think it desirable that both audio and visual devices should be shown before and after advertisements to distinguish them clearly from the programmes during which they occur. Such 'separators' should not include material from the programme, such as its presenter, actors or cartoon characters, which might confuse programmes with advertisements. The need to use separators would, we expect, diminish with programmes designed for older age groups.

RECOMMENDATIONS

1. That warrant holders should be required to consult their Advisory Committees on the educational aspects of children's television.
2. That there should be a minimum quota for children's and young persons' programming, applicable to all warrant holders, of one and a half hours of programmes per channel per day, to be drawn from both local and overseas sources and screened over all weeks and days of the year. Locally produced programmes should receive points under the points system described in term of reference 2(i).
3. That the current convention that programmes for pre-school children are free of advertisements should be mandatory for audiences of children up to six years old.
4. That a more detailed set of advertising rules along the lines of those set by the Independent Broadcasting Authority should be drawn up and adopted. It should contain provision to ensure that advertisers show restraint in the placing of advertisements in and around children's programmes.

5. That the Broadcasting Tribunal should in its monitoring ensure satisfactory scheduling and consistent quality of childrens' and young persons' programmes, and compliance with the matters in Recommendations 2, 3 and 4.

References

TERM OF REFERENCE 7

1. Centre for Continuing Education, Victoria University of Wellington, written submission, p.1.
2. Composers Association of N.Z. Inc., written submission, p.2.
3. The Music Federation of New Zealand Inc., written submission, p.11.
4. Dr John W. Tiffin, written submission, pp.1—2.
5. Department of Education, written submission, p.7.
6. Hamilton Teachers College, written submission, p.2.
7. The Correspondence School, written submission, p.3.
8. BCNZ, written submission, term of reference 7, para 7(a)4.
9. *ibid.*, para 7(a)5.
10. *ibid.*, para 7(b)4.

TERM OF REFERENCE 7(a)

1. Department of Education, written submission, p.3.
2. Cyril Peter Brice, transcript of oral evidence, 26 November 1985, p.32.
3. Department of Education, *loc. cit.*, p.7.
4. *ibid.*, pp.6—7.
5. Robert McPherson, written brief of evidence, p.9.
6. New Zealand Post Primary Teachers' Association, written submission, p.2.
7. The Correspondence School, written submission, p.5.
8. Ormond Tate, transcript of oral evidence, 26 November 1985, p.24.
9. Massey University, written submission, p.11.
10. Centre for Continuing Education, Victoria University of Wellington, written submission, pp.2—3.
11. New Zealand Association for Community and Continuing Education, written submission, p.2.
12. New Zealand Workers' Educational Association Inc., written submission, p.3.

TERM OF REFERENCE 7(b)

1. BCNZ, written submission, term of reference 7(b), paras 7(b)4 and 7(b)3.
2. University of Waikato, written submission, p.12.
3. BCNZ, *loc. cit.*, para 7(b)6.

TERM OF REFERENCE 7(c)

1. Department of Health, written submission, p.3. New Zealand Institute of Agricultural Science (Inc.), written submission, p.4.
2. Centre for Continuing Education, Victoria University of Wellington, written submission, p.4.
3. The Art Galleries and Museums Association of New Zealand, written submission, p.8.
4. New Zealand Secondary School Boards' Association, written submission, p.3.
5. Friends of the Concert Programme (Incorporated), written submission, Recommendation 6.
6. The Correspondence School, written submission, p.4.
7. David Lee, written submission, part B.
8. BCNZ, written submission, term of reference 7, para 7(c)3.
9. *ibid.*, para 7(c)6.
10. *ibid.*, para 7(c)4.

TERM OF REFERENCE 7(d)

1. Hallud Everard Weston, written brief of evidence, pp.3—4.
2. *ibid.*, p.6.
3. *ibid.*, pp.5—9.
4. BCNZ, written submission, term of reference 7, paras 7(d)2 and 7(d)3.
5. Weston, *loc. cit.*, p.8.
6. *ibid.*, p.9.
7. *ibid.*, p.10.
8. *ibid.*, p.12.
9. *ibid.*, p.10.
10. *ibid.*, p.13.
11. Weston, *loc. cit.*, p.4.
12. Children's Literature Association of New Zealand Inc., written submission, p.1.
13. BCNZ., *loc. cit.*, paras 7(d)7, 7(d)10, 7(d)11.
14. Association of Accredited Advertising Agencies of New Zealand Incorporated, written submission, p.12.
15. Centre for Continuing Education, Victoria University of Wellington, written submission, p.4.
16. Department of Health, Appendix to written submission, p.2.

CHAPTER 8

Term of Reference 8

"8 The desirable limits on radio and television advertising, the efficacy of standards and rules, and the question of television and violence;"

THE DESIRABLE LIMITS ON RADIO AND TELEVISION ADVERTISING

1. As long as New Zealand has had broadcasting it has had some part of it supported by advertising. For public service broadcasting, advertising revenue has been an essential part of the dual funding along with licence fees. When there was only radio and the public service broadcasting system was set up, these two sources of funding were reflected in the range of services provided by the then New Zealand Broadcasting Service. A parallel structure operated the popular music and light entertainment commercial ZB stations and the more diversified programmes of the non-commercial National service and the four YC Concert Programme stations.

2. The growth of television in New Zealand from 1960 onwards rapidly replaced radio as the dominant broadcasting medium. Yet, from its start, television too was built on the dual funding system. In the early stages licence fees represented far more of the resources available to television in the 1960s than the 1980s. They helped pay for extending transmission coverage and made possible a wide and varied range of programmes as mandated by Parliament. Licence fees not only paid for wider choice, they also justified, on the one existing channel of that era, keeping 50 percent of transmission time free of advertising.

3. That balance was upset in the mid-1970s by the high capital costs of going to colour and of establishing a second television channel and by the increasingly adverse economic climate in which it was built. The further pressure to extend the coverage of the second channel to the more remote parts of New Zealand reinforced the need for additional revenue over and above the licence fee. At the start of the two channel system, advertising had been restricted to four days per week on each channel. In February 1975, however, this was extended to five days per week to accommodate these extra financial demands. Mounting problems with funding and a diminishing licence fee contribution led to a further extension to a six day advertising week in July 1985 on both channels. Concurrent with the increase in advertising days was an increase in the number of advertising minutes permissible. Before 1974 the maximum permitted was six minutes per hour. The allowable maximum at present is nine minutes per hour, established in 1977, so there has been no change for nine years.

4. These progressive increases in the volume of television advertising reflected system building, rising costs, and the shrinkage in the real worth of the licence fees as a support to the non-commercial element in television. Until the recent fee increase announced by the Minister of Broadcasting, licence fees had been unaltered since 1975 and inflation had reduced their real value to less than one third of what the 1975

licence provided for public service objectives. As the value of the licence fee for broadcasters fell, television was forced more and more to maximise its commercial revenues in order to maintain programmes and services.

5. Much the same considerations applied to radio. It, too, found the combined weight of a static licence fee and inflationary pressures a difficulty in maintaining and extending services. Radio was further embattled in its search for additional advertising revenue by the advent of private radio. Yet at the same time, the BCNZ was pressed with demands to extend the coverage of the National and Concert services, to establish new community stations, and to phase in FM broadcasting. Public expectations of broadcasting as a whole increased at a time of quite severe financial stringency, yet those expectations were enlarging without informed debate.

6. It was within this broad economic framework that the Commission had to address this term of reference. Advertising revenues provide the bulk of the finances for public service broadcasting in this country and short of a very dramatic increase in licence fee funding will continue to do so. Thus, in deciding upon desirable limits of radio and television advertising we had to keep in view the decline in overall standards and services that might eventuate from any diminution of advertising revenue.

7. Yet at the same time, we had to balance these economic considerations against the interests and preferences of the listening and viewing public. There exists a diffuse desire in the public that advertising should be reduced and limited, particularly on television. There seems little doubt that a majority of viewers regard television commercials as at best a distraction and at worst, a cumulative irritation. The BCNZ itself would argue that the public accepts advertising, as evidenced by lack of complaint about the volume of advertisements. Yet, in submissions to us the verdict of "too much advertising" was passed far more frequently than would be expected from the BCNZ's arguments. However, such criticism was always made in general terms with little reference to, and no expressed expectations about any financial losses which might follow. Nor was there discussion of the intensified constraints in programming and coverage that would accompany a reduction of television advertising.

8. Radio was not singled out as much as television in the submissions. There appeared to be a greater tolerance of radio advertising but there was real concern on the part of a number of individuals and groups to protect and foster what was seen as the threatened sector of non-commercial radio to ensure that it did not suffer from even limited advertising encroachment.

9. The present situation in regard to radio and television advertising may be only one of tolerance on the part of audiences for there was a very strong feeling that limits are desirable. In this the Commission concurs while recognising that, in establishing those desirable limits, due attention must be given to economic circumstances so that

broadcasters are not impeded in endeavouring to attain those programming goals mandated by Parliament.

THE EFFICACY OF STANDARDS AND RULES

10. We consider at this point the middle question in this term of reference which is not specifically or generally addressed in any of the subsections.

11. There are few people in the community who would argue that there should be no standards or rules in relation to broadcasting programmes. Radio and television programmes in New Zealand can have audiences of hundreds of thousands and what distinguishes the broadcast media from other media is that they come right into people's living rooms where people attend to them together. While the same people may well tolerate certain standards in the cinema, in the theatre or in a novel, which are thought of as external or private, they will often object to the same things arriving on the broadcast media. It is not a complete argument to say that, if people are offended, they can switch a programme off or change to another station or channel for the problem is already in the sitting room. Moreover, the airwaves, unlike books, magazines, cinemas or theatres, are licensed by Parliament and the public pays licence fees to support public broadcasting. The viewer or listener, therefore, does have a stake in what is broadcast.

12. Public service broadcasters are mandated by Parliament to provide a wide range of programmes that will cater to the varied interests and sections of the community at large. They are also bound to maintain standards "which will be generally acceptable in the community" while at the same time providing programmes that will inform, educate and entertain. It follows that part of the function of broadcasters is to enlarge and expand the imaginative experience of their audience. It also follows, as in any creative medium, that broadcasters will at times offend the sensibilities of some parts of the community. A difficulty is that, in a pluralistic society, attitudes and tastes are constantly changing and what gives offence to one section of society at a given time may well be acceptable at another time or to another section.

13. Reconciling these conflicting demands and striking a balance is a fundamental problem of broadcasting. In seeking to achieve such a balance a difficulty is that it is virtually impossible to establish a universally accepted code of standards that could be applied to all programmes, a code that would "exclude the meretricious and nasty while sanctioning the poignant and the truthful."¹ Difficult though it may be, broadcasters have a responsibility to monitor their programmes to ensure the least offence is given but without abandoning their duty to be stimulating and, at times, provoking.

14. From the evidence coming before us, it would appear that in some important respects broadcasters in New Zealand have not been able to strike this balance. In particular, there was a substantial volume of criticism in the submissions about the growing level of violence in

television programmes. We deal with this issue more fully in 8(h). However, the fact that this groundswell of opinion has developed so far is indicative of widespread questioning of the results of the system for reviewing standards and rules. The depth of this criticism shows that either broadcasters are out of step with a large section of the population or, that the rules under which they operate are inadequate or poorly monitored.

15. Much the same held true for the depiction of women on television. Genuine criticism was presented by the National Council of Women and other diverse women's groups of what they considered demeaning and unfair presentation of women in advertising and, to a lesser extent, in some programmes. The question needs to be asked whether the rules and standards in this respect have kept pace with society's perception of the role of women.

16. We address the issue of the adequacy of the internal monitoring standards of the BCNZ and private broadcasters elsewhere in this term of reference. Over and above such internal procedures that may exist, however, are the broadcasting rules committees which are established by sections 26 and 26A of the Broadcasting Act with the principle function of preparing and promulgating rules in respect of programmes and advertising.

17. In the Act, the initial committee is recognised as a "standing committee" of the BCNZ on which representatives of the Independent Broadcasters Association Inc. and any private television warrant holders have the right of participation. Should this committee disagree on any rule, then a further committee is to be formed of equal numbers of the BCNZ and private warrant holders, chaired by the Chairman of the Broadcasting Tribunal with a casting vote. This further committee must then reconsider and determine the matter in dispute.

18. Historically this structure is an adapted descendant from a time when the BCNZ and its predecessors were all, then most, of broadcasting. The BCNZ has the statutory right to govern public service broadcasting and its own proceedings. Doubtless it will continue to require its own corporate standing Rules Committee in addition.

19. We as a Commission, however, have doubts about the efficacy of the broadcasting rules committees as presently constituted. Nowhere in the Act is the number of members of the initial committee precisely defined. That only occurs when there is a dispute which cannot be resolved and the further committee under the Tribunal Chairman's leadership is set up. Furthermore, the basis of the successive committees in the BCNZ is increasingly anomalous with the prospect of a third competitive television channel. Under these changing circumstances there is an obvious case for transferring the formal status of the committees from being committees of the BCNZ to committees of the Tribunal which has a judicial oversight of rule-making in the system as a whole. At the same time, the membership of the committees requires statutory clarification and the initial and provisional decisions of the first committee, followed by final decisions in the second, should be

condensed into a single binding consideration by one single Tribunal Rules Committee which ought to represent all parties.

20. The BCNZ is bound by section 24 of the Act to provide a wide range of programmes catering for diverse interests and maintaining standards generally acceptable to the community. Private warrant holders are bound by section 95 which sets out similar standards but, as the Act presently stands, the initial rules committee is only bound to comply with the standards set out in section 24, not section 95. The Act goes on to state in section 26 (4) that "Any rules prepared by the [rules] committee may apply generally to all broadcasting stations, or may apply only to broadcasting stations of specified types or classes". It seems to us that there needs to be much more finality in providing that any rules or standards established by the Tribunal Rules Committee must apply equally to all broadcasting warrant holders.

21. Furthermore, a common complaint to us was that the representatives of the public had very little input into the rule-making procedures. The only avenue open to private groups or citizens who believed rules and standards were inadequate or being transgressed, was to lodge a formal complaint and appeal to the Broadcasting Tribunal. Not only was this system criticised as complicated, cumbersome and piecemeal, it was also suggested by many that it only made provision to discuss specific complaints and did not provide opportunities to explore any general policy inherent in any particular breach of the rules.

22. In view of the present looseness of the legislation governing rules and standards in broadcasting and in view of the fact that those rules and standards are not always perceived as being particularly efficacious, we believe that it is time that the Tribunal have attached to it a Rules Committee which will balance the representation of private and public and television and radio representatives. If there is one representative from private radio, one representative from private television, one representative from public radio, and one representative from public television, the objective would be achieved. It should also include all the judicially impartial Tribunal members whose special province rule-making is. Lastly, it should include a representative of the public who could well be the Chairman of the Tribunal's own Advisory Committee. Such a Committee would be, as now, presided over by the Chairman of the Tribunal who would have both a deliberative and a casting vote. With such machinery, the clarification of rules and standards should proceed on a more inclusive and consensual basis at the same time as rule-making would gain in authority and conclusiveness.

23. It may be objected by the Corporation that such a transfer of their rules committee to the Tribunal will lessen their independence. The reply can only be that it no more does so than the present provisions of sections 26 and 26A. It could also be objected that the Corporation is under-represented in that two-thirds of both radio and television remain under the control of the Corporation and that they would only have

equal representation with the private industry. This is more difficult to answer, but could be met by two further Corporation representatives on the Committee. However, the Commission believes that the Tribunal component should ensure equity is preserved. As to the Corporation's sphere and independence, the Corporation will preserve its trusteeship on behalf of public broadcasting undiminished. Where it sees fit, as it has done in the past, the BCNZ will continue to make and enforce additional rules and standards within its own sphere. These may be stricter or more fitting for a public broadcaster's particular requirements than those it helps to determine for broadcasting considered as a whole. In the same way, private broadcasters, either radio or television or both, may decide that they, too, should add rules for themselves to the common stock.

RECOMMENDATIONS

1. That the functions and responsibilities at present undertaken by the broadcasting rules committees based on the BCNZ Rules Committee be transferred to a Rules Committee of the Broadcasting Tribunal.
2. That the Broadcasting Rules Committee of the Tribunal be given power in the Act to prescribe rules and standards for broadcasting in accordance with the general guidelines laid down in sections 24 and 95 of the Act, and that these be binding on all warrant holders.
3. That the Act provide for the membership of the Rules Committee of the Broadcasting Tribunal to be made up of: the members of the Tribunal; a representative of the Tribunal's Advisory Committee; one representative each from public television, private television, public radio, and private radio.
4. That this Rules Committee be presided over by the Chairman of the Tribunal empowered with both a deliberative and a casting vote.

Term of Reference 8(a)

"8(a) Whether the number of advertising minutes per hour at various times of the day on television should be revised."

INTRODUCTION

24. The number of advertising minutes per hour on television is established by Television Advertising Rule 5 which states:

"5.1 The total amount of time given to advertisements shall not exceed nine minutes per hour averaged over a day's programmes.

5.2 In any two hour period there shall not be more than 20 minutes of advertising time."

25. The Commission received 21 submissions on term of reference 8(a). Most submissions only made a brief comment on the

issue. Nor did the submissions fall clearly into "for" and "against" categories. Some submissions dealt only with advertising minutes per hour, others addressed the total amount of advertising on television and some submissions were concerned with both. There were arguments against a revision of the number of advertising minutes per hour because of a perceived implication that "revision" meant "reduction". Others argued for a review on the same grounds. Submissions from the advertising industry also recommended revision on the grounds that current levels may not be adequate.

26. However, apart from those with a direct interest in preserving or increasing advertising minutes, the heavily predominant feeling registered by the evidence was that there was a preference for a reduction, although this evidence had only rarely considered what might follow from such a reduction.

THE CORPORATION

27. The Corporation in its original submission and in evidence, submitted that the present level of nine minutes per hour was acceptable and argued against any reduction in the number of advertising minutes per hour, primarily on financial grounds.

28. The submission noted that while the current rate regarding the maximum number of advertising minutes per hour had been in force since 1977, the total amount of commercial content had grown with the increase in the number of commercial days.

29. This increase in the commercial content of television occurred because of increasing public expectations of the public broadcasting system and licence fee revenue falling well behind inflation. Since the licence fee has remained unchanged since 1975, the Corporation has had to maximise its income from commercial sources. In real terms, inflation has reduced the value of the licence fee to less than one third of what the 1975 licence provided. In its 1980 *Report* to Parliament, the Corporation noted that "the revenue from the commercial success of television is the main source of funds which enables public broadcasting to function as it does today."¹ That situation has not altered.

30. When the amending Act of 1985 was passed in March, one of its purposes was to forbid television advertising between 6.00 am and midnight on Sundays. This was done by inserting a new subsection 73A into the Act which also provided that all other television transmission hours under the warrant were advertising hours. In June 1985 the Corporation decided to extend from five to six the number of advertising days per week for an initial twelve month period, at which point the decision would be reviewed. This constituted the only alteration in minutes per hour or days of advertising in the last nine years.

31. In its evidence, the Corporation was strongly of the opinion that any reduction in the total amount of advertising would result in a critical reduction in income. The Corporation stated that a one minute reduction per hour during peak viewing hours (6.00 pm to 10.00 pm) over both

channels, (or a total of eight minutes reduction over a four hour period at peak time), would result in losses of \$15 million in revenue per annum to the Corporation. A direct consequence of this would be difficulty in maintaining overall programme standards, and in maintaining or increasing levels of local productions. According to the Corporation, the net result would be an increase in lower priced programme repeats which would inevitably draw public criticism.

32. In the Corporation's opinion, while there is currently a surplus demand over supply for peak time advertising, not all off-peak advertising hours are being sold. Nor could revenue lost from any reduction in advertising minutes per hour be compensated by increased charges for advertising. The Corporation argued that present television advertising has a price related to its audience and, if that price is too high then the advertisers will not buy it—they will move their advertising to other media or promotional opportunities.

33. From a practical programming viewpoint, the Corporation emphasized the need for approximately twelve minutes of non-programme content per hour. The "international standards" for programme duration (in respect of overseas programmes as well as New Zealand programmes to be marketed overseas) are 24 minutes for a "half-hour" programme, and 48 minutes for an "hour" programme. The present advertising limits allow for each hour or half-hour to be adequately occupied without the need of undue filler material. This also allows for the existing two channels to observe common programming junctions so that viewers can readily change from one channel to another without breaking into programmes, a firm preference of the viewing public. Any reduction in advertising time may mean abandoning common junctions or padding television time with filler items which, the Corporation believes, would be to the detriment of overall programming flow. The Corporation believes that, with the advent of a third channel, such common junctions should be standardised across all channels. In its evidence, Independent Television also stressed the desirability of retaining common junctions for programme start times. This is, in fact, the practice generally observed in most overseas countries.

THE THIRD CHANNEL APPLICANTS

34. Submissions from the third channel applicants on this term of reference were brief, principally because the term of reference did not necessarily require them to justify their overall assessment of the advertising market but to comment on rules already in place. There was agreement that there should be no reduction in advertising minutes per hour and a tendency to argue for an increase. Energy Source Television submitted in its Tribunal application that there should not be more than eleven minutes in any one hour or twenty minutes in any two hour period with a nine minute average per hour over a week.

35. Southern Cross Television felt each warrant holder should be able to raise the matter with the Tribunal on its own initiative, while Independent Television suggested a maximum of ten to twelve minutes

per hour average, basing this on international standard programme length. They also added that there should be sufficient flexibility within any guidelines to enable a warrant holder to respond to financial considerations.

THE ADVERTISING INDUSTRY

36. In their submissions to the Commission, the Association of Accredited Advertising Agencies advocated a review of advertising minutes to assess how realistic the current levels are, as well as a review of the overall hours of advertising on television, making brief reference to advertising minute rules on Australian television (an average of thirteen minutes in off-peak time and twenty two minutes for every two hour period in peak time). They were supported in this call for a review by the Association of New Zealand Advertisers who also advocated an extension of advertising to include Sunday.

37. In oral evidence to the Commission the Association of Accredited Advertising Agencies contended that the New Zealand media market, particularly in regard to television, has yet to mature. They based this argument on a comparison of the level of advertising investment between New Zealand and Australia. According to the 4As, in the 1984 financial year, advertising expenditure per capita in \$NZ was 263 for Australia and 139 in New Zealand. While offering these figures primarily to support the introduction of a third channel in New Zealand, the clear implication was that there is an untapped source of advertising revenue which would support the call for an upward revision of present advertising levels. Although the Corporation agrees there is at present an excess demand over supply for peak advertising time, but not for off-peak time, they argued strongly that there would be insufficient demand to duplicate Australian levels where there are larger population centres.

38. Such increases if granted would, of course, conjoin with the effects of adding a third channel, to greatly multiply the amount of advertising time available for all three channels to sell to advertisers, if they could, and would correspondingly alter the rates advertisers might expect to pay. There would also be consequent changes to the balance of advertising placed with television as opposed to other media, such as newspapers, radio, and magazines.

OTHER INTERESTS

39. The 4As submission also challenged the notion that viewers have an aversion to advertising on television. This was not supported by the bulk of submissions from parties without a direct pecuniary interest in maintaining or extending present limits. The National Council of Women was firm in the belief that "there was too much advertising on television"²; the Children's Literature Association argued that "the number of advertising minutes on television should be revised and reduced"³; the New Zealand Musicians' Union recognised advertising as a "necessary evil", but recommended "that advertising time on television...be kept to a minimum"⁴, while the Public Service

Association also called for a reduction. None of these submissions, however, addressed the consequences of revenue loss, and its effect on programme standards, if the amount of advertising time on television was to be reduced.

40. The Corporation countered that public adverse reaction to advertising's share of time was infrequent and that most complaints from the public were about the content not the time taken by advertisements. Adverse comments about volume of advertising generally followed "bunching" of advertisements as a result of breakdown or putting together too many short advertisements.

41. The Public Service Association expressed concern at a perceived deleterious effect on programming whereby programmes are regarded as adjuncts to commercials, selected primarily for their ability to attract viewers and therefore advertisers. While the Corporation conceded that some programmes are more popular with advertisers than others, they rejected the notion that overall programme standards suffered as a result of advertising. On the contrary, as previously stated, they believed the obverse to be true—a reduction in advertising time would, through its adverse effect on funding, affect programming standards and carrying out the Corporation's responsibilities as public broadcasters.

42. Some submissions argued for a higher licence fee to compensate for a reduction in advertising time. Again, there was no reference in these submissions to the benefits by way of coverage, quality and range of programmes, that would be lost if higher licence fees were used simply to reduce advertising time. In any case, when the evidence was given, the licence fee had not altered.

REVIEW

43. The Commission is concerned about the deleterious effects on programme standards that any reduction in the Corporation's revenue would bring about. Since the Corporation, after ten years of inflationary attrition received only 16 percent of its net revenue in 1985 from the annual licence fee, the Corporation is in the position of having to maximise its revenue from the other main resource it has available—television advertising time—if it is to maintain, fulfil, and extend its statutory obligations as a public service broadcaster.

44. The Commission is mindful of the potential loss of revenue to the Corporation that any reduction in television advertising time would bring about and is satisfied that in the immediate future there will be little scope to increase the price of advertising to compensate for the kind of loss that would occur from a reduction in overall advertising time. Indeed, the prospect of competitive pricing in a three channel situation would point towards lesser revenues even with the same number of minutes.

45. The Commission notes the public preference, as evidenced in our hearings, for a diminution in advertising, but recognises also that the

evidence did not knowledgeably address the consequences of any such diminution.

46. For the public to welcome as a significant difference in the amount of advertising on television, a substantial overall reduction would seem to be called for, a reduction that the Commission believes could not be tolerated if the funding and quality of programming was not to suffer accordingly. On the other hand, the evidence suggests that the present level is at the outer edge of public tolerance.

47. Nor does the Commission believe that the New Zealand market is as elastic as the advertising industry submissions suggest when they argue for upward revision of advertising time.

RECOMMENDATION

1. Accordingly, this Commission recommends that the present maxima of nine minutes per hour and twenty minutes in any two hour period which have been fixed since 1977 should remain for the present and be applied to all TV warrant holders as an upper limit. Both the Broadcasting Commission and warrant holders should keep the possibility of some reduction under periodic review in relation to economic circumstances and after the degree of attainment of other statutory goals is fully considered in relation to the benefits of reduction.

Term of Reference 8(b)

"8(b) Whether the amount of commercial radio advertising is acceptable to the public or whether it requires reduction."

INTRODUCTION

48. Formal rules governing the content allowed on radio are a relatively recent development, having first been promulgated under the Broadcasting Act of 1968. Prior to that, and prior to the advent of private radio, there were only "house rules" which the New Zealand Broadcasting Corporation did adopt and which permitted a nominal maximum of eighteen minutes to the hour of advertising for the bulk of its programmes.

49. With the establishment of the Broadcasting Authority in 1968 the Authority adopted the NZBC "house rules" as a standard for all radio stations, although there were some exceptions for programmes such as the old style *Shopping Reporter* which contained a much higher advertising content.

50. The Broadcasting Council during its brief existence from 1975 to 1977 continued to uphold the Authority's radio advertising guidelines. The Broadcasting Rules Committee, which was established by the Broadcasting Act of 1976 and charged with preparing and promulgating rules in respect of programmes and advertising, also maintained the then standing rule of an eighteen minute an hour maximum on radio advertising. This limit remains in force today and both the Corporation and the Independent Broadcasters Association are bound by that.

51. However, during the period reviewed, the Corporation revised its own "house rules" down to sixteen minutes per hour for all commercial stations and twelve minutes per hour for its three ZM stations. Subsequently, a Broadcasting Tribunal decision limited 1ZM to sponsorship messages pursuant to a Ministerial direction.

52. With the introduction of FM stations, the Broadcasting Tribunal established further limits on some of those stations both to protect existing radio station revenue and in the belief that FM listeners would prefer less advertising.

53. The current situation is, then, that commercial radio stations, both public and private, may broadcast commercials 24 hours a day between midnight Sunday and 6.00 am the following Sunday, up to a maximum of eighteen minutes per hour. ZM stations are limited to twelve minutes per hour and some FMs to a maximum of six or eight minutes. The only exceptions are that there can be no advertising on Christmas and Easter Days and no advertising between 6.00 am and 1.00 pm on Anzac Day.

54. In practice, however, these limits are seldom reached. The Corporation maintains its own "house rules" below the permitted maximum, while the private stations also seldom reach the allowable limits.

55. In all, seventeen submissions addressed this term of reference. There was, in the submissions of the interested bodies, namely, the Corporation, the Independent Broadcasters Association, and advertising groups, broad agreement that no change in the maximum advertising minutes per hour was necessary. Indeed, the IBA and the advertisers argued there should be no restrictions at all, basing this on what they perceived as a lack of any sign of public disapproval with present limits. The Corporation agreed there was little sign of overt public demand for change, but the Corporation was content with the existing maxima.

56. As with term of reference 8(a), however, submissions from people and groups without a direct pecuniary interest in maintaining the status quo or extending limits, were very much of the opinion that a reduction is warranted but these submissions showed little overt appreciation of the consequences, in financial or programming terms, of any such reduction. Furthermore, these submissions often equated television and radio advertising as one and the same. Both the Corporation and the IBA, however, went to some length to argue that whereas television advertising is seen by the public as a break in continuity, radio advertising is an integrated part of the programme "mix" and, as such, is not obtrusive, so needs to be regarded in a very different way from television.

THE CORPORATION

57. In arguing that present advertising limits are acceptable and not in need of revision, the Corporation contended that commercial radio broadcasters, because they are in a highly competitive market for

audiences, are keenly alert to public reaction to the overall effect of their commercial stations' broadcasts. As the Corporation stated in their written submission, this leads them to continually "monitor the effects of advertising content and station formats. . .to ensure that audiences are satisfied with both the programme and commercial output."¹ Any adverse reaction to a station's format would lead to a decline in ratings which, would in turn disadvantage advertisers, and, might lead to a reduction in revenue from those advertisers.

58. The Corporation is satisfied that their present practices in regard to commercial content meet the needs of both the public and the advertisers.

59. The aim of achieving a suitable programme/advertising balance, has led the Corporation to set its own limits below those prescribed by the Broadcasting Rules Committee. Reference has already been made to the Corporation's "house rules". In practice, these mean that the most common maxima for advertising content are sixteen, fifteen and fourteen minutes per hour. Occasionally, the level may rise above sixteen minutes but those occasions are rare and generally caused by a short-term miscalculation of demand.

60. The Corporation believed it had refined and honed its programming/advertising mix to an acceptable level, evidenced by a lack of public comment or complaint about their commercial radio formats. In evidence to the Commission, Mr Ronald Wilkinson, Director of Sales & Marketing, Radio New Zealand, said that while it would be very hard to have a "general rule of thumb", listener acceptance of commercial content varies on type of format and the time of day. Generally, there is less acceptance in music formats and later in the day, and these preferences are considered by station programmes. Public complaints when they have occurred, have been concerned with content of commercials rather than levels of advertising.

61. Any reduction in commercial content would inevitably have financial implications and, according to the Corporation, "would lead to lesser funding for popular community radio, and, possibly, a reduction in non-commercial minority programming because there would be less commercial surplus to fund it. Any such reduction to popular and/or minority radio could not be regarded as in the public interest."² Nor, according to the Corporation, could commercials be transferred from peak to non-peak time to compensate for this if advertisers still wished to reach maximum audiences. Already, not all radio advertising within the limits of the Corporation's "house rules" can be sold whether in peak or off-peak time. Price resistance is a significant factor in this and existing price resistance also militates against increasing the cost of advertising to overcome any losses accruing from a reduction in advertising limits.

THE INDEPENDENT BROADCASTERS ASSOCIATION

62. In its evidence, the IBA was largely in agreement with the views of the Corporation. They too pointed to the need in competitive

commercial broadcasting to thoroughly research public requirements and then to programme to meet those requirements. If the public did not accept a particular format then this would "impact upon the ratings which would impact upon revenue returns."³

63. From their audience research, the private warrant holders believed that they, like the Corporation, had achieved a publicly acceptable programme/advertising mix and that their radio stations seldom reached the advertising limits set by the Broadcasting Rules Committee. Like Corporation stations, IBA members set their own house limits. Evidence was presented that it was not uncommon for competitive AM music oriented stations to restrict their advertising content to between nine and a half and twelve minutes per hour and, sometimes, as low as eight minutes.

64. As with the Corporation, the private warrant holders pointed to a lack of adverse public comment to justify their success in achieving publicly acceptable formats. Criticism, when it came, they claimed, was to do with content of advertisements, not overall levels of advertising.

65. The IBA also contended that far from being intrusive, advertisements contribute to the overall "life" and vitality of commercial radio forming an integral part of the programme mix and format and that as such, the public viewed them as "valuable" information and a "highly entertaining service."⁴ On this ground, the private warrant holders claimed there was no need for any reduction.

66. Where the IBA did differ from the Corporation was when it argued for a removal of any restrictions to allow "market forces" to control commercial radio advertising levels. In practice, they argued that market forces already controlled their level of commercial content, hence their own house limits, and that they were finely attuned to the needs and requirements of the markets they served without the need for statutory limits.

THE ADVERTISING INTERESTS

67. Both the Association of Accredited Advertising Agencies and the Association of New Zealand Advertisers were of the firm view that there was no need for any reduction in radio advertising limits. In its written submission the 4As stated that "we believe the intense competition between private and Radio New Zealand stations for audience/advertising revenue share, has resulted in the public sector medium being highly efficient and attuned to the needs and requirements of the market it serves",⁵ while ANZA pointed to audience share statistics which showed those stations with the highest advertising volumes had the highest audience ratings.

68. Rather than a reduction, both bodies argued for an increase in advertising time to include Sunday advertising. Both believed that since a listener's perception of advertising on radio is very different to a viewer's perception of television advertising, that this would be accepted. They also made reference to the disadvantage radio suffers against the Sunday print media and direct mail advertisers.

69. In this argument, they were supported by Radio New Zealand's Mr Wilkinson who stated in his written evidence that "the radio industry generally believes regular listeners to popular radio would have no objection to this extension."⁶

OTHER INTERESTS

70. Contrary to the claims of the Corporation, the IBA, and the advertising groups that the public at large was satisfied with current levels of radio advertising, the evidence presented to the Commission by individuals and organisations revealed an interested body of listeners whose acceptance of present levels was at best grudging and certainly opposed to any increase. The Friends of the Concert Programme referred to a poll they had commissioned which showed 59 percent of all listeners either listened to a station with no advertisements or preferred less or no advertisements on their commercial station. The Children's Literature Association, the Public Service Association and several private individuals all concurred that the amount of advertising on commercial stations is "not acceptable and should be reduced."⁷ As previously stated, however, other than suggesting an increased licence fee, these submissions had no suggestions for alternative funding, nor overt appreciation of potential revenue loss from a commercial reduction.

REVIEW

71. An argument raised in evidence was that one of the advantages of the New Zealand mixed broadcasting system is that there is always an alternative non-commercial radio station for the people who do not like advertising on radio. To what extent such groups exist, their motivation, and whether they are catered for sufficiently in terms of their interests by the non-commercial stations available was not precisely defined by the evidence coming before the Commission. The Commission was fully informed of the size of audiences of both commercial and non-commercial stations, but how far the audience of the latter stations is motivated by lack of advertising, and how far by programme content, and the degrees of listening satisfaction gained on these alternative stations, remain questions for further investigation.

72. Evidence shows that the interested parties are mildly at variance in that the advertisers and the private stations advocate no restrictions on advertising if there is to be a change. The Corporation runs its stations below its own maxima and accepts the present eighteen minute limit, although their Director of Sales & Marketing did see scope for an extension of advertising to Sundays.

73. The Commission is mindful that the advent of third channel television will greatly multiply the amount of advertising time available to be sold and would, in all probability, reduce the rates advertisers might expect to pay. This may well affect also the balance of advertising placed on commercial radio. Any extension of advertising limits on radio may well compound the effect—more advertising time to sell in an even

more competitive market. The likely outcome would be to further force down advertising rates with a consequent impact upon station revenues, in turn, affecting the ability of those stations to maintain programme standards.

74. Regardless of the lack of public complaint to the broadcasters, the evidence from listeners, as presented to us by groups and individuals, showed a predominant preference for less advertising. This evidence about the audience, however, revealed somewhat less high feeling—apart from the Friends of the Concert Programme—than did the evidence to diminish television advertising. There is reason to believe also, that listeners have sorted themselves out over the years into a majority who accept advertising in its normal radio context and those who usually seek out non-commercial stations, whether for their programmes or their freedom from advertising, or both. Again, an uneasy truce has been maintained inside a persisting limit over many years and only minor alterations to existing practice can be put forward with any assurance.

RECOMMENDATION

1. Accordingly, for the present, in the light of there being little sign of concerted public demand for change, and in the light of the current flexible levels employed by the Corporation and private warrant holders, we recommend that the most widely used maximum of 16 minutes be considered by the Tribunal for adoption as a maximum at that point when the impact of three channel television has been experienced and viably withstood by commercial radio as a whole. Otherwise, we recommend no immediate change in the amount of commercial radio advertising.

Term of Reference 8(c)

"8(c) The non-commercial character of the National Programme and Concert Programme radio services:"

INTRODUCTION

75. The philosophy of public service broadcasting has already been discussed in several parts of this *Report*. However, it is perhaps germane to restate briefly some of those basic principles and underlying assumptions here. The *raison d'être* of public broadcasting is that it should provide a wide range and diversity of programmes to cater for practically all kinds of tastes, for large groupings and small. The public service broadcasting ideal recognises "that we are all at different times parts of majority and minority groupings, [and] belong to overlapping constituencies of tastes and interests."¹ Rather than appealing to populist notions of "giving the people what they want", or searching for mass audiences on every possible occasion, public service broadcasting seeks to provide maximisation of choice.

76. In New Zealand those principles have statutory backing in the Broadcasting Act which requires the BCNZ to:

- (i) "carry on public broadcasting services, and to develop, extend, and improve those services in the public interest" 17(1)(a).
- (ii) "provide and produce programmes which inform, educate, and entertain" 22(a).
- (iii) provide "a range of programmes which will cater in a balanced way for the varied interests of different sections of the community" 24(1)(a).

77. Perhaps the clearest division of these responsibilities within the BCNZ occurs in the area of radio services where Radio New Zealand operates 41 commercial outlets in all, two of which are counted on both AM and FM, and the non-commercial National and Concert Programme Services. The intention and practice has always been that the National and Concert Programmes will "complement the mass appeal, local commercial stations"² and will cater for more specialised and varied interests in their programming, and that these services will be supported and subsidised by licence fee revenue and by the revenues earned from the commercial stations. That has been the clear wish and policy of the Corporation and its predecessors, and of successive governments.

78. This accepted policy came under threat from the mid-1970s onwards from the combined pressure of competition from the second television channel, inflationary attrition on a static licence fee, the increased costs of providing services, and the further proliferation of competitive private radio stations which eroded the commercial revenues of the Corporation. Accordingly, to meet this downturn in available finances, and in an effort to maintain and extend the National and Concert Programme Services, in 1983 the Corporation sought, and was given, Ministerial approval to apply to the Broadcasting Tribunal for amendments to the Concert Programme warrants to enable restricted advertising on that programme. The Tribunal granted that permission but, in the event, the Corporation chose not to implement it. Their decision not to do so was no doubt partly inspired by the intense, and unexpected public outcry from the Friends of the Concert Programme, a movement formed with the specific intention of resisting the extension of advertising to the Concert Programme. The decision not to proceed was also inspired by the knowledge that the new Minister of Broadcasting in the incoming Labour Government intended to rescind the previous Ministerial direction.

79. The current situation is, then, that both the National and Concert Programme Services remain commercial-free and it is the "preferred" policy of the Corporation that they should remain so, notwithstanding the difficulties of funding those services from an inadequate licence fee and from already hard-pressed commercial revenues. The overwhelming opinion of those groups and individuals who made submissions to us on this term of reference was that those services should retain their traditional non-commercial character.

THE NATIONAL PROGRAMME SERVICE

80. The National Programme Service of the Corporation has been in existence as a non-commercial network operation for 25 years. It currently broadcasts 24 hours a day on the AM frequency and can be received by 86 percent of the total population.

81. For many years, the National Programme was regarded as the "flagship" of Radio New Zealand, both in the resources it commanded and in the type and quality of programmes it transmitted. In the increasingly competitive environment of radio since the 1970s with the corresponding need to maximise commercial radio revenues, the National Programme's status within Radio New Zealand tended to be downgraded and its resource allocation decreased.

82. Essentially, the National Programme Service originates from Wellington and is then transmitted through a network of 22 individual and relay stations. As a country-wide service the National Programme has "the unique capacity of being able to link the nation in shared knowledge and entertainment",³ but the provision is flexible in that there is ample provision in daily and weekly schedules for local stations to "break out" of the network link.

83. Currently, National Radio (so re-named in January 1986) operates from Wellington-based studios with twelve staff. The total transmission cost throughout the country runs into millions of dollars. National Radio has no revenue earning status.

84. The service format aims primarily at a widely divergent but "discerning, articulate, often influential audience"⁴ in the 35+ age group. In programming terms, this entails a mix of news, current affairs, music, drama, discussion, intelligent conversation, comedy, humour, light entertainment and literature.

85. At present, National Radio enjoys an overall audience share of 11.4 percent in the 10+ age group between 6.00 am and midnight. In cumulative terms this represents an audience of 600,000 people per week or, an average of 49,000 listeners in each quarter hour. If that is to be regarded as a "minority" audience, it is certainly a minority of significant size. To take one aspect of this, nearly half a million people "dip" into a single programme, *Morning Report*, on National Radio each week day. Indeed, if one wants an in-depth understanding of news and current events, as opposed to the more brief, tabloid type coverage of the commercial stations, then National Radio is the only source on radio.

86. Audience ratings also miss the fact—and one which came through very strongly in some submissions to the Commission—of how much people in country areas and small towns, particularly women, depend on National Radio for company and intelligent discussion programmes.

THE CONCERT PROGRAMME SERVICE

87. The Concert Service was established in 1952 by the then Director-General of Broadcasting, J. H. E. Schroder, as a forum for "the best in every genre"⁵ of programming, but particularly serious music and

spoken material. In programme content, it has always aimed to be the service which provides a range of serious classical music of all types and a range of culturally oriented talks and discussions. Music accounts for approximately 75 percent of the station's programme output.

88. A fundamental emphasis of the Broadcasting Act is that the BCNZ should provide variety and choice. The Concert Programme, in fact, represents the only source in New Zealand broadcasting for a great variety in music, talks and knowledge which would otherwise be unavailable anywhere else.

89. Currently, the Concert Service is broadcast from four AM transmitters in the main centres and, in addition, there are three FM transmitters in the Waikato/Bay of Plenty, Hawkes Bay and Wellington.

90. The Concert Programme Service is broadcast for eighteen hours per day from 6.00 am to midnight and can be received by 70 percent of the population. It has a Wellington-based staff of thirteen. In terms of audience size, the Concert Programme averaged about 3 percent of the 10+ listening population in 1985 for the 6.00 am to 12.00 midnight broadcasting hours. This rose to an average of 5 percent in the 7.00 pm to midnight period. In cumulative terms, this represents a weekly audience of 177,000 people, a figure larger than the combined populations of Hamilton and Tauranga.

DEVELOPMENT PLANS AND FINANCIAL CONSTRAINTS

91. It has already been stressed that the "preferred policy" of the Corporation is to maintain the existing non-commercial nature of both the National and Concert programmes and to continue to provide programmes of the highest possible quality with as wide a coverage possible, in accordance with its statutory obligations. There are constraints, however. In the last financial year, Radio New Zealand's commercial operations showed a profit of \$4.7 million but, overall, when the operating costs of the two non-commercial networks was taken into consideration, Radio New Zealand had a total deficit of \$4.6 million. Viewed a different way, Beverley Wakem, Director-General of Radio New Zealand, stated that Radio New Zealand's share of the licence fee revenue (a 50/50 split with TVNZ after meeting the costs of the Symphony Orchestra) in the 1983/84 financial year was \$15,509,486. The cost of non-commercial services was \$18,735,690, leaving a shortfall of \$3,226,204 which had to be covered from commercial revenue.

92. Without undermining the validity of the BCNZ's argument, the same qualification as has been discussed at several points before must be added here, that these figures are on the BCNZ's own basis of what was non-commercial and what was not and until there are divisionalised accounts and a publicly-agreed definition of non-commercial services, these figures must be taken against that background.

93. Nevertheless, they are a good indication of real financial constraints and, within these constraints, Radio New Zealand plans expansion of the National Programme so that all communities of over

12,000 population receive a primary transmission signal. This would increase overall national coverage to 91 percent of the population. At the same time, Radio New Zealand intends to broaden its programme range on National Radio to make it complementary within the four-strand policy covering all stations operated by Radio New Zealand.

94. This latter aim is closely linked with development plans for the YC network. There is a strong public demand that the YC Concert Programme should be converted as soon as possible to FM transmission. The Corporation is keen to accommodate this desire as funding becomes available. The Concert Programme will then become even more music-oriented and some of its spoken programmes would be transferred to National Radio and vice versa. This would also free up the YC-AM network for Parliamentary broadcasts, sports round-up and community education programmes. The Corporation has indicated it would endeavour to seek sponsor funding for this YC-AM service.

95. In this way, taking into consideration also the commercial stations, Radio New Zealand would hope to maintain and enhance its statutory obligations over a broad spectrum of complementary programming.

96. The conversion of the Concert Programme to FM however, according to Ms Wakem, will only take place when there are increases in commercial opportunities to offset costs. Either there would need to be a "dramatic" increase in the licence fee or the Concert Programme conversion to FM will only occur in tandem with the granting of ZM-FM warrants for the same sites so that the one can offset the cost of the other. Already this has occurred in Wellington. Christchurch is due to follow later this year.

97. While present funding methods for the non-commercial stations remain there is always a difficulty in providing the range of programme and services expected by the highly articulate audience groups those stations cater for. In arguing for an increased licence fee, Mr Rennie stated that "the continuing ability of the Corporation to compete without loss of programme quality—and its ability to survive and broaden its services in the public interest—rest substantially on a secure and adequate basis of funding, consumer-driven rather than advertising-driven."⁶ He further argued that any more commercial and competitive pressure on advertising revenues would make it difficult to meet statutory obligations. Ms Wakem concurred, arguing that "Radio New Zealand...will not be able to compete with the present level of programme and service quantity and quality"⁷ unless costs are reduced (primarily through staffing and programme cuts), or revenues increased.

98. Inevitably, the advent of third channel television will have an impact upon radio advertising revenues. Mr Rennie in oral evidence made reference to the "catastrophic" effect breakfast time television had on British commercial radio. It produced an overnight collapse in radio revenues. There seems little doubt that some money currently spent on radio advertising will be diverted into third channel television. Without alternative funding, this will have a consequent effect on the non-commercial services provided.

99. Even without this added competition, Radio New Zealand has already had to make reductions in its non-commercial programmes. Ms Wakem detailed a number of staff and programme cuts over the past five years. The half-hour *Evening Report* and the *Weekend Report* programmes were terminated; studio recitals and religious programmes were reduced; *Morning Comment* was reduced from six to five days a week; in 1981 37 programmes were commissioned from others by Radio New Zealand, in 1985 only eight; programmes involving soloist performers were down from sixteen programmes in 1982/83 to eight in 1985; in drama, 400 hours produced in 1976/77 had reduced to 94 hours in 1984/85, while cultural patronage to orchestras, choirs and art groups had been substantially cut, all as a result of constraints on funding.

100. In addition to these reductions, Ms Wakem said that no new broadcasting trainees had gone into the system with the National Programme or the Concert Programme as their employment destination for three years.

101. Given the present funding system and the pressures on commercial revenues, Ms Wakem and, indeed, the Corporation, while wishing to retain the National and Concert programmes as non-commercial entities, could foresee continuing difficulty in providing the range and quantity of programmes expected by listeners to those stations.

EVIDENCE FROM PARTIES OTHER THAN THE BCNZ

102. Of all the areas of radio transmission, it is perhaps the National and Concert programmes and, in particular, the latter, that have the staunchest, most articulate and most vocal audience in maintaining that the integrity of their services should not be interfered with in any way. This was evidenced by the widespread outcry when the BCNZ made public its intention to seek advertising on the Concert Programme in 1983. The adverse reaction to this proposal by the Friends of the Concert Programme was, according to the BCNZ, "an expression of audience concern unusual in the history of radio in New Zealand."⁸ It was the contention of the Friends of the Concert Programme that public broadcasting is performed in the public interest to meet a want or a need in the community. They clearly indicated that there was a strong desire for a non-commercial service or services. They also pointed out that most western countries provide quality, non-commercial public broadcasting networks financed by government grants or licence fees, services that otherwise would not exist because "the educational, aesthetic or intellectual content may attract an audience too small for commercial viability."⁹ Clearly they did not want to see any change from that in the New Zealand context.

103. That same concern was a common theme running through the majority of submissions to the Commission on this term of reference. The Music Federation of New Zealand seemed to speak for many when it stated that the Concert Programme is one of New Zealand's "cultural assets".¹⁰ The predominant feeling in the submissions was that

advertising was "inappropriate" to either the National or Concert programmes and that any moves to commercialise either programme should be strongly resisted. The argument was advanced that both stations represented the essence of public broadcasting—the provision of services without a profit motive.

104. There was some appreciation in the submissions of the difficulties in funding such services. Doubt was expressed that even limited advertising and sponsorship would return significant revenues for the Corporation. Indeed, Ms Wakem for the Corporation agreed. When asked in cross-examination if the YA network would be able to attract sufficient advertising, if permitted, she stated that "the extent to which that would generate revenue of any size to fully support it is questionable."¹¹ Where the submissions did propose methods of funding, the common suggestion was an "adequate" licence fee.

105. Those arguments in favour of extending advertising to both networks came mainly, not surprisingly, from the advertising industry, although one or two private submissions did suggest sensitively chosen advertisements to subsidise costs and operation. The contention of both the Association of Accredited Advertising Agencies and the Association of New Zealand Advertisers was that each sector of public broadcasting should be expected to pay its own way. The ANZA made reference to the "continuing clamour" for the extension of the Concert Programme to remote areas of the country and argued that, "somebody must pay for this extension and we do not believe it should be at the expense of the majority of listeners through the licence fee or taxes or through the use of advertising revenue when advertisers have no access to the service or its audience."¹² In the main, however, this view had few supporters in the other submissions. Indeed, it was strongly rejected on public service broadcasting grounds.

REVIEW

106. A problem for the Commission in dealing with this sub-term of reference was that the wording of it addressed the non-commercial nature of the National and Concert Programmes. Consequently submissions tended to concentrate on whether those two services should retain their non-commercial character or be opened to limited advertising. With one or two major exceptions, few submissions attempted to argue the intrinsic value of the programming format on each of these services. Their value was assumed rather than spelt out.

107. The Commission believes that both the National and the Concert Programme Services have a fundamental role in a public broadcasting system. The objectives of the Broadcasting Act call for the widest possible range of broadcasting and protection for all audience groups, be they large or small. The National and Concert Services do cater for smaller audiences than the commercially-oriented stations but it must be remembered that these audiences still number in the tens of thousands and even as high as half a million for *Morning Report* on National Radio. These services also provide a range of programmes in

serious music and discussion that would not otherwise be available. As such, they provide an important and valued function of public broadcasting.

108. The traditional character of both the National and Concert programmes has been free of commercials. They complement the mass-appeal, local stations, as in fact the Corporation is mandated to do by the Act. It is also the "preferred" policy of the Corporation to retain those networks in their existing state, given adequate funding.

109. The Commission appreciates the financial difficulties and constraints faced by the Corporation in maintaining the non-commercial character of both the National and Concert programmes. It is aware that with the advent of third channel television, the advertising revenues of the Corporation, which have been used to help support the operation of the National and Concert programmes, will come under increasing pressure. Yet the Commission is not convinced that limited advertising or sponsorship on either programme would generate sufficient revenue to justify the perceived dilution of the quality of programming that would follow. Indeed, as the evidence clearly shows, this would be vehemently resisted by the audiences of both services, and could well be rendered ineffective by the superior attraction of placing advertisements on all three competing television channels.

110. Likewise, there was also considerable evidence from groups with a widespread membership, such as the National Council of Women and the Friends of the Concert Programme, for extending the range of transmission and the quantity and quality of programmes provided on both networks. Evidence came forward of the need to convert the Concert Programme to FM as soon as possible; of the need to restore programmes that have been cut due to financial pressures; and of the need to restore staffing levels. Requests of this nature obviously require considerable financing and it was suggested by the submissions to us that issues such as these be considered when the level of licence fees is reviewed. The Commission is in full agreement with such sentiments and is of the opinion that maintenance of the public service aspect of broadcasting should be addressed and protected by licence fee funding.

111. The Commission is fully aware, and indeed has stressed, that public service broadcasting is genuinely threatened in its funding by the full effects of a competing third television channel in a small country. Our preferred recommendations assume that a worst case outcome has not eventuated. Commissioners have pointed out that, under the worst kind of circumstance, where non-commercial services could be facing permanent limitation, merger, or selective discontinuation, they would wish the kind of sponsorship arrangements outlined by Radio New Zealand in the past to be considered again as a method of perhaps averting such curtailment of services.

RECOMMENDATION

1. That the National and Concert Services remain non-commercial and be reinforced as essential elements in public service broadcasting, but that this policy for the Concert Service be kept under review in the light of available financial resources.

Term of Reference 8(d)

"8(d) The need for rules in relation to the sponsorship of programmes."

INTRODUCTION

112. Sponsorship of programmes in relation to both radio and television is an exceedingly complex subject. The forms and methods of sponsorship are many and varied and, in times of increasing programme production costs, are an ever more attractive proposition to broadcasters as a means of funding programmes and as a source of additional revenue. Yet, while the financial benefits are obvious, the whole issue of sponsorship is one that arouses intense, and often emotive, arguments and counter-arguments within various groups in the community.

113. Sponsorship on a broad scale is a relatively new practice in New Zealand. In its basic form, sponsorship originated in the United States. Initially, it was used in relation to radio drama, in particular, "soap operas". Its later application to television programming was a natural extension.

114. In the American context, the practice is often for advertisers to buy a whole programme or series of programmes made by an independent production house, then to purchase network time for that programme or programmes. The prime consideration in this arrangement is audience size. The advertiser will buy prime time and then tailor the programme to attract the greatest number of viewers. The networks themselves have little control over the programmes and, in effect, become conveyor belts of programmes produced and funded by outside agencies. Edmund Murrow, the noted American broadcaster, described the practice as "far from being an expression of majority desire, as the networks say, television programmes are the imposition of a social minority on the majority, the minority consisting of the fifty top advertisers, the three networks and a dozen or so advertising agencies."

115. This American method of sponsorship has never been employed in New Zealand broadcasting. Indeed, it is the very antithesis of the concept of public service broadcasting and is prohibited by the existing rules of the Broadcasting Rules Committee for both radio and television. Nor was there any suggestion in the submissions and evidence coming before the Commission that we should seek to emulate the American practice. Rather, the concern here was two-fold. Firstly, how much association and recognition a sponsor who has paid for part of a programme's production costs should be given, and secondly, the

extent to which groups such as tobacco and alcohol interests, who are prohibited from television and radio advertising, can "flout" broadcasting rules through sponsorship arrangements.

116. In general, however, there was a very strong feeling in the submissions to us on this term of reference that rules relating to sponsorship of all types need to be revised and strengthened to overcome what many perceive as an area of confusion and double standards.

DEFINITION AND TYPES OF SPONSORSHIP

117. We have already made the point that sponsorship is a complex issue and that sponsorship occurs in a variety of forms and guises. The Broadcasting Rules Committee define a "sponsor" as a "person or organisation meeting the cost of sponsored material", while "sponsored material", means "any matter (other than advertising programmes) which is not purchased by a television [or radio] service or produced wholly at the cost of a service."

118. Within this context, there are two broad kinds of sponsorship and careful distinction needs to be made between the two, a distinction which was not always apparent in the submissions to us on this term of reference.

119. The first type of sponsorship is that which can be termed "external" sponsorship. In these arrangements, companies may sponsor events (the Nescafe Great Northern Steeplechase), sports teams, (Mainzeal Carmel netball team) or other such groups (the Continental Airlines Brass Band). Here, the sponsorship arrangement is between a company and an organisation or a promoter. While a broadcasting warrant holder may cover such events or make mention of those teams/organisations, etc. as part of its normal programming, the warrant holder does not have any direct input into the actual sponsorship deal.

120. The second common type of sponsorship is a bi-lateral arrangement whereby a broadcasting warrant holder works in conjunction with a commercial organisation to co-fund a programme or series of programmes. In this situation, the broadcaster does have a direct input into the type and extent of the sponsorship package. In some cases, the contribution of the outside organisation might be regarded as a form of corporate patronage.

121. It is important that the broad distinction is made. While not ignoring the existence of external sponsorship, it is the second type of arrangement, the co-funding of programmes, that this term of reference is, or should be, specifically addressed to, simply because that is the type of sponsorship within the power of broadcasting warrant holders to control. With external sponsorship they are third parties to an existing arrangement. Although not directly involved in these arrangements, broadcasters cannot ignore them if there is significant public interest in the event/team/organisation where the sponsorship deal exists. To do so, and not to cover them by news or direct broadcast, would be to

neglect statutory obligations, particularly on the part of the BCNZ, to provide news and a range of programmes. That is not to deny, however, that the existence of external sponsorship does not present fundamental questions of control and independence which need to be resolved.

SPONSORSHIP IN PRACTICE

122. There is no doubt that sponsorship, both external and bi-lateral, is a very attractive method of corporate promotion for many organisations. In oral evidence, Mr Keith Hancox, Executive Director of the New Zealand Sports Foundation, suggested that in many cases advertisers can get a better return on their dollar through sponsorship deals than they could get through straight advertising. While this holds true for any sponsor, it is particularly true of those companies, such as liquor and tobacco interests, which are prohibited under existing agreements and rules from direct television and radio advertising of their products.

123. External sponsorship is also attractive to those promoters, teams or groups who are the recipients. In a time of increased costs, and when many sporting codes are involved in national, as opposed to local or regional sports competitions, it is a valuable source of funding. It may well be that several highly publicised ventures which have caught the public imagination would not have occurred without corporate sponsorship. In particular, the New Zealand challenge for the America's Cup is a case in point.

124. Normally, such external sponsorship is for naming rights in return for the provision of prizes or financial support. It is also manifest in another guise in the appearance of hoardings at sports events carrying the sponsor's name. There can be little doubt that the promise of live coverage on television and radio of these events is a major lure to the sponsor.

125. There are also considerable benefits to be gained for both parties in the other broad type of sponsorship, that of co-funding the production of programmes. The broadcasting organisation is able to recoup considerable production costs while the sponsoring company, through association with the programme, receives public exposure. Evidence was presented to us by the BCNZ that often some programmes would not be made at all if there was no such arrangement.

126. When such sponsorship occurs, it is clearly in the public interest that the audience be aware that the warrant holder of the broadcasting licence has not met all the production costs of a programme. The key issues here, however, are that the warrant holder must always retain overall editorial control, and just how much recognition by way of association the sponsor receives.

127. The BCNZ does actively seek bi-lateral sponsorship deals and gave evidence of an elaborate set of procedures to control precisely how much association by means of company logo, mentions before or

after the programme or both, musical themes and advertising placements are obtained in exchange for different levels of support.

128. The BCNZ has four levels of bi-lateral programme sponsorship. The most lucrative is where a company or commercial enterprise may be sold naming rights. This is used only for event television such as the Pan Am Track Series or the Countrywide Entertainment Awards. The second level of this type of sponsorship, and the most common, is that of in association credits whereby a programme is advertised as being made in association with a particular organisation. The third and fourth level arrangements are end credits where the sponsor may include a company name or logo at the end of the programme and voice over credits, where a programme is stated to have been made in association with the sponsoring company. In none of these arrangements is the sponsor permitted to advertise a product or service. All that is permissible is use of a company logo or name.

129. The sponsor, however, may purchase ordinary advertising time in the normal manner to advertise their association with a programme. Indeed, Mr Hancox of the New Zealand Sports Foundation stated that it is common practice for companies to spend a ratio of 3:1 on advertising a sponsorship. That is, that an advertising budget of three should be added to a sponsorship of one to produce an advertising benefit of five to six. This is not only true of bi-lateral arrangements, but also of external sponsorship. Recent New Zealand examples of this would be New Zealand Insurance's extensive promotion of their sponsorship of the "Monet" exhibition or their involvement with the Whitbread (again, a sponsor) Round the World yacht, "NZI Enterprise". Where there is a joint contractual sponsorship between the BCNZ and a second party, the BCNZ may also use its own in-house promotions of programmes. The number and timing of these slots is the sole responsibility of the BCNZ programmers.

130. There are many examples of programmes which have been made by the BCNZ with sponsorship assistance. *Landmarks*, the *Benson and Hedges Fashion Awards*, the *Skellerup Young Farmer of the Year*, *Agreport*, and *Dig This*, are all programmes falling within this category. In each case, the BCNZ has been able to recoup significant production costs through the sponsorship arrangement.

RULES RELATING TO SPONSORSHIP

131. Sponsorship on television is covered at present by Rules 4.1 and 4.2 of the Television Standards and Rules laid down by the Broadcasting Rules Committee. These state:

4.1 Sponsored material may be broadcast by a television service provided that it does not relinquish editorial rights or control over the extent and presentation of such material, and provided that the association of a sponsor with a programme is acknowledged in the programme credits.

4.2 A company name may be referred to in a broadcast where it is part of the recognised title of sporting or other events which are sponsored.

132. Radio's rules vary slightly. There, under Rule 3.1:

"...no name having any trade, commercial or financial connotation is to be used in conjunction with the presentation of any programme except that:

- (a) Sporting and other public events which are sponsored may be referred to in news bulletins, sports summaries, etc., by their recognised titles, e.g. Benson & Hedges Tennis Tournament.
- (b) A company name or the name of any of its products may be included in the title of any programme which is substantially financed by that company."

CRITICISM OF PRESENT RULES, STANDARDS AND PRACTICES

133. In general, with the exception of those interests with a pecuniary stake in existing sponsorship arrangements and practices, there was a very strong, indeed, sometimes emotional, demand in the submissions and evidence to us that the present rules relating to sponsorship needed substantial revision and redrafting. Nor was this demand just from organisations and individuals not directly involved in broadcasting. Industry sources themselves were of the view that sponsorship rules needed amendment. The Broadcasting Tribunal expressed its concern at a lack of industry-wide agreement on sponsorship. ESTV, a third channel applicant, argued that the whole issue of sponsorship was confused. They felt it "should be brought into the open and stabilised."¹ Televid, another third channel applicant, suggested the adoption of the rules on sponsorship of the Independent Broadcasting Association in Britain.

134. In the main, the arguments for such a revision were two-fold. On the one hand, there was a claim that bi-lateral sponsorship allowed sponsoring companies to gain commercial advantage by gaining advertising exposure on non-commercial days, and on the other hand, the assertion that broadcasting warrant holders, through external sponsorship of events, were being "unwittingly outflanked...in a way that is out of control of the Broadcasting and Television authorities."² There was a strongly held feeling that, insofar as this was so, broadcasters were losing editorial control over programming.

135. With regard to the first claim that bi-lateral sponsorship allows companies to gain commercial exposure on non-advertising days, and while there is a public perception that the law is being flouted, this is, in fact, not the case. Section 6, subsection 2, of the amending Act of 1985 provides, that "nothing in this section or in any television warrant or television programme warrant prevents the inclusion in any programme broadcast from a television station on a Sunday of a credit in respect of a sponsorship arrangement entered into, in accordance with rules made under section 26 of this Act, in relation to that programme." Section 26

established the Broadcasting Rules Committee, while the subsection referred to was included in the amended Act of 1985 after the BCNZ had made specific submissions to the Select Committee considering the Bill so that mention could be made of bi-lateral programme sponsorships.

136. In relation to the claim that broadcasters were losing editorial control over programming, the Corporation, as the predominant broadcasting organisation involved in sponsorship arrangements, conceded in its evidence, that "some forms of sponsorship could result in an undesirable interference in, and at the worst an abdication of a warrant holder's responsibility for his programmes",³ but was satisfied that existing rules and the Corporation's own internal monitoring provided sufficient control against charges of malpractice.

137. The submissions of groups such as ASH, ALAC, the New Zealand Federation of Sports Medicine, and the Department of Health were of a different view. Indeed, some claimed that not only were the BCNZ's rules "obsolete", but that the Corporation had already "relinquished" its editorial control.

138. These claims were made particularly in regard to external sponsorship undertaken by the cigarette and liquor industries. The argument was that these industries had succeeded in gaining de facto advertising on television through sponsorship when they are specifically banned from direct television and radio advertising. ASH asserted that according to their monitoring, Rothmans received \$1 million of television advertising through the telecast of Rothmans sponsored cricket in 1985. The common view of ASH, ALAC, the New Zealand Federation of Sports Medicine, the Department of Health and some private individuals, was that all sponsorship is a form of advertising and should be subject to the same restrictions.

139. There is no doubt that sponsoring companies do see sponsorship, external or bi-lateral, as a form of advertising, albeit a more specialised, less intrusive form. While these companies cannot advertise their products through sponsorship they can promote their corporate image and seek a greater slice of market share. The comment of the President of R. J. Reynolds (England) is, perhaps, apposite here when he stated: "We made it clear from the day we commenced our sponsorship of the Grand National Division, we were in the business of selling cigarettes, not the racing business."⁴

140. The New Zealand Sports Foundation and the Tobacco Institute of New Zealand rejected the claims that there is anything underhand about external sponsorship practices. Indeed, they pointed to positive benefits "to health, welfare and the national image resulting from sponsorship of sport, racing and trotting",⁵ and of cultural pursuits. They produced a variety of figures endeavouring to prove that sponsorship does not encourage people to smoke or to drink more.

141. The BCNZ conceded there was a problem over external sponsorship, one which had been of concern to broadcasters throughout the world for some years, but broadcasters had experienced

little success in limiting it simply because they had no control over the sponsorship. However, they did say that Television New Zealand has had a "modicum of success" in its dealings with sports promoters and that grounds from which events were to be telecast were inspected and agreements reached on camera positions and the number and placement of hoardings to control the excesses of sponsorship such as the Australian practice of "imprinting" the name of the sponsor on the playing field itself.

142. It is not feasible for broadcasters to refuse to cover most such sponsored sports or events. Sport has very wide popular following on both television and radio. Broadcasters have an obligation to the public to provide coverage of significant sports events whether or not there are sponsors' names attached and even though not all hoardings can be excluded from the camera's eye. Moreover, these events will be extensively reported in the print media.

143. This was insufficient for groups such as ASH and ALAC who would advocate a total ban on the hoardings of companies involved in the marketing of toxic substances. While it is conceivable though very difficult in practice to do this in New Zealand, it still leaves the dilemma of those sponsored events telecast from overseas. Mr Hancox suggested that, if such a ban were imposed in New Zealand, then New Zealand companies would simply purchase bill boards at overseas sports venues if games or events at those venues were to be telecast in New Zealand. ASH conceded overseas telecasts were a problem. Their recommendation was that international controls be implemented. It should be remembered, however, as the BCNZ pointed out, that past attempts at securing international agreement had not been effective.

144. Although it was external sponsorship which was the chief concern of most submissions, the Public Service Association did have a word of warning about other types of sponsorship, based on their understanding of what happened in the print media, when they argued that "those who sponsor programmes inevitably come to have a control over the programme content and this means that particularly in public service broadcasting in future there will develop some considerations of programming analogous to those which presently apply in the print media. That is to say, in newspapers, editors know that they should not carry items which will be broadly unacceptable to those who advertise in the pages of the newspaper. This is because if they continue to do so on a regular basis there is the difficulty that those who advertise will withdraw such advertisements. The same consideration applies to sponsorship."⁶

REVIEW

145. There is no doubt from the evidence and submissions coming before us that there is considerable confusion with regard to all types of sponsorship. The fact that this confusion exists not only in the minds of individuals and groups not involved in broadcasting, but also in the view of several applicants for third channel warrants, merely serves to

reinforce the clear demand that rules pertaining to the whole area of sponsorship need to be added to and clarified.

146. If confusion exists at present, there is no doubt it will increase in the future, particularly if existing rules and guidelines remain unsupplemented. Both bi-lateral and external sponsorship is an integral part of the life of the broadcasting media and one that in all likelihood will assume greater significance. With rising costs programme sponsorship is an attractive proposition to broadcasters to offset the expense of their programmes. There already exists intense competition in radio. The advent of third channel television and the associated competition for advertising revenues will merely increase the pressure on funding. In this more competitive environment both the BCNZ and private warrant holders will be forced to maximise revenues. An increase of bi-lateral sponsorship will be a viable way to assist in this search for funding.

147. There is also likely to be greater proliferation of external sponsorship arrangements. Sports clubs and other organisations, again faced with increasing costs, will set out to attract sponsors. And the number of corporations and commercial interests prepared to enter sponsorship arrangements is already on the increase. Probably, this trend will continue.

148. Nor is there any question that the motivation for any sponsorship is associated with that for advertising and that, while sponsorship may employ different techniques, it has the same broad promotional intention. Evidence made clear that companies see sponsorship as advertising and that the techniques of sponsorship were considered highly effective in achieving this promotional aim.

149. A critical problem for broadcasters presented by sponsorship of any type is keeping editorial control of all the programmes they broadcast. Another is to make clear to the audience the distinction between what has been paid for or assisted by a sponsor in the context of normal programming financed by the radio station or television service. Acknowledgment of any assistance appears simple when compared to the problem of control, a problem likely to increase as the volume of both bi-lateral and external sponsorship arrangements increase. The fact that both television and radio broadcasters have made rules in this area suggests a need they recognise to control the operation of sponsorship.

150. The Commission is in full agreement with those who submitted that the existing rules relating to sponsorship are less than adequate. In fact, the rules are too general which can give rise to confusion. Rules relating to advertising *per se* are very detailed and very specific. Since sponsorship of any kind is freely admitted by sponsors and advertisers to be advertising, we see no reason why this should not be recognised in any rules relating to sponsorship and accordingly, that the rules be made as specific as those applying to advertising.

151. There is an additional problem. While the American practice of buying programmes and time on the broadcast media is prohibited,

nevertheless, the maintenance of responsible bi-lateral sponsorship may be increasingly pressed by the financial weight that a sponsor represents to influence, even indirectly, modifications of the content or timing of a programme or series. In a very competitive market place, and while rules remain loose, the possibility is increased that a warrant holder could perceive and yield to such an influence.

152. The BCNZ claims its present internal procedures guard against influences of this nature. It is true that the BCNZ's self-regulatory procedures with regard to their bi-lateral sponsorship arrangements are more complex than the brief existing external rules of the Broadcasting Rules Committee to which both the Corporation and private warrant holders must pay regard.

153. That is not necessarily to say, however, that any future new warrant holder will establish similar internal monitoring procedures as the BCNZ. Indeed, there is a distinct possibility of coincidence of interest between commercial broadcasters seeking to maximise their revenues and any system based largely on self-regulation.

154. We believe that in order to reconcile the editorial integrity of broadcasting on the one hand, with the complexities and subtle influences of bi-lateral sponsorship on the other, there will be a clear need to externalise and even further strengthen and prescribe the rules and procedures which at present the BCNZ sets for itself and that these will need to apply to all warrant holders, be they radio or television licence holders, as agreed common standards. The rules of the Independent Broadcasting Authority in Britain (attached as Appendix 10), which are very comprehensive and detailed with regard to all kinds of sponsorship, could provide a suitable model for New Zealand.

155. This still leaves unresolved the question of how broadcasters might control external sponsorship so that there is no suggestion that broadcasters have relinquished their editorial rights over programming where this is involved. The arguments of ASH and ALAC are persuasive about the harmful effects of tobacco and the immoderate consumption of alcohol, but the elimination of tobacco and alcohol sponsorships from television and radio is far from within the sphere of broadcasters' control. A complete banishment of external tobacco and alcohol sponsorship from the broadcasting media would require that all such external sponsorship of events which broadcasting would feel compelled to cover was itself prohibited by government action since this would be a considerable limitation on commercial freedom.

156. As for bi-lateral sponsorship of events between broadcasters and tobacco or alcohol related sponsors, this is a matter within the province of the Rules Committee to consider and regulate because it is possible for broadcasters as a whole to decline their part in such arrangements.

RECOMMENDATION

1. In view of the fact that the Commission considers sponsorship in all its forms is a mode of advertising, we recommend that the

Broadcasting Tribunal's Rules Committee give its attention to formulating further specific rules in relation to sponsorship so that a parallel code to that for advertising in general is established to govern the treatment of all forms of sponsorship by broadcasting warrant holders, and that the rules of the Independent Broadcasting Authority of Britain be considered as furnishing a model.

Term of Reference 8(e)

"8(e) Whether certain kinds of programmes should be free of advertisements, and whether continuous action in televised ceremonies and sport should be free of interruption until a natural break occurs:"

157. There are occasions on radio and television where there is a strong public sentiment, often shared by broadcasters themselves, that certain programmes should remain free of advertisements. The types of programme coming within this context are generally those relating to religion, to children, and those programmes that the BCNZ described as "royal, vice-regal and solemn occasions".

158. The particular case of programmes for children has already been examined where our terms of reference specifically address it under term of reference 7(d), and the proposal for educational community service hours being also non-commercial has been dealt with under term of reference 7(c).

159. The only statutory obligation governing whether any programmes should be free of advertising is the Broadcasting Act which prohibits Sunday advertising. Since most religious programmes are broadcast on Sunday the problem of advertising does not, therefore, normally arise so far as they are concerned. However, there are other religious programmes on both radio and television which are scheduled for days other than Sunday. These are normally intended to reinforce the interaction of religious and moral viewpoints with everyday living in all its problems and dilemmas. Rather than causing that interaction to be cut off, these programmes are unaffected in their aim by such an everyday phenomenon as encountering advertisements on either side. Common sense and sensitivity on the part of programmers and producers should, and normally do, suffice to ensure reasonable compatibility between such programmes and their context.

160. In all other situations, broadcasters may use their professional judgment and discretion on whether or not they choose to broadcast advertisements within the legal maxima permitted on both radio and television. In exercising this judgment, they are bound by the general guidelines laid down in sections 24 and 95 of the Broadcasting Act which require broadcasters in their programme presentation to have regard "to the observance of standards of good taste and decency". Rule 2.1 ("Standards of Practice") of the Broadcasting Rules Committee reinforces the point by stating that, "the warrant holder has the final

responsibility for the nature of any programming material broadcast adjacent to or in proximity to any advertisement".

161. Almost without exception, the submissions and evidence to us from the public on this term of reference, where they were specific, mentioned children's programmes, programmes involving royalty and its representatives, and programmes concerned with solemn occasions as ones which should be free of advertising. There was also a wide consensus that broadcasters had, indeed, shown care in choosing when to suspend advertising. There was no evidence that broadcasters had "marred" occasions with advertising in programmes which the public thought should have been free of commercials.

162. Broadcasters themselves argued in their submissions that there should be no arbitrary rules defining which programmes should or should not have advertising breaks. Their clear opinion was that this should remain within the compass of the responsibility of broadcasters themselves. They presented us with much evidence to show that they went to great pains to present major formal and solemn occasions on schedules cleared of advertising. However, there can be inconsistencies. Since our hearings, there has been complaint in the press that the July royal wedding was interrupted by advertisements. This situation arose because the Australian commercial broadcasting satellite feed used by the BCNZ involved advertising breaks for the Australian audience and the BCNZ was obliged to fill those breaks with local material.

163. The area of most frequent complaint and criticism to the BCNZ over the number and placement of advertisements was related to televised sport. The Corporation had a clear policy that the placement of advertisements in such programmes was a production decision, not a sales or marketing one, and relied entirely on the expertise and sensitivity of the staff to select the appropriate point for a break. Generally, this meant that commercials were not inserted until a break in play occurred.

164. However, there was an additional problem. Because Television New Zealand took coverage of sporting events via satellite, it frequently had to accept programmes from networks and stations whose commercial practices were much different from those in New Zealand. Cricket broadcasts from Australia and the 1984 Olympic Games were cases in point. In these situations, the Corporation had to delete the overseas commercial content and substitute local commercials. Where too many breaks had been made to fit inside the maximum amount of advertising permitted in New Zealand, the alternative available was to insert local studio personalities recapitulating the highlights of events. This practice, according to the BCNZ, caused as much viewer irritation as an excess of commercials. Given the prohibitive cost of sending the BCNZ's own camera teams to all major sporting events of interest to New Zealand, an excessive number of breaks would appear to be an inevitably associated drawback where non-commercial satellite coverage is not available.

165. Next to sport, feature films provided the second noteworthy area of complaint. The Corporation pointed out that most programmes made for television overseas or produced in New Zealand contained built in commercial breaks. But feature films, because they were made for cinema distribution, did not have such breaks designed into them so that Television New Zealand staff had to endeavour to find suitable points in the sequence where commercials could be inserted. Although care was taken not to disturb the story line with such breaks, some submissions still contended that fewer breaks were necessary.

REVIEW

166. The Commission is satisfied, in general, that broadcasters have shown due care in keeping major solemn occasions free of advertising. The case of the July royal wedding does, however, point to the importance of seeking non-commercial satellite feeds wherever they are available because these rare major occasions should remain free of advertisements.

167. Otherwise, with the possible exception of sports broadcasts and, to a lesser extent, feature films, the public seems relatively content with current practices as evidenced by a lack of widespread complaint.

168. The general principle of broadcasters is already to take advantage of natural breaks in any event where advertisements are to be included since it is in the interest of all concerned, the audience, the broadcaster and the advertiser. To irritate the viewer or listener needlessly with an undue emphasis on advertising is to defeat the efficacy of commercial broadcasting whose business is to sell the attention of large contented audiences to advertisers.

169. We conclude that, for the present, broadcasters have established acceptable procedures in deciding whether programmes should contain advertising and that New Zealand has been spared where possible from the more obtrusive commercial practices employed by other countries. Special programmes are already cleared of advertisements and natural breaks are already sought. Problems in this area have been, almost without exception, connected to the choice of satellite feeds. If there is a need to codify the best practices followed, these difficulties should be addressed. Certainly, the Broadcasting Tribunal's Rules Committee will need to maintain a constant watch and clarify or formalise informal rules if there is a prospect that increased competition will threaten the accepted standards now established.

RECOMMENDATION

1. Accordingly, we recommend that the principles underlying the existing situation with regard to certain programmes being free of advertising and with respect to the use of natural breaks wherever possible, should be maintained by all warrant holders and that this be a matter for continuing Broadcasting Tribunal review and clarification.

Term of Reference 8(f)

"8(f) The adequacy of internal monitoring by the Broadcasting Corporation of New Zealand and private broadcasters in relation to programming and advertising standards:"

INTRODUCTION

170. We have discussed rules and standards relating to broadcasting in other parts of this report. Under terms of reference 4(a) and (b) we considered the monitoring procedures and the formal complaints system of the Broadcasting Tribunal. In the preamble to term of reference 8 we discussed the efficacy of standards and rules laid down by the broadcasting rules committees. Apart from those external structures to regulate standards, broadcasting institutions themselves have their own internal monitoring mechanisms and procedures. It is to the adequacy and effectiveness of those procedures in regulating standards that we now turn our attention.

171. Here there was a remarkable degree of unanimity in the submissions from interested institutions and the public. With the exception of broadcasters themselves, advertising interests, and most of the third channel applicants, there was a clear preference that monitoring of programming and advertising standards ought to be conducted independently by the body charged with fixing the conditions of warrants, selecting the warrant holders and reviewing their performance at and between renewals. Much of the evidence was given in relation to 4(a) as initially raising the question in a more positive form.

172. Having made the point that the Tribunal should be strengthened in research, administrative and monitoring capacity, much less attention was paid by the same witnesses to making the negative corollary that present internal monitoring was presumably inadequate.

173. Since, in the nature of the case, little could be known from the outside about the workings of the internal monitoring processes, the submissions and witnesses appear to have made their judgment on the results which they could assess. The essence of the judgment was that the present processes could be taken to have failed altogether too often. Therefore, they should be balanced and supplemented by an impartial second check from a disinterested body charged with taking a judicial oversight of the whole system and being independently informed by its own monitoring.

MONITORING PROCEDURES: THE BCNZ

174. The BCNZ defended the adequacy of its internal monitoring most vigorously. It regarded its duty to ensure that community standards were met as "one of its most important" duties and while it acknowledged occasional lapses, believed that the standards of programmes broadcast by both Radio and Television New Zealand generally met the expectations of the New Zealand community.

175. The Corporation devoted considerable time to detailing to the Commission how their internal monitoring procedures operated. They

assessed community standards from their own and newspaper correspondence and criticism, talk-back programmes, formal and informal complaints, advisory committee comments and the encounters of Corporation members and executives with groups and individuals who, according to the BCNZ, "are not slow to criticise or complain about programmes and their standards."

176. While the Corporation recognised that standards did alter over time, they did not "anticipate or get ahead of what is generally acceptable." They made the point that what some people regard as being ahead of the community was often more a matter of style than of content.

177. As for their actual monitoring procedures, the BCNZ described an extensive system of auditioning and appraisals for all material not broadcast "live". The appraisers made recommendations on grading and placement for all externally-produced programmes. They also recommended on whether cuts for "unacceptable language, violence, sex, weapons or other matter" should follow or the programme be rejected. Films had first to be cleared by the Censor and rights were reserved to make further cuts or reject the films entirely. The BCNZ's own productions were the responsibility initially of their producers and directors or editors and, thereafter, departmental heads, controllers or the Director-General who could intervene if necessary.

178. The principle of "referred upwards" was held to provide a "well-observed" process of consultation and safeguard of standards. In addition, the staff who were to conduct "live" programmes were carefully trained in how to cope with difficulties and how to react if the unacceptable should appear. A reserve element had been introduced in the form of the Head of Programme Standards who reported to the Secretary of the Corporation, not the services, and who provided a monthly report to the Corporation members on "trends in community and programme standards." In addition, the Corporation paid heed to any complaints made through the formal complaints procedure of the Tribunal and had recently established a sub-committee to discuss standards with executives.

179. Television commercials are made mostly by private producers and supplied by advertising agencies. They have internal checks parallel to Radio New Zealand's copy managers and Head of Copy, while the visual aspects are also considered when television comes to accept each advertisement. Discussion with agencies and their producers creates a joint expectation of what will be found acceptable which, in view of the high costs of commercials, is a necessary but not infallible protection. With the advent of a third channel, the BCNZ pointed out, there will need to be not only internal standards applied but also a common standard struck.

MONITORING PROCEDURES: PRIVATE BROADCASTERS

180. The same general rules that apply to the BCNZ with regard to observing standards of good taste and decency also apply to private

broadcasters. However, the basic format of private radio stations with their mixture of music, brief news sessions, sports and a selection of "feature" interviews and community events simply does not raise the questions generated by the broad spread of news, current affairs, documentary and specialised programmes broadcast by, say, the National programme—let alone television.

181. Nevertheless, submissions from the Independent Broadcasters Association and their witnesses dwelt in detail on their telephone surveys and test panels to help select and review their "play-lists" of records as a way of demonstrating their care about the acceptability and standards of their programmes. If they knew their audience taste precisely and fine-tuned their format, personalities and style, then their ratings would follow. These ratings were then analysed by age group and from hour to hour to "establish their position in the market" which could be altered by subtle adjustment of the elements. They fulfilled an accepted function on their evidence and their function and performance of it were not challenged apart from the proportion of New Zealand music they played.

182. As for the commercials that were produced or supplied to private radio stations, they were subject to the same external rules and standards as those broadcast by the BCNZ. The acceptability of radio commercials was simpler to assess and control judging by the paucity of reference to them in evidence.

CRITICISM OF PRESENT MONITORING STANDARDS

183. The real concern in the submissions coming before us was with the results of the BCNZ's monitoring of television programmes and advertising. The BCNZ's defence in depth of the adequacy of its monitoring systems centred on whether they "generally meet the expectations of the New Zealand community". In general we agree that they did but there were strong doubts from various individuals and organisations that internal monitoring did pick up all that the community would have liked examined.

184. Of particular concern was the matter of television violence. This issue elicited a very large number of submissions from a wide cross-section of individuals and organisations. Almost without exception the view expressed was that violence in television programmes had risen to an unacceptable level and this was regarded as being in part responsible for an increase in violence and anti-social behaviour in the community at large. The Corporation defended its record in this regard by pointing to the small number of formal and informal complaints about violence in programmes.

185. Indeed, the Corporation's witnesses were of the opinion that their programme standards in respect of violence were "in tune with the attitudes, standards and thinking of the community at large."¹ The evidence before us, however, did not substantiate the Corporation's claim. It was clear that there was a significant groundswell of disquiet and the internal monitoring procedures of the Corporation were seen to

be out of touch in respect to community attitudes towards violence. Moreover there was particular concern expressed about violent trailers of films shown in peak-hour viewing times and rock videos, often with "sexually sick and violent overtones"², being screened in children's and young persons' viewing times. Reservations over such videos were mentioned enough in submissions and evidence to warrant some further investigation by the BCNZ appraisers as to the videos' suitability for viewing in those time-slots.

186. The other area of greatest concern with regard to internal monitoring standards was in relation to television advertising, and particularly in the depiction of women. The assertion was made that the image of women presented by advertisers was "unrealistic, stereotyped and often degrading"³, to the point that advertisements perpetuated women's inequality in society by lowering the "perception and expectations men have of women and women have of themselves".⁴ Again, the evidence was sufficiently sharp from groups with a diverse and widespread membership to suggest some real dissatisfaction with the results of the internal monitoring systems of the BCNZ.

REVIEW

187. In its evidence, the BCNZ insisted on their function of controlling public broadcasting and their responsibilities under the Act for their programmes and standards as though a demonstration of their systems and their care would close the matter of internal monitoring. Given the exact word "adequacy" used in the question posed to us, BCNZ monitoring seems adequate but not sensitive to underlying changes of attitude. Implicit in the evidence in favour of independent monitoring, however, there is a further question. That might be phrased as a doubt that internal monitoring did pick up all that the community would have liked to have examined.

188. As we pointed out earlier, because the workings of an internal process are difficult to assess, the community must make their judgments on the results of the process. Those familiar with public service broadcasting organisations abroad would recognise many parts of the BCNZ's structure of control. It could not fail at times to produce a dragging, even stifling sensation at the directly creative level of producers, directors, editors and their staff and crews. However, such checks and double checks are unavoidable in an organisation whose productions interact for hours every day with the great majority of a whole society. Nor is it otherwise with private broadcasting organisations who must watch and guard their popular reception with both the established standards and "the bottom line" firmly in view.

189. There was a clear indication that the present monitoring systems had missed important areas of public discontent. It would seem that, for whatever reason, the Corporation's perception of such issues as the presentation of women lagged behind widely felt community expectations. To put it another way, the evidence treated the BCNZ's internal monitoring in relation to programming and advertising standards

as not sufficient in itself. There are strong grounds to suggest that such monitoring could be supplemented with an independent check and consideration, such as the Broadcasting Tribunal would supply.

RECOMMENDATIONS

1. That the internal monitoring procedures of both the BCNZ and private broadcasters be assessed by the reconstituted Broadcasting Rules Committee of the Broadcasting Tribunal and that their results be considered in any warrant reviews or fixing of conditions by the Broadcasting Tribunal.
2. That the third channel warrant holders establish and maintain codes of practice and clear internal monitoring procedures to accord with existing, and in future with any revisions of Television Standards and Rules.
3. That the BCNZ, the third channel warrant holders and the advertising industry revise their practices and codes to take more account of changing community attitudes relating to the perception of women on television advertisements.
4. That the suitability of rock videos for television viewing be assessed by the same standards applying to other programmes.

Reference 8(g)

"8(g) The need for advisory committees in relation to public and private broadcasting, and, in particular, the manner in which such committees should be constituted and funded."

THE ROLE OF ADVISORY COMMITTEES

190. In their original submission the BCNZ supplied us with a comprehensive survey of advisory committees, including recent statutory alterations and amendments. For this we are most grateful and it may assist if we simply quote these passages.

"Statutory Requirements

Section 10(4) of the Broadcasting Act 1976 requires that from time to time the Corporation shall appoint 'a committee or committees to advise the Corporation or its Services on matters relating to programmes'; and the same subsection also gives the Corporation authority, at its discretion to appoint from time to time 'other committees to advise the Corporation or its Services on such other matters relating to their functions and powers as are referred to them by the Corporation'. Any person appointed to committees established under that subsection may or may not be a member of the Corporation. Subject to the Act, and Regulations made under it, or any general or special directions of the Corporation, any committee may regulate its own procedure.

Section 11(2) provides for the payment of members of committees appointed by the Corporation (if they are not

Corporation members) of remuneration by way of salary, fees, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951.

Section 19 of the Act also empowers the Corporation to co-opt specialist advice, by inviting 'any person (including any officer of the Post Office or of the Public Service or a representative of any body) who, in the opinion of the Corporation, has expert knowledge concerning any aspect of broadcasting that is likely to be of assistance to the Corporation, to attend any meeting held under this Act and take part in the proceedings.'

Under the Broadcasting Act 1973 the Broadcasting Council and the individual Corporations had discretionary powers to appoint advisory committees for matters related to its functions and powers in the case of the Council, and for matters related to broadcasting in the case of the Corporations, as might be referred to them by the appointing body (sections 8, 50). Radio New Zealand, however, was obliged to appoint regional advisory committees; and each television Corporation a general advisory committee.

The Broadcasting Corporation Act 1961 also gave the Corporation the discretion to appoint committees, to advise it on such matters relating to broadcasting as the Corporation referred to them, and in particular, it could appoint committees to advise it on matters relating to religion, children's programmes, or advertising so far as those matters related to broadcasting (section 8).

Present Position

There are at present six regional advisory committees appointed under section 10 of the Act. They are based in Auckland, Hamilton, Palmerston North, Wellington, Christchurch and Dunedin. Their responsibilities are, in brief, to act as sounding boards of public opinion and to advise the Corporation on any programme matters which they believe are significant; and on any matters which are referred to them by the Corporation. They may meet up to six times a year.

Three specialist Advisory Committees are appointed by the Corporation to assist Radio New Zealand in educational, religious, and Maori and Polynesian programmes. Television New Zealand engages two Religious Advisors (nominated by the Churches Committee on Broadcasting) as consultants (not as appointees under section 10 of the Act).

From time to time the Corporation, its Services or sections may call on expertise for particular purposes, on an *ad hoc* basis, to advise or assist in matters related to programmes. Assistance may be sought from government agencies, universities or other groups, and individuals."¹

191. It may be a misunderstanding of the present role of regional advisory committees that they may wish to do more than advise. To be more influential in the decisions made by the Corporation would in fact anticipate a new role and direction for such committees.

192. Other avenues do exist for the public to enter broadcasting debate, through the complaints procedures, talk-back programmes, open days, courses in conjunction with polytechnic institutions and audience research. The Corporation acknowledges that some of these methods are haphazard and some arise from particular programmes or events. Advisory Committees are, however, on-going channels for advice.

THE NEED FOR ADVISORY COMMITTEES

193. The need for advisory committees has been supported overwhelmingly in the submissions received. Out of twenty-six submissions addressing this term of reference, twenty-one supported the need for advisory committees. The chief critics were the advertising associations who questioned the advisory committees' effectiveness, and fundamentally, the need for them when such agencies as the Broadcasting Tribunal existed. The advertisers question the ability of the advisory committees to represent the public view, pointing to programme research as a more reliable guide. However such research is not a statutory charge on a broadcaster but discretionary. Advisory committees are able to consider issues at some depth and at length, thus providing a more considered interpretation of opinion. While the advertisers look to various broadcasting agencies as already fulfilling the advisory committee's functions, there is no co-ordination to this sporadic interchange with the public.

CRITICISM OF THE PRESENT ROLE OF COMMITTEES

194. There is evident frustration amongst committee members that they are not sufficiently influential in the decision-making processes of broadcasting. Inherently they seek a change in the role of the committees from that of giving advice to that of exerting influence. Such changes go beyond the intention of advisory committees and would require legislative change.

195. The BCNZ has defended itself against the charges of not heeding advisory committees sufficiently by replying that members are not always completely aware of overall broadcasting operations and the ramifications of decisions. Presumably however, the people appointed are interested and able to understand complex issues when they are presented.

196. Concern has been expressed that advisory committees be given more status in order to attract and retain membership. Reference must again be made to the role of these Committees. If more status means more power then a misconception arises with regard to the intrinsic nature of Regional Committees as they are presently constituted.

PRIVATE BROADCASTERS

197. Six submissions directly addressed the issue of advisory committees for private broadcasters; they all agreed upon their value. Disagreement arose as to whom these committees should report to; however, it would be consistent with the arrangements for the BCNZ if such committees reported to their individual broadcasters.

198. There is much to be said for retaining separate advisory committees for each broadcaster. At present confidential material like marketing strategies is relayed to such committees. Joint committees may well inhibit this flow of important confidential information.

FUNDING

199. Funding of the advisory committees is provided by the Corporation under statute. It would seem logical that any private broadcasting advisory committees would be financed by their individual broadcaster.

REVIEW

200. Certain considerations come to the fore. There should be meetings between advisory committees and executives and possibly occasional meetings with the Corporation Board giving committees the right to question. This would confer a degree of status upon advisory committees and require the board to answer in person the issues raised by the committees. Possibly also, there should be annual meetings of chairpersons from the various committees. It may be necessary for access broadcasting to have an advisory committee.

201. With regard to educational programming, Maori broadcasting and religious programming, we deal with these under separate terms of reference. Nevertheless the Commission recognises that there may be a need and some mutual benefit for greater public or specialist influence in certain areas of broadcasting. For example, the BBC now has School Broadcasting Councils for the United Kingdom and the National Regions. They "differ from other BBC Councils in that constitutionally they are not only advisory. They are regarded as being in partnership with the Corporation in the joint purposes of providing effective programmes and in guiding and standing sponsor for this service."²

202. Perhaps New Zealand could adopt such a solution for certain specialist committees. The one that comes to mind is a Maori Advisory Board, which we have recommended at 6(a), and which we envisage having an advisory, qualitative and critical role. This is, however, a transformation from an advisory committee properly so called and does not simply represent the normal sounding of information which advisory committees are there to supply. What it does represent is an admirable readiness to innovate institutionally within their powers in the Act.

203. We could see some virtues in broadcasters meeting, say, with the Broadcasting Tribunal, to attempt to define the exact parameters of these committees, in order to avoid the misunderstandings and misconceptions which have clearly emerged from the evidence. From

this we would envisage a definition being formulated which could then be circulated. There may be grounds for expanding the function of these programming advisory committees to include a right to advise on advertising and particularly its suitability for specific time-slots.

204. We consider that all broadcasters or groups of broadcasters such as the IBA, should have the duty to appoint advisory committees, preventing, as the BCNZ noted, the development of sectional interests. There would be nothing to prevent broadcasters from inviting applications for membership to these advisory committees. Suitable applicants could represent particular groupings in society or simply qualify as genuine "on-air" listeners. We consider that leaving their composition to the discretion of the broadcaster protects the broadcaster from a single interest distortion. There are advantages in a widely representative membership to enable a real cross-section of opinion to emerge.

RECOMMENDATIONS:

1. That all warrant holders support a system of advisory committees, perhaps grouped together as the third channel warrant holders, the IBA, and the BCNZ, but that the number, method of composition and mode of choice and operation should be left to the warrant holders to decide.
2. That in the case of the Corporation's Committee structure, contact between BCNZ executives and the advisory committees and occasional meetings with the Corporation Board should prove valuable as they have in the past and elsewhere.
3. That annual meetings of chairpersons, which the Corporation has held for the heads of its various committees, could well set the agenda and plan the papers they would like from the Corporation's executives in consultation with those who must prepare them.
4. That the Broadcasting Tribunal should conduct a joint meeting of representatives from the various groups who will be setting up advisory committees to explore how best to compose and conduct a system which will be of value in bringing public opinion to bear on the broadcasting service each provides.
5. That the Broadcasting Tribunal set up an advisory committee of its own to act as a consultative body which can contribute to the understanding of issues in broadcasting which the Tribunal would like to explore.

Term of Reference 8(h)

"8(h) Whether firm recommendations can follow from established knowledge about the relationship between television and violence."

INTRODUCTION

205. The establishment and monitoring of programme standards and rules are dealt with in greater detail in other sections of this *Report* but it may be useful to describe here those that relate specifically to the portrayal of violence. Sections 24 and 95 establish, in general terms, the responsibilities of the Broadcasting Corporation of New Zealand and private broadcasters for programme standards. Specific rules on the portrayal of violence are set out in *Television Standards and Rules* produced by the Broadcasting Rules Committee. It should be noted that, although this term of reference is specifically concerned only with television, similar rules also apply to radio where the problem is also present but in a much more controllable form in the absence of the visual dimension.

206. Section 2.1 of the *Standards and Rules* states "Programmes dealing with violence and horror should observe the guidelines laid down in Appendix A". Appendix A reads:

"Violence is a constant element in society and as a natural consequence appears in a variety of forms in radio and television programmes. Broadcasters recognise that real life violence is a serious obstacle to the peaceful functioning of any society and accordingly they acknowledge the need for care and skill in deciding what part it may be allowed to play in programmes.

The use of violence in any programme should aim to sharpen not to blunt human sensitivities and its inclusion can only be justified by the dramatic context in which it is seen, and the skill, insight and sensitivity of its depiction.

1. The Young and the Vulnerable

Scenes which may unsettle children need special care. Insecurity is less tolerable for a child—particularly an emotionally unstable child—than for an older person. Violence, menace and threats can take many forms—emotional, physical and verbal. Scenes of domestic friction or sequences in which children are humiliated or badly treated can easily cause fear and insecurity.

2. Programmes other than News and Current Affairs

Dramatic truth may occasionally require the portrayal of a sadistic character, but there can be no defence of violence, included solely for its own sake, or of the gratuitous exploitation of sadistic or other perverted practices. Ingenious and unfamiliar methods of inflicting pain or injury—particularly if capable of easy imitation—should not be shown without the most careful consideration.

3. News and Information Programmes

The representation of violence in news and information programmes should be strictly in accordance with the importance of the event and to the degree essential to the integrity and completeness of the item.

4. Programme Scheduling

People seldom view just one programme and it should be recognised that unless some care is taken, an acceptable level of violence in each individual programme could add up to an intolerable level over a whole evening's viewing.

The time of screening is an important consideration in the scheduling of programmes which contain violence.

5. Programme Trailers

Trailers which promote programmes containing some violent material should be chosen responsibly and incidents used should not be uncharacteristic of the programme as a whole. Attention should be paid to the likely composition of the audience at the times trailers are presented."

207. Monitoring of the application of these rules is a process at present internal to the broadcasting organisation and the Corporation's monitoring system has just been discussed in greater depth at 8(f). Only the complaints system which we examined at 4(b) allows the public to express initial and formal dissatisfaction with broadcasters' adherence to these rules, although the Corporation also compiles records of complaints by letter and telephone.

SUBMISSIONS

208. This term of reference attracted a total of 56 submissions from a wide cross-section of the community: private individuals, women's organisations, church groups, organisations and individuals involved in education and health (including the Department of Health and the Mental Health Foundation) and the broadcasting industry—Regional Advisory Committees, third channel applicants and the Broadcasting Corporation.

209. With few exceptions submissions expressed concern at a perceived increase to an unacceptable level in the amount of violence on television. The great majority of submissions took as common ground that there was some relationship between this increase on television and increasing violence and anti-social behaviour in the community at large and recommended a reduction in the number of programmes with a high level of violence.

THE CORPORATION

210. In its original submission and in evidence presented to us by the Controller of Programming for Television New Zealand, the Corporation acknowledged that it "has a duty to have regard to the public interest,

to the standards required by the Act and the Television Rules, and to ensuring that what is shown meets those standards."¹

211. The Corporation maintained that it meets its public service responsibilities in respect of the portrayal of violence in a number of ways and drew our attention to the Programme Standards Department's purchasing, previewing and classification policies by which every programme that is imported is screened and certificated according to Television New Zealand's classification system. The Corporation pointed also to the number of cuts made in programmes where this is considered appropriate by the censors, and to the placement of programmes containing violent scenes in late viewing time-slots. The Corporation noted that the 1979 Parliamentary Select Committee on Violent Offending "expressed itself satisfied that the [Corporation's] procedures for the monitoring of violence in television programmes were adequate"² while urging vigilance, stressing the Corporation's responsibility in this area. We were also given evidence on the small number of formal complaints (five in the period from January 1984 to February 1986, relating to six programmes, of which three were upheld), and letters and telephone complaints on this issue, which led the Controller of Programming to state that the "response from the public appears to indicate that we are heading down the right track."³ He was "confident that our programme schedules are in tune with the attitudes, standards and thinking of the community at large on this issue"⁴ noting that "from a programmer's perspective, it is a fact that programmes that contain violent scenes are amongst the most popular and highly regarded."⁵

212. The Corporation stressed that its actions in this area were taken in order to meet its statutory obligations. With respect to 'established knowledge' the Corporation emphasised the conflicting nature of the research and stated that it could not "determine that established knowledge is conclusive about a relationship between television and violence."⁶ In calling for a verdict of "not proven" the Corporation stressed that "there is still no proof that television is guilty or indeed innocent of charges that there is a relationship between violence on the screen and violence in society."⁷

213. Mr Monaghan also noted that those who recommend a reduction in the amount of violence on television were unable to specify "what the tangible results of this . . . might be on the level of violence in society or in terms of the programming fare available to a New Zealand audience."⁸ Mr Monaghan felt that "watershed times, programme standards criteria and a careful monitoring of audience reaction would seem to be. . . a more sensible way to deal with these matters, always recognising that the ultimate choice is for the viewer and the parent."⁹ The Corporation called for further research on violence and the media, with relevance to New Zealand, identifying the nature of any presumed causal link and the long term effects of viewing television as two areas requiring further study. It indicated its willingness to contribute to the funding of such a project recommending also that some of the unspent

funds from the Broadcasting Tribunal's levies on warrant holders should be devoted to this.

214. On 3 March 1986 a new incumbent took up his position as Director-General of Television New Zealand and Mr Mounter appeared before this Commission on 3 April 1986. He affirmed the Corporation's submission on the contradictory nature of some of the very extensive overseas research but his recommendations, in marked contrast to the Corporation's earlier evidence, tended to be carefully positive in advocating a reduction in the amount of violence on television through a sensitive purchasing policy using a wider range of programme sources. The Director-General's subsequent policy directions and public statements on this issue were stronger again and have been widely reported in the media. Indeed he has gone on to assure the public that the BCNZ would lend its weight as a purchaser and employ its international contacts within the industry to press for a reduction in violence in the programmes being planned and made.

THE THIRD CHANNEL APPLICANTS

215. We received submissions on this issue from five of the applicants for the third channel warrant. TV3 submitted that there was no proven relationship between television and violence and that no firm recommendations should follow. The approach of other applicants was tentative and cautious, acknowledging public concern in this area and accepting that care and restraint were required on the part of broadcasters. Essentially, however, applicants favoured "self-regulation" based on the internal guidelines they hoped to establish, and United Telecast and Independent Television referred us to their guidelines which were based on those adopted by the Independent Broadcasting Authority and the BBC in the United Kingdom. Independent Television also agreed with the concept of a body with the authority to arbitrate on this question.

THE ADVERTISING INDUSTRY

216. Both the Association of Accredited Advertising Agencies and the Association of New Zealand Advertisers submitted that violence in advertising was not an issue. The advertising industry, they told us, maintained high standards of quality and presentation with self-regulatory controls which worked to ensure that advertising content did not offend the values and standards of "reasonable people". We received submissions, however, that expressed concern at the use of violence in some advertisements and have ourselves observed this trend. We incline to the view that advertising content should be subject to the same rules and standards as those programmes into which it is inserted.

MENTAL HEALTH FOUNDATION

217. In 1983 the Foundation published *Violence on Television*, a report which reviewed the research on the effects of television violence on behaviour and attitudes and presented the methodology and results of

a 1982 survey of violence on New Zealand television. That survey assessed the average number of violent acts per hour on New Zealand television at 5.7. This Mediawatch survey was updated in 1983 and 1984, with the number of violent acts per hour assessed at 6.7 and 9.5 respectively. The original report and the updates comprised part of the Foundation's submission and evidence to this Commission.

218. Based on a review of laboratory and survey research the Foundation's submission identified what it sees as being the most harmful types of violence depicted on screen and those who are most susceptible to this violence:

"...violent television does affect the development of violent attitudes and behaviour in children and adolescents and, tentatively, in adults, too. This effect does not occur among all children, but it is not confined to a small minority."¹⁰

219. The most harmful kinds of violence depicted on television are those, according to the Mental Health Foundation, where:

- "(1) there is either reward, or at least a lack of punishment, for the perpetrator;
- (2) the violence is presented as 'justified';
- (3) identification with the perpetrator is encouraged;
- (4) the violence is portrayed realistically (although its *consequences* may not be shown realistically)."¹¹

220. The Foundation submitted that the amount of violence screened is also a matter of importance and that research indicates that it is the viewing of violence in large quantities that has harmful effects. The Foundation contended that the increase in violence on New Zealand television detected by their Mediawatch surveys should give cause for concern.

221. The Foundation presented the results of a Heylen Poll survey commissioned by it in December 1984 which indicated that, given a range of options on the amount of violence on television, 70.6 percent of those surveyed wanted some degree or other of lessened violence on television, and that approximately 75 percent of those polled believed that at least some children were affected by violence on television.

222. While acknowledging that ongoing research into this area is necessary, the Mental Health Foundation concluded that "there is a near-consensus among researchers in this area that television violence does give rise to aggressive behaviour in some viewers"¹² and that guidelines can be drawn up about the most harmful kinds of violence.

223. Nevertheless the Foundation noted that television violence is only one of the factors contributing to violence in society and should not be made a scapegoat. The submissions also stressed that the Foundation was not calling for heavy censorship or a ban on violence. The Foundation reiterated the recommendations made in their 1983 report noting that, in its opinion, none of these had yet been implemented by the BCNZ.

224. These recommendations called for an acknowledgment by the Corporation that "social science research has established with a reasonable degree of certainty that viewing large quantities of television violence results in increased aggression in children, adolescents and possibly adults."¹³ The Broadcasting Corporation of New Zealand should, the Foundation contended, "work rapidly towards a substantial reduction of violence on New Zealand television particularly during children's viewing hours"¹⁴ noting that this can be best achieved by a change in purchasing policy with "overseas markets [being] searched more thoroughly so that we become less dependent on the US for our television drama."¹⁵

225. In summary the Foundation indicated that it did not have any complaints about the stated standards for television programmes but believed that they were not adhered to. They recommended that, in the light of this, independent monitoring of the amount of violence screened is needed and the standards and rules may need to be revised and more specific goals stated, especially to take account of the cumulative effects of watching violence on television. Furthermore, any system set up to monitor the amount of violence on Television New Zealand should, the Foundation recommended, be extended to any private television stations.

OTHER SUBMISSIONS

226. With few exceptions other submissions expressed concern at the amount of violence on television and many referred to and supported the conclusions and recommendations of the Mental Health Foundation's Mediawatch Surveys, and recommended a reduction in the number of violent programmes screened.

227. The view that, as a powerful medium, television is non-selective in its use of that power was put forward and attention was drawn to the psychology of advertising which is premised on a belief that television can and does influence attitudes and behaviour. The Women's International League for Peace and Freedom argued that

"Product and service advertisers spend very large sums of money in the verified belief that television viewers are susceptible to suggestions conveyed either directly or indirectly. . . ."¹⁶

TYPES OF VIOLENCE

228. Submissions were quite explicit in detailing several areas of concern—not only physical violence but also emotional and verbal violence and violence against women and children. The National Council of Women, for example, directed our attention "towards violence on television which is. . .demeaning and degrading of women and is likely to incite violence against both women and children."¹⁷ The Religious Society of Friends expressed "[alarm] at the number of programmes. . .which portray extreme violence against women"¹⁸ and the New Zealand Federation of University Women perceived "many

kinds of violence, including verbal and mental violence, violent sex-role stereotypes, as well as physical violence. . . ."¹⁹

229. A view expressed frequently in submissions was that "violence is often depicted in an unreal way",²⁰ in the words of the Public Service Association, and that the consequences are not shown either in terms of the effects on the victims or in terms of punishment or accountability for the perpetrator. Indeed it was felt that, where the perpetrator is the 'hero' a false image of acceptable behaviour is presented.

230. Many of the organisations and individuals who addressed this topic felt that violence on television is often gratuitous and non-contextual and, as argued by the Wellington Workers Educational Association, "is frequently shown as a problem solution"²¹ and often without alternative methods of conflict-resolution being portrayed. This was thought by some to negate attempts in the home and the school environments to encourage attitudes of concern and caring while television was teaching children that violent solutions to personal conflicts and problems were acceptable.

231. Many submissions put the view that American-made programmes were the major contributors to the increase in violence on New Zealand television, and specifically included in this charge were American cartoons. Indeed many submissions expressed concern about the effects of unrealistic cartoon violence on younger children. Recommendations were made that programme purchasers should look to a wider range of overseas programme sources. The Tamaki Playcentre Association, for example, asked "Could TVNZ not look beyond the USA for its major sources of overseas programmes and consider, instead, programmes from British, European and Asian countries which have not been produced for the sole purpose of scoring well on the ratings. . . ."²²

232. The screening of 'trailers' for late evening programmes in early time-slots was a frequent cause of objection and concern expressed in submissions. Such 'trailers' it was felt should not be shown during family viewing time and violent episodes should not be used as a draw-card particularly as these episodes were frequently taken out of context. Some submissions also commented on the use of film clips of violence and carnage on News and Current Affairs programmes, especially those viewed in early evening time-slots.

THE EFFECTS

233. A variety of behavioural patterns associated with the perceived increased amount of violence were identified. Although direct imitation of events seen on television was discussed by most submissions, it was the cumulative effect of violence on television that received most attention. Submissions were concerned with the relationship between television violence and increased aggressiveness especially in children and young adults.

234. Some submissions also perceived a wider effect of the portrayal of violence on television—that of a general de-sensitising of the

community towards violence and an increased readiness to regard violence as acceptable and normal, a point summed up by the National Council of Women, "...society is becoming immune to violence"²³ and finding it exciting and acceptable.

235. Many submissions drew our attention to a disquiet and fear in the community, especially among the elderly or those living alone, which has arisen partly from a belief that society is indeed as violent as television shows it to be. The National Council of Women submitted that "television not only mirrors violence through news reports, it also creates, through fictional material, images of violence for the viewing public."²⁴ Television has the potential to engender fear and isolation among some sections of the community and to reinforce insecurities and a feeling of helplessness.

236. Submissions also pointed out that violent incidents on television often served to reinforce negative attitudes and unacceptable stereotypes, for example that women are inherently victims or that "unacceptable" violence is more often perpetrated by non-Caucasians. The Department of Health expressed concern that the mentally ill are frequently stereotyped as abnormally violent.

237. The view was widely held that violence on television should be reduced. The National Council of Women, for example, recommended that "...violence should be reduced on the basis that there may be a relationship between it and aggressive or violent behaviour—the risk is too great to do otherwise",²⁵ and the Public Service Association submitted that broadcasters should "...work towards a substantial reduction in violence particularly during hours when children are likely to be viewers".²⁶

238. Many submissions felt that, in order to achieve this, greater care should be taken in the purchase of programmes and, as recommended by the Department of Health, the "BCNZ should ensure those responsible for programme purchasing and screening are aware of the undesirable implications of violent programmes and in particular they should be made aware of the types of violence most likely to affect viewers."²⁷

239. Indeed some submissions argued that the purchase of programmes ought not to be, as they saw it, in the hands of one person and expressed concern that programme purchasers have no particular training in this area, pointing to the fact that, for example, librarians and especially children's librarians are required to have specialised training in the selection of books for purchase. Ms Helen Brew and the Otago/Southland Regional Advisory Committee on Broadcasting gave detailed lists of the types of programmes that should, or should not, in their opinions, be purchased.

240. Several submissions suggested that the classification of programmes should be more widely known and explained and that, if necessary, the classification of a programme should be announced before the broadcast of that programme in order to assist parents in the guidance of their children's viewing. Submissions acknowledged the

need for parental guidance and did not feel that parents should abdicate this responsibility in favour of the broadcasters. They considered instead that there should be more active help from broadcasters in alerting families to when guidance from parents was going to be called for by the nature of the forthcoming programme. We would consider it a sad reflection of the times if there were to be a widespread abdication of parental control and discipline in this and, indeed, in other areas.

241. The Federation of University Women suggested the screening of a "break commercial" similar to the Good Night Kiwi to indicate the end of family viewing time. Several submissions expressed concern at what was perceived as the unrealistic nature of the time-slots for family viewing and adult viewing while, nevertheless, acknowledging the role of parents in guiding viewing habits in the later evening.

242. To sum up the public attitudes expressed, the great majority took it as a fact that there had been an increase in New Zealand in the amount of violence on television and considered that this had various harmful effects. It was widely thought that this had occurred in part because the guidelines in place had either been inadequate in themselves or not adequately adhered to. Most evidence expressed a strong desire to see an ongoing independent monitoring process set up in association with the Broadcasting Tribunal, and outside the industry. There was also a desire expressed that the monitoring authority should hear representations on the whole area of violence and television from educational organisations, health bodies, parent and community organisations and researchers while general agreement was registered on the need for continuing funded research in this area.

REVIEW

243. The large number of submissions received on this term of reference and the quantity of evidence put before this Commission indicates to us a high public awareness of the problem of violence on television and an increasing belief that this is connected with the level of violence in the community.

244. We have examined the very extensive literature provided by both the Corporation and the Mental Health Foundation concerning violence on television and its effects. It is not our task to survey again so many research papers and argue the worth of the various findings. This has been done with authority in 1972 by the United States Surgeon General's Scientific Advisory Committee *Report* and again by the United States Department of Health and Human Services in their volumes on *Television and Behaviour* published in 1982. In their chapter on "Implications for the Eighties" they summarised certain findings in a section on violence and aggression. Their conclusions must rank as established knowledge unless one is to dismiss the procedures of social science. The procedures of correlation and degrees of association cannot provide perfect proof in the ultimate sense that a physicist might demand. Nevertheless, the linkages which have been established are

more than enough for society, used to far worse approximations in much of the social activity it undertakes, to use as a basis for sensible action. It is in this sense that we believe that there is a body of established knowledge and that we can recommend certain actions be taken on the basis of it.

245. We quote below from passages from pages 89 and 90 of the first volume of *Television and Behaviour*.

"Recent research confirms the earlier findings of a causal relationship between viewing televised violence and later aggressive behaviour. A distinction must be made, however, between groups and individuals. All the studies that support the causal relationships demonstrate group differences. None supports the case for particular individuals. . . . The scientific support for the causal relationship derives from the convergence of findings from many studies, the great majority of which demonstrate a positive relationship between televised violence and later aggressive behaviour. . . . Recent studies have extended the age range in which the relationship between televised violence and aggressive behaviour can be demonstrated. Earlier research had been primarily with children from 8 to 13 years old. The evidence has now been extended to include preschoolers at one end of the age spectrum and older adolescents at the other. . . .

Research evidence accumulated during the the past decade suggests that the viewer learns more than aggressive behaviour from televised violence. The viewer learns to be a victim and to identify with victims. As a result, many heavy viewers may exhibit fear and apprehension, while other heavy viewers may be influenced toward aggressive behaviour. Thus, the effects of televised violence may be even more extensive than suggested by earlier studies, and they may be exhibited in more subtle forms of behaviour than aggression."

246. It would seem to us that the concerns expressed go far wider than the effects of television in causing imitative incidents and occasional individual acts of violence among acutely unstable individuals. Evidence revealed a fear of the cumulative effect of viewing too much violence on children and adolescents both as the next generation of citizens and as individuals whose psychology and attitudes would be permanently affected to an unpredictable degree. The public view represented to us did not overstate what was believed to be occurring but did feel that too much violence on television was generally harmful in de-sensitising growing minds to acts of violence. Continued exposure was believed to render acceptable many acts which had been thought of as unacceptable. The power of the medium to suggest that violence was an easy and acceptable method for resolving conflict was particularly dismaying to our witnesses because it so effectively ran counter to the best efforts of home and school to

produce caring individuals who would seek reasonable solutions to difficult situations.

247. As a commission we concur with the recommendations of the Mental Health Foundation and with the new Director-General of Television New Zealand that there is enough established knowledge and public concern about the long-term cumulative effects of viewing high levels of violence to warrant action to reduce the amount of it to be shown on New Zealand television. Such a conclusion is in consonance with the evidence that came before us and the bulk of the research findings we considered.

248. It was agreed by the Corporation, the Foundation and by almost every witness we heard that there should be funding enough to investigate how the pattern of findings overseas might be modified in the case of groups and individuals set in the context of New Zealand society. It was not expected that large differences would appear between what was found elsewhere and what might be found here. Nevertheless there may be instructive variations to be observed. Certainly the Broadcasting Commission should have the resources to contract for research of this sort and, where the Broadcasting Tribunal requests research information on a relevant topic, be ready to underwrite it. Moreover, it may be expected that the universities will from time to time have graduate research projects which will be relevant and could call for carefully-supervised support.

249. We believe that broadcasters should take into account the findings of social science research about the effects of violence on television and accept that the degree of public concern already manifest warrants an active programme to reduce the amount on screen both by the purchasing policies adopted and the production alternatives chosen. The more aware broadcasters and purchasers are of the more harmful types of violence, the more effective will be the gains made by avoiding them. Furthermore, the use made of the schedule itself to place different kinds of programmes at earlier and later hours needs to take realistic account of the time at which children and young persons are actually viewing.

250. We recognise that the fresh attitudes and policy announced by the new Director-General, Mr Mounter, are indicative of an intention to move in these directions. It is also obvious that, unless production trends are altered by weighty allies abroad pressing in the same direction, those doing New Zealand's purchasing will have to search more widely and deeply than ever before to return with three acceptable programmes for three competitive channels. The doubt has been expressed before us as to whether the western world produces much more television programming than would fill three or four worthwhile channels in all. So therefore we recognise that the need to reduce violence on screen will not be easy to meet or be done rapidly. That is not a reason for abandoning the task and all the more reason for elaborating a plan of action for continued implementation over time.

251. The rules and standards already made in this area are, when one reads them through, sufficiently explicit to raise questions on the choice of programmes made under them. The evidence coming before us indicates that the public at large, while they might not have those rules precisely in mind, have nevertheless raised questions which would arise under the existing rules and have concluded that they were not fully applied and that the monitoring was not effective.

252. Two things would seem to be needed. Firstly, that there be a body with authority to promulgate rules and standards which will be binding on all broadcasters and expand and clarify them where necessary. Such a body should include broadcasters in each field, the judicial Tribunal element and lay representation. We have recommended a suitable body so constituted in the Broadcasting Tribunal Rules Committee and have recommended it should make authoritative decisions which would include the field of broadcast violence.

253. The second requirement is that there be effective monitoring under the auspices of an independent body. The logical place to put such a function is with the Broadcasting Tribunal itself which could call for returns, logs and schedules from the broadcasters and conduct regular and irregular monitoring of programmes where necessary. The Broadcasting Tribunal will be in touch with public opinion through the complaints procedures, through its own advisory committee and by the kind of conference the existing Tribunal sponsored in the form of Issues '82 and Issues '83. Moreover the issue of violence on television will be in the minds of the Tribunal when it is hearing warrant holders and considering warrant conditions, as will the record of the warrant holders in adhering to the rules and standards.

254. It should not be taken to lessen the force of what we have said about the need for a programme of action if we point out our awareness that violence on television is only one of many factors contributing to the increasing levels of violence and crime in our society. Television is more a mirror of the reality around it than it is a cause of that reality, even though it is a cause of part of it. While established knowledge can fix effects clearly associated with violent programming, social science is far from being able to allot exact proportions to all the variables involved in producing violence in our society. A large proportion of those giving evidence were wary of making broadcasters the scapegoats for what they recognised was a situation with multiple causes, and we are sure they are correct in their wariness. At the same time they were convinced that broadcasting's share in that causal chain should be reduced.

255. Inevitably we also received evidence on video-cassette violence which noted that the violence was of a great deal more serious and destructive kind than anything which appears on television. However the problem of controlling standards for video-cassettes was more analogous to the censorship of films or books than to setting standards for broadcast programmes. At the same time evidence was given that the whole subject of violence on video-cassettes was already under Parliamentary consideration. We therefore confine ourselves to the

observation that it would be quite inconsistent to call for the diminution of violence on television and not to look forward to limits to violence on video-cassettes.

RECOMMENDATIONS

1. That warrant holders should work towards and take responsibility for a substantial reduction in the amount of violence on New Zealand television, especially during children's viewing hours.
2. That warrant holders should have in mind a programme for the reduction of violence on their schedules, and especially the more harmful kinds of violence, when they are purchasing programmes.
3. That warrant holders should indicate to those from whom they purchase that they would prefer less violence in the programmes on offer and that they were actively seeking alternatives on a wide basis.
4. That the recommended Broadcasting Tribunal Rules Committee make more precise and clear the present rules and standards about the types of violence which are to be avoided as particularly harmful or to be reduced in general.
5. That the Broadcasting Tribunal should monitor warrant holders' adherence to the rules and standards regarding the portrayal of violence.
6. That sections 24 and 95 of the Broadcasting Act 1976 be amended to include specific reference to the reduction of violence.
7. That programme classifications and explanation of those classifications be published with all programme listings and that the classifications be screened, as identifiable symbols, at the commencement of each programme.
8. That there be a "watershed commercial" screened which indicates the end of family viewing time.
9. That the Broadcasting Tribunal and the Broadcasting Commission should support, contract for or conduct research on the relationship between violence and broadcasting and its impact in New Zealand, and that warrant holders should have a substantial part in the funding of this research.
10. That the same rules and standards in respect to the treatment of violence in programming should apply to advertising.

References

TERM OF REFERENCE 8

1. *Report of the Committee on the Future of Broadcasting*, Lord Annan, Chairman, March 1977, HMSO, p.262, paras 16-38.

TERM OF REFERENCE 8(a)

1. BCNZ, annual *Report*, 1980, p.3.

2. National Council of Women, written submission, p.13.
3. Children's Literature Association, written submission, p.3.
4. Musicians' Union, written submission, p.10.

TERM OF REFERENCE 8(b)

1. BCNZ, written submission, term of reference 8(b), p.2, para 8(b)8.
2. Ronald Kenneth Wilkinson, written brief of evidence, term of reference 8(b), p.9, para 9.1.
3. Independent Broadcasters Association, written submission, p.25, para 43.
4. Trevor Colin Egerton, submissions and evidence on behalf of the Independent Broadcasters Association, p.5, para 2.10.
5. Association of Accredited Advertising Agencies, written submission, p.14.
6. Ronald Kenneth Wilkinson, Director of Sales & Marketing, Radio New Zealand, written brief of evidence, p.16, para 17.2.
7. The Children's Literature Association, written submission, p.3.

TERM OF REFERENCE 8(c)

1. Broadcasting Research Unit, *The Public Service Idea in British Broadcasting—Main Principles*, 1985 p.3.
2. BCNZ, written submission, term of reference 8(c), p.1, para 1.
3. Radio New Zealand, *A Report on Stewardship, Application to the Broadcasting Tribunal of New Zealand for Renewal of Sound Broadcasting Warrants for the National Programme by the BCNZ*, 1982, p.6, para 13.3.
4. Ibid., p.2, para 4.2.
5. Beverley Anne Wakem, transcript of oral evidence, 2 August 1985, p.94.
6. Heughan Bassett Rennie, written brief of evidence, term of reference 8(c), p.10.
7. Wakem, written brief of evidence, term of reference 2(c), p.8, para 4.14.
8. BCNZ, written submission, term of reference 8(c), p.1, para 4.
9. Friends of the Concert Programme, *A Future for Non-Commercial Public Radio in New Zealand*, 1983, p.16, para 2.22.
10. Music Federation of New Zealand, written submission, p.13.
11. Wakem, transcript of oral evidence, 2 August 1985, p.97.
12. Association of New Zealand Advertising Agencies, written submissions, section 8, p.15.

TERM OF REFERENCE 8(d)

1. ESTV, written submission, p.16.
2. New Zealand Federation of Sports Medicine, written submission, p.2.

3. BCNZ, written submission, term of reference 8(d), p.3.
4. Quoted by ASH, written submission, p.6.
5. New Zealand Sports Foundation, written submission, p.8, para 8.3.
6. NZ Public Service Association, written submission, p.54.

TERM OF REFERENCE 8(f)

1. Desmond James Monaghan, written brief of evidence, term of reference 8(h), p.9, para 3.2.
2. National Council of Women, written submission, p.15.
3. Children's Literature Association, written submission, p.3.
4. Media Women, written submission, p.4.

TERM OF REFERENCE 8(g)

1. BCNZ, written submission, term of reference 8(g), pp.1-2, paras 8(g)1—8(g)8.
2. BBC, *Annual Report and Handbook 1985*, p.60.

TERM OF REFERENCE 8(h)

1. BCNZ, written submission, term of reference 8(h), p.2, para 8(h)5.
2. *ibid.*, p.2.
3. Desmond James Monaghan, written brief of evidence, term of reference 8(h), p.2, para 1.5.
4. *ibid.*, p.9, para 3.2.
5. *ibid.*, p.5, para 2.2.
6. BCNZ, written submission, term of reference 8(h), p.1, para 8(h)4.
7. Monaghan, written brief of evidence, term of reference 8(h), p.3, para 1.9.
8. *ibid.*, p.5, para 2.2.
9. *ibid.*, p.6, para 2.4.
10. Mental Health Foundation, written submission, p.2.
11. *ibid.*
12. *ibid.*, p.7.
13. *ibid.*, p.3.
14. *ibid.*
15. *ibid.*
16. Women's International League for Peace and Freedom, written submission, p.2.
17. National Council of Women, written submission, p.19.
18. Religious Society of Friends (Quakers), written submission, p.2, para 3.
19. New Zealand Federation of University Women, written submission, p.2.

20. New Zealand Public Service Association, written submission, p.57, para 103.
21. Wellington Workers Educational Association, written submission, p.3.
22. Tamaki Playcentres Association, written submission, p.3.
23. National Council of Women, written submission, p.17.
24. *ibid.*, p.19.
25. *ibid.*, p.18.
26. New Zealand Public Service Association, written submission, p.59, para 109(b).
27. Department of Health, written submission, p.5.

CHAPTER 9

Term of Reference 9

"9. Any associated matters that may be thought by you to be relevant to the general objects of the inquiry."

STAFF TRAINING

1. Staff training for broadcasting has emerged as a topic and so it will be dealt with as an associated matter relevant to the inquiry.

2. The Commission has received the view that there is need for expansion in training and re-training necessitated variously by the demands of new technology, the "labour" needs of a third television channel and the increasing complexity of many broadcasting roles.

3. There are a number of institutions offering courses from technical and management skills to the study and research of broadcasting systems. The BCNZ undertakes much of its own training in all areas of broadcasting. Polytechnics and technical institutes impart technical and journalism skills. Notably the Christchurch Polytechnic in association with Radio New Zealand and the Independent Broadcasters Association has established radio broadcasting training and is developing professional television courses. A small number of IBA stations provide training. Auckland University has a postgraduate Diploma in Broadcast Communication and Canterbury University a postgraduate Diploma in Journalism. The variety of these training and educational institutions is important in order to provide a broad base for recruitment and a wide range of people to enrich broadcasting.

4. The BCNZ is to be commended for the job it has done in broadcasting training but pressed to do more. The effects of a third channel and the current situation whereby the BCNZ provides skilled people for the open market both here and in Australia is one that must be faced.

5. Amongst these broadcasting and educational institutions there is a recognition of one another, most apparent in the Radio New Zealand and IBA assistance to the Christchurch Polytechnic course and in the joint funding by the University and Radio New Zealand of a Producer-in-Residence at the Audio-Visual Centre of the University of Auckland. There is also a recognition that the various polytechnics, including the journalism course of the Auckland Technical Institute, are performing a varied range of training tasks, and likewise the universities contribute graduates to broadcasting and professional courses at Honours level for broadcasting itself.

6. When visiting the Christchurch Polytechnic, the Commission discussed the question of ensuring liaison between the different kinds of training and educational courses and institutions involved in preparation for broadcasting as a burgeoning field. At present the Department of Education is the co-ordinating body for polytechnics and technical institutes and the universities are linked through the University Grants Committee.

7. There is a case to be examined for more effective liaison to communicate to all elements in the industry what is being done and the resources available, particularly in view of the advent of a third channel. The requirements of the industry could be put forward to educators and to government by the BCNZ, the IBA and third channel warrant holders and also the support they are prepared to provide in the form of leave, scholarships and the help of their experienced broadcasters, studios, and part-time or short-term employment. A standing Liaison Committee on Broadcasting Education would appear to have common benefits and should be considered and initiated by the Broadcasting Commission since government funding is heavily involved.

AUDIENCE RESEARCH

8. Audience Research is used by broadcasters as a way to identify audiences, their numbers, interests and opinions. The resulting feedback can be used to formulate programme policy.

9. The BCNZ has an Audience Research Unit which in conjunction with the research group McNair provides such audience measurements. Both organisations pool data collected by way of a common data base of diaries and questionnaires completed by individuals. Studies are divided into attitudinal research, which reveals tastes in music for example, and behavioural research which provides head-count numbers for television and radio. Clearly such measurements are of general commercial importance and the Research Unit trades externally, providing information for advertisers. The independence of their results is confirmed by the McNair association.

10. There would seem to be an area of research not fully addressed by the Unit, the in-depth understanding of people's likes and dislikes in programming. Head-counts of particular shades of music preference elucidate statistics primarily of what people are currently exposed to on the radio. The underlying question is how one gets around the problem of discovering what people may like once they have seen or heard it. Audience research overseas is grappling with the problem by testing audiences for pilot programmes and relating their reactions to other characteristics, but such studies have a long way to go yet. In the meantime the pre-testing of popular music by assembling panels is a working device for approximating the same process.

11. The Research Unit occasionally surveys specific issues and does three-yearly studies of audience perceptions of the social aspects of television, radio and print. However, there is an explicable reluctance by the BCNZ to invest scarce resources on in-depth socially based research although the spin-off in educative and adventurous programming may be being missed. Moreover, there are problems the Corporation confronts such as questions about specifically New Zealand variations on the effects of viewing violence to which the Audience Research Unit might contribute.

12. More in-depth socially based research could aid considerably the process of defining New Zealand audiences' tastes. On the basis of

such information more use could well be made of pilot programmes to test the reactions of audiences as well as of executives to previously unexplored avenues of programming. But the Commission recognises that there is a fine balance to be struck between cost and benefit in this area particularly, and understands some of the caution with which the BCNZ has so far proceeded.

SUMMARY OF RECOMMENDATIONS

TERM OF REFERENCE 1(a)

1. That the Broadcasting Act be amended to include cable broadcasting services in the definition of broadcasting.
2. That unless there is a radical change in relative cost, New Zealand fully utilise all existing space on the VHF and UHF spectra before consideration is given to introducing cable television services.
3. That the principle of employing a single integrated cable network for both telecommunications and television services be endorsed.
4. That any cable service employed for broadcasting purposes, including CATV services, be licensed by the Broadcasting Tribunal.
5. That any proposed cable television service be bound by a "must carry" rule to provide all existing and future radiated broadcast services on the cable network.
6. That the agencies of government, broadcasting organisations and the electronics industry mount comprehensive public education programmes to explain the likely economic impact on the viewer of any planned use of new technologies so that well before these technologies came into use the public is able to make reasoned consumer choices based on accurate knowledge in the purchase of broadcast receiver equipment.

TERM OF REFERENCE 1(b)

1. That New Zealand should investigate utilising all the broadcasting allocation on the VHF and UHF spectra as part of investigating any proposal to introduce DBS.
2. That the relative merits of cable television through fibre-optic cabling be carefully considered before any commitment is made to introduce DBS.
3. That the principle of universality of coverage of television services be preserved for an extensive transition period accompanied by a public information programme when it is intended to replace any terrestrial transmission by a DBS service.
4. That any person or organisation seeking to establish a domestic DBS or pseudo DBS service to New Zealand be licensed by the Broadcasting Tribunal.
5. That any person or organisation seeking to retransmit satellite services by means of cable, CATV or terrestrial radiation be licensed by the Broadcasting Tribunal.
6. That the New Zealand Government take the initiative in endeavouring to negotiate international agreements which would provide that any person or organisation intending to broadcast or broadcasting DBS services that can be received in the signatory

states should, under conditions agreed by the signatories, be licensed by the appropriate government or licensing authority in the country of origin.

7. That adequate funding of public service broadcasting be maintained to ensure production of a wide and varied range of programmes reflecting New Zealand culture and identity.

TERM OF REFERENCE 1(c)

1. That programme schedules of television broadcasters be monitored by the Broadcasting Tribunal to ensure that a range of programmes catering for a variety of interests and tastes are screened at accessible viewing hours.
2. That copyright laws need to be amended to:
 - (i) protect the rights and interests of producers, writers, actors and musicians in any programmes or material videotaped for commercial retailing.
 - (ii) allow educational institutions to video record broadcast programmes for use in legitimate archival, research, and educational purposes but in no case for resale or commercial reproduction.

TERM OF REFERENCE 1(e)

1. That the BCNZ continues its transmission function network, that the third commercial television channel developments and costs for alternative transmission technologies and what the changing market presents in the form of fresh options and opportunities for broadcasters and for the telecommunications users, should be under ongoing assessment by the Telecommunications Corporation and the BCNZ.
2. That in arriving at this conclusion we feel that the options and commercial stimulation of a competitive environment are factors which will always have to be given consideration before turning to a single carrier situation notwithstanding its apparent advantages.

TERM OF REFERENCE 1(f)

1. We would recommend the case for a Department of Communications serving the kind of functions we have described.

TERM OF REFERENCE 2(a)

1. That the Corporation's editorial independence in broadcasting and the *New Zealand Listener*, and the Corporation's purpose of provision of programmes and information be added to the list of subjects on which the Minister is not authorised to give a direction under section 20(2).

TERM OF REFERENCE 2(b)

1. That the BCNZ should continue as one Corporation but with far stronger emphasis within the structure on the divisions and on the delineation of cost and profit centres.
2. That section 10 of the Broadcasting Act 1976 be amended to provide for standing as well as ad hoc committees of the Corporation to be established.
3. That the number of members of the Corporation be fixed at nine and that in future they be appointed as the Governors of the Corporation.
4. That the Corporation continue with the process of simplifying its structure to achieve clear lines of responsibility and areas of accountability and, in particular, that it actively examine ways of further simplifying the middle management structure of the Corporation and of Television New Zealand.
5. That fresh equity be introduced by the subscription of additional capital to the Corporation by the Crown.
6. That the Minister of Finance's powers in respect of the Corporation be reviewed, with the particular object of giving the Corporation independence in its borrowing programme.
7. That as part of such a review the power of the Minister of Finance to approve the Corporation's subscribing for or disposing of shares in any company (section 49(2)(b)), the power to approve the setting aside of revenue as reserves (section 52B), and the powers to approve banks for the deposit of Corporation funds and to approve investments in other securities (section 55 (b) and (c)) be transferred to the Corporation itself.
8. That the Minister of Broadcasting's powers in respect of capital expenditure and the sale of land be reviewed so that the Corporation is able to invest in replacement or new capital equipment up to a level of at least \$2 million without reference to the Minister and to facilitate the Corporation's being able to sell land where that is necessary to consolidate its holdings in an economically and operationally efficient way.
9. That the public broadcasting fee be increased to a level not less than the average annual subscription price of New Zealand's metropolitan daily newspapers.
10. That the Corporation be required to report annually to Parliament on those of its activities which are defined by it as being public service broadcasting activities and to account clearly and in detail for the expenditure of the public broadcasting fee monies on those activities.
11. That section 60 of the Broadcasting Act 1976 be amended so that the exemption of the Corporation's income from income tax is fully effective in respect of its public service broadcasting activities and that any necessary associated amendment be made to the Income Tax Act.

12. That section 52c of the Broadcasting Act 1976 be amended so that, in considering whether to exercise the power to call for a dividend or not, the Minister of Finance shall consult with the Minister of Broadcasting to consider whether or not, if a dividend is decided on, the revenue be put to the further attainment of the Corporation's statutory public service broadcasting goals.
13. That the provision agreed between the BCNZ and the Public Service Association restricting contract employment be abandoned by the parties.
14. That section 40(1) of the Broadcasting Act 1976 be amended to specifically enable the Corporation to provide for the early retirement of its employees and to enable the Corporation to enter into voluntary severance agreements as a "necessary modification" as mentioned in the existing Act.
15. That the Corporation pay special attention to the training of senior production staff in financial management and that increased numbers of young people be trained in radio and television production.

TERM OF REFERENCE 2(c)

1. That the existing situation whereby the Public Broadcasting Fee is fixed, collected and paid separately from general taxation should be maintained but improved.
2. That the Public Broadcasting Fee be put towards the public service broadcasting services and activities of the BCNZ.
3. That the Public Broadcasting Fee be reviewed urgently by an independent Commission of Review and in the manner recommended below.
4. That the Broadcasting Act be amended so that, every five years, an independent Commission of Review of one qualified person shall be appointed by the Governor-General on the recommendation of the Minister of Broadcasting so that the Commission of Review, having reviewed and considered the financial support of the Corporation's public service broadcasting activities, shall determine the initial level of Public Broadcasting Fee payable for the next five years.
5. That at every five-yearly review the Corporation shall account fully for its expenditure of funds deriving from the fee since the last review and as part of the review process shall set out its proposed public service broadcasting services and activities, their cost and the projected expenditure of the licence fee on them.
6. That, between reviews, the Public Broadcasting Fee be adjusted in accordance with either the average movement in the annual subscription charge for metropolitan daily newspapers or the movements in the Consumer Price Index, after investigation into the most suitable method, on an annual basis beginning

immediately following the initial urgent review recommended in 3 above.

7. That the Corporation be empowered to approve and appoint an agent or agents of its own choosing instead of or as well as the Post Office for the purposes of collecting the fee in the most convenient and efficient way or ways available and that it be empowered to collect the fee itself.
8. That provision be made for the fee to be payable by instalments where possible and that the requirement and available methods of payment be fully publicised by the Corporation.
9. That the Post Office in its capacity as agent for the Corporation and any other agent appointed by the Corporation to collect the fee on its behalf and the Corporation itself be given power to sue in civil law for the fee which is owing and unpaid.
10. That the related legislative issues of whether fees should now be imposed under the Broadcasting Act rather than the Post Office Act and whether the Post Office alone should continue to initiate prosecutions for non-payment of the fee be considered by Government.
11. That fee concessions on pensioner or welfare grounds be a matter for consideration and direct grant by way of rebate to the beneficiaries concerned by the Department of Social Welfare.

TERM OF REFERENCE 2(d)

1. That the Corporation review its overseas purchasing policy for both radio and television with the purpose of further strengthening the range of quality programming from regular and occasional sources and from overseas countries generally.

TERM OF REFERENCE 2(e)

1. That while approving of the accelerated investment in the news and current affairs area, the Commission suggests to the Corporation that it will require to be matched by equally vigorous policies in training, recruitment and retention to utilise the new sources which have been tapped and meet the competitive staffing situation in prospect.
2. That the quality of depth in news and especially current affairs programming be pursued and defended.

TERM OF REFERENCE 2(f) & 3(f)

1. That any increase in public broadcasting fee receipts be fully reflected in increased support for restoring as much as possible of past levels of in-house radio production for National Radio and other non-commercial radio services.
2. That the Broadcasting Tribunal extend recognition to the value of the private radio warrant holders' proposals for a Private Radio

Resource Centre for the production of specialised programmes for purchase and broadcast on private stations.

3. That the Corporation place as high a priority as its funds permit on a programme for steadily raising the level of their in-house television production in economic balance with their programme for drawing on independent production.

TERMS OF REFERENCE 2(g) AND 3(g)

1. That the Corporation's actions in appointing a Commissioning Editor and announcing an active programme for increasing its use of independent New Zealand television production be given continuing support and future extension.
2. That Television New Zealand consider the appointment of an assistant commissioning editor to allow of some specialisation and in recognition of the need to clarify the objectives, standards and terms of the commissioning programme and improve communications with independent producers in general.
3. That the Corporation review the terms of its financial support for the CIP scheme and the rates of payment for co-production and purchase of independent production for television with a view to equity and viability for all parties and in the light of the competitive market which is in prospect.
4. That the successful applicants for third channel warrants implement the proposals generally advanced for a strong sector of independent production in their programming and that the Tribunal give consideration to this matter.
5. That Radio New Zealand and private radio warrant holders adopt policies directed to encouraging and using independent productions of a satisfactory standard and worth.

TERMS OF REFERENCE 2(h) AND 3(h)

1. That the Corporation temporarily assign a senior executive to identifying the problems in short-term contracts and contract work and making changes and setting up procedures to improve the situation and fix responsibilities for permanent attention to this area.
2. That the payment of fees for writers, performers and copyrights involved in short-term contract work be made as straightforward, rapid and automatic as well-designed procedures can ensure.
3. That, as more resources become available, especially to the Corporation's non-commercial radio services, the range of fees for writers, performers and the use of original creative work being adapted for broadcast be reviewed to promote the use of talented New Zealanders and the national character of the works presented.

4. That negotiations be opened with PEN so that both associations of writers are included when establishing the relevant fee structures.
5. That representation be sought on the Film Commission and further utilised on the Queen Elizabeth II Arts Council so that liaison with those two bodies and with the National Film Unit is strengthened, particularly in regard to commissioning or otherwise securing broadcast presentation rights for New Zealand writers, artists, producers and their works.
6. That the attention of private warrant holders be given to the problems and benefits encountered in this area and that their procedures be designed to make appropriate provision for them.

TERMS OF REFERENCE 2(i) AND 3(i)

1. That a quota of ten percent of all music played by each holder of a sound radio warrant or short-term authorisation should consist of music composed, arranged, performed or recorded and produced by New Zealand citizens or residents.
2. That this ten percent recommendation should be embodied in regulations and become a condition of all radio sound warrants and short-term authorisations.
3. That in view of the general purpose of ensuring that "programmes reflect and develop New Zealand's identity and culture" set out in section 3(1)(c) of the Broadcasting Act 1976, the Act be amended to empower the Broadcasting Tribunal to design, establish and review a system of awarding points for the presentation by all television warrant holders of programmes of a New Zealand character in content, performance or production.
4. That the Broadcasting Tribunal in designing, establishing and reviewing the points system shall consult with the television warrant holders and such persons of qualification or experience as are likely, in the opinion of the Tribunal, to be of assistance for this purpose, and call for or commission such staff assistance and research as are required.
5. That in setting the overall minimum New Zealand requirement of points for each television warrant holder, the Broadcasting Tribunal should consider the financial situation of that warrant holder. Moreover, the Tribunal should differentiate between private and public service warrant holders in consideration of the additional responsibilities of the latter, but not so far as to blunt the general force of section 3(1)(c) of the Act, nor so far as to give an unfair or unjust competitive advantage to either warrant holder.
6. That once the points system has been established and each minimum requirement of points has been considered and determined by the Broadcasting Tribunal, then each requirement

of points shall be imposed as a condition of its respective holder's warrant.

TERM OF REFERENCE 2(j)

1. That the *New Zealand Listener* continues to be published by the Broadcasting Corporation of New Zealand and that the present legislative and corporate guarantees of editorial independence be maintained.
2. That in order not to disadvantage any warrant holder as broadcaster or publisher, alone or in combination, amendments be made to the appropriate sections of the Act to ensure that all warrant holders are required to make programme particulars available to publishers at the same time and that no warrant holder should be disadvantaged in this respect as a result of any Ministerial direction.
3. In order that the public may be informed of all the scheduled choices among television programmes offered by each of the three channels, that there be a statutory obligation on those who publish listings of television programme schedules that they shall do so equitably and completely for all three channels.
4. That notwithstanding the willingness of the *Listener* to publish programme particulars backgrounding the programmes of other warrant holders, there should be no statutory obligation placed upon the Corporation or the *Listener*, or indeed upon any warrant holder acting as a publisher, to publish background material and articles dealing with the programmes of its competitors.
5. That consideration be given to bringing the *Listener* under the purview of the Press Council.

TERM OF REFERENCE 2(k)

1. That the New Zealand Symphony Orchestra remain in its present relationship with the Broadcasting Corporation so far as administrative control, management, and the organisation of concert presentation are concerned.
2. That the radio and television services of the Corporation continue to promote the Symphony Orchestra's part in their programmes and in the community generally in recognition of the great significance of the Symphony Orchestra to the cultural life of New Zealand.
3. That liaison with the Arts Council and other bodies concerned with concert management and touring be improved and planning be more closely co-ordinated.
4. That the arrangements, the amount, and the nature of touring by the Symphony Orchestra be reassessed in the light of public demand and response.
5. That the costs of the management structure and the support services of the Symphony Orchestra, the costs of its use, and all

other aspects of its financing should be clearly differentiated from the general financing and management of the Corporation so that separate and full accountability for the net cost of the Symphony Orchestra is achieved and maintained.

6. That the net cost of maintaining the Symphony Orchestra should be borne by the general revenue under Vote: Internal Affairs rather than by the payers of the Public Broadcasting Fee.

TERM OF REFERENCE 4

1. That statutory provision be made for a Broadcasting Commission of two, a Chairman and his or her Deputy, the Commission to have express statutory independence for specified personnel functions. The Chairman of the Commission to be Head of Department and responsible to the Minister of Broadcasting for the administration of the Act, for provision of policy advice to the Minister, and the functions of the Office of the Commission including the preparation of legislation and regulations.
2. That the Office of the Broadcasting Commission be constituted as a small specialised unit along the lines indicated in paragraphs 23 and 24.
3. That the function of providing administrative, professional and secretarial staff and other services for the Broadcasting Tribunal be transferred to the Broadcasting Commission.
4. That the position of Chairman of the Broadcasting Tribunal become a full-time appointment.
5. That the Tribunal quorum shall be the Chairman, one other Member and one co-opted person whose qualifications or experience are likely to be of assistance to the Tribunal in dealing with that proceeding.
6. That the level of staffing on secondment or temporary transfer to assist the Broadcasting Tribunal be strengthened to match the functions of the Tribunal.
7. The proposal that a public charge by lease or levy be made for the private right to broadcast with advertisements utilising the public resource of the radio spectrum from the time of granting a new warrant or from the time of the renewal of an existing warrant (except that warrants for which applications are already being heard should not be charged until the time fixed for renewal) be examined.
8. That receipts from such public charges be clearly identified and be applied solely to the coverage of full-time non-commercial broadcasting including licence fee payers not at present served.

TERM OF REFERENCE 4(a)

1. That the staffing of the Broadcasting Tribunal should be strengthened by the appointment of a Registrar and Deputy

- Registrar to direct the investigation of complaints and of records and monitoring respectively.
2. That specialised officers and secretarial support should be henceforth provided on a permanent or seconded basis by the Broadcasting Commission.
3. That a monitoring function be specifically provided for the Office of the Broadcasting Tribunal by amendment of the Act.

TERM OF REFERENCE 4(b)

1. That all existing and future broadcasting warrant holders continue to be bound by the Act to provide internal procedures to receive and adjudicate on formal complaints from the public.
2. That a formal complaint be defined in the Act as any complaint which is submitted in writing to a broadcaster and contains a return address.
3. That the right of complainants to appeal a decision by a broadcaster to the Tribunal be preserved.
4. That the Broadcasting Complaints Committee be dispensed with.
5. That the Broadcasting Tribunal be given power to delegate the adjudication of complaints, in the first instance, to the Registrar of the full Tribunal.
6. That broadcasters and the public have the right to appeal any determination of a complaint by the Registrar to the full Tribunal.
7. That broadcasters be bound to make the complaints procedure known to the public through pamphlets, advertisements and the daily press, and that the determination of all complaints by the Registrar, or by the Tribunal be reported back to the public through the *New Zealand Listener*.

TERM OF REFERENCE 4(c)

1. That the Tribunal's role as the appeal body for all complaints and its functions in ensuring compliance with all standards, rules, conditions and the points system should be confirmed.
2. That the five-yearly Tribunal review of performance under the warrants for the BCNZ should be maintained but with final decisions arrived at within twelve months.
3. That the Corporation's function "to carry on public broadcasting services and to develop, extend, and improve those services in the public interest" be added to the matters which the Broadcasting Tribunal must have regard to when considering and determining applications.
4. That statutory warrants be provided for all existing Corporation stations and relays.
5. That Parliament consider granting warrants for any further class of Corporation non-commercial or predominantly non-commercial stations when the Corporation has established the objectives,

requirements, and programme of funding and introduction for that service.

TERM OF REFERENCE 5

1. The rationale of the section under discussion embodies, we consider, desirable and sensible provisions for the small market of New Zealand with its oligopolous character.
2. We have pointed to the weighted nature in favour of the Corporation and wherever this occurs we feel there are grounds for amendment.
3. Various phrases used in the legislation which we have identified require definition, and indeed a draft form of agreement may well be desirable.
4. If the auditing mechanism was introduced we feel the parties should have access to the Tribunal for resolution.
5. It may well be that the negotiations for an annual revision of any contemplated agreement should be referred to the Tribunal by some specified date each year.

TERM OF REFERENCE 6 (a)(i),(b),(c),(d)

1. That programmes which build on and explore Maori culture and interests should be part of the mainstream broadcasting on all television channels in this country, but with special emphasis on the responsibilities of the public broadcasting system.
2. That we support the establishment of a Maori Language Commission as recommended by the Waitangi Tribunal with the right, *inter alia*, to advise the Minister of Broadcasting to the extent its jurisdiction impinges on areas regarding broadcasting.
3. That as a function of public service broadcasting, Maori programming on radio and television is entitled to security of funding. No one would suggest an open cheque situation but there may be a need for an initial disproportionate allocation to redress previous neglect.
4. That a Maori Advisory Board should be established in respect of the Corporation and private warrant holders, with standing before the Tribunal if statutory failure by warrant holders in respect of Maori programming is ascertained. We would envisage this Board having an advisory, qualitative and critical role.
5. That independent production in respect of Maori programming should be encouraged.
6. That if quality and volume are not achieved some form of specific minimum requirement should be imposed at the end of, say, three years.
7. That relatively high points should be allocated to Maori programming under the points system recommended at 2(i).

8. That there should be accelerated training programmes on an industry-wide basis to support positive staffing policies for Maori broadcasters, journalists and production personnel. Employment 'credit' should be given for bi-lingualism and bi-cultural backgrounds.
9. That training programmes should be instituted within broadcasting organisations for bi-cultural education.
10. That accurate and precise standards of pronunciation should apply in using the Maori language.
11. That existing programmes which are intended to develop and illustrate the Maori contribution to this society should be continued and enhanced.
12. That Radio New Zealand's proposals in respect of the Maori Radio Network should be implemented immediately.
13. That any future developments should not be at the expense of existing programmes which perform specific functions.
14. That the production of cassettes and videos for the promotion of the language be encouraged.
15. That the extension of access radio be supported and we note here the considerable potential for access television.

TERM OF REFERENCE 6(a)(ii),6(b),6(c),6(d)

1. That more time should be made available for a programme on television which builds on and explores the past and present of the Pacific Islands and the cultures and current concerns of Pacific Islanders, and that appropriate finance should be made available.
2. That in developing programmes about and for Pacific Island peoples there be an awareness of the opportunities for community-based programming.
3. That the Broadcasting Corporation of New Zealand and the warrant holder in respect of the third television channel make a commitment to the recruitment and training of Pacific Island peoples in all areas of broadcasting.
4. That educative and community information programmes in the vernacular should be made to aid non-English speaking peoples in gaining access to information available to the public at large through the media. We believe that radio is the best medium for this.
5. That warrant holders should maintain a close consultative relationship with the Pacific Island Advisory Committee on Broadcasting.
6. That there should be immediate activation of plans to extend access radio to Auckland and to develop the YC-AM network to provide more air-time for Pacific Island interests.

TERM OF REFERENCE 6(e)

INTERIM RECOMMENDATIONS ON TELEVISION IN EXTERNAL SERVICES

1. That the New Zealand Government and the Corporation contribute to the thorough socio-economic investigation of Island needs and resources for television services in Forum countries commencing with those wholly unserved.
2. That the technical, production and financial implications of the possible television service to South Pacific countries be fully investigated.
3. That BCNZ at an appropriate time offer to negotiate agreements covering news exchanges relating to Pacific Islanders in New Zealand, relevant developments in New Zealand generally, and events and developments in participating Pacific countries.
4. That Television New Zealand in its planning and commissioning of documentaries, news, and current affairs programmes develop an increased understanding and expertise on the life of the peoples of the Pacific Islands and of Islanders living in or citizens of New Zealand with a view to contributing programmes to Pacific television as well as to television at home.
5. That the BCNZ offer to exchange facilities and specialised advice with Island public television broadcasters seeking to produce programmes in each other's countries.

RECOMMENDATIONS ON RADIO

1. That the prospect of using a satellite to transmit the external service radio signal be fully and actively investigated as to its potential for reception by Island radio stations and by domestic receivers and that the costs of such satellite transmissions be compared with the Rangitaiki scheme in terms of economy and effectiveness in reaching Island audiences and those in Australia.
2. That the BCNZ continue to operate New Zealand's external broadcasting and cassette services through Radio New Zealand International as a division of Radio New Zealand fully costed and separately accounted for, and with its editorial independence guaranteed as part of the Corporation's activities under the Act.
3. That funds for the transmission and operation of Radio New Zealand International should be provided from general revenue under Vote: Foreign Affairs, initially at the level of service and costs given in evidence by the Director-General of Radio New Zealand, but with future provision for improvements to the range and quality of the service.
4. That either a satellite signal or the "Basic System" for high frequency transmission from Rangitaiki to the Pacific plus Australia, as set out in Appendix 2 of the BCNZ evidence on 6(e), should be proceeded with as a priority project according to the results of the investigation under Recommendation 1.

5. That the BCNZ offer opportunities for production, presentation and technical training and staff exchanges to citizens of Pacific Island countries establishing and operating a public radio service.
6. That the New Zealand Government provide within the Official Development Assistance Programme the scholarships and funds for such training and staff exchanges.
7. That the BCNZ continue to participate and play an active role in programme supply, Pacific news exchanges and organisations for the promotion of Pacific broadcasting.
8. That the BCNZ offer to exchange facilities and specialised advice with public radio staff from Island services seeking to produce programmes in each other's countries.
9. That the extension of Radio New Zealand International broadcasts in English to Southeast Asia should be actively considered by the BCNZ and interested Departments once the Radio New Zealand International services to Australia and the South Pacific are firmly established.

TERM OF REFERENCE 6(f)

1. That radio and television consider programmes about aspects and problems of urban living in manufacturing as well as business and among both the salaried and wage-earners.
2. That Television New Zealand consider forming a religious advisory body parallel to that of Radio New Zealand.

TERM OF REFERENCE 6(g)

1. That development of access programmes within the BCNZ's community service stations be encouraged as an interesting and economic way of tapping local and regional interests and talents.
2. That the programmes in Dunedin, Hamilton and Nelson be given every encouragement including accessible time-slots in station programming.
3. That while the Corporation's responsibilities for minority programming and services must retain priority, the Corporation's role in assisting access broadcasting is regarded by the Commission as valuable to maintain and to extend when resources increase.
4. That should funds from charges become available for non-commercial public broadcasting, reports to the Minister of Broadcasting should be called for from both the Corporation and the Tribunal on the principle and mechanics of setting aside a proportion of the funds to assist community public broadcasting including access programmes and stations as they develop.

TERM OF REFERENCE 7(a)

1. The requirement to produce programmes which educate, which is laid upon the BCNZ by section 22 of the Broadcasting Act 1976, should apply to all warrant holders.
2. Warrant holders should establish appropriate mechanisms perhaps along the lines of Radio New Zealand's Continuing Education Unit and staffed by full-time specialists, to undertake the production of educational programmes, to facilitate liaison with educational institutions, and to co-operate with them in the production of supporting materials.
3. When the review of the Copyright Act is complete, a working party be set up to devise a scheme whereby suitable programmes are made available to educational institutions, within the bounds of copyright.
4. The Act be amended by adding a section to read:
"Warrant Holders shall be authorised to produce for sale to third parties, educational materials in support of educational (broadcast/cassette) programmes in various media including books, periodicals, film, audio-visual slide presentations, audio and visual cassettes, pictures and charts and computer software providing that the Warrant Holder has the appropriate copyright rights for the sale of such educational materials."

TERM OF REFERENCE 7(b)

1. We would suggest, accordingly, that
 - (i) educational institutions make greater use of the funding opportunities provided by section 23 of the Broadcasting Act 1976.
 - (ii) the BCNZ and the third channel warrant holder actively explore with educational institutions and private production companies the opportunities for drawing educational programmes from these sources.

TERM OF REFERENCE 7(d)

1. That warrant holders should be required to consult their Advisory Committees on the educational aspects of children's television.
2. That there should be a minimum quota for children's and young persons' programming, applicable to all warrant holders, of one and a half hours of programmes per channel per day, to be drawn from both local and overseas sources and screened over all weeks and days of the year. Locally produced programmes should receive points under the points system described in term of reference 2(i).
3. That the current convention that programmes for pre-school children are free of advertisements should be mandatory for audiences of children up to six years old.

4. That a more detailed set of advertising rules along the lines of those set by the Independent Broadcasting Authority should be drawn up and adopted. It should contain provision to ensure that advertisers show restraint in the placing of advertisements in and around children's programmes.
5. That the Broadcasting Tribunal should in its monitoring ensure satisfactory scheduling and consistent quality of children's and young persons' programmes, and compliance with the matters in Recommendations 2, 3 and 4.

TERM OF REFERENCE 8

1. That the functions and responsibilities at present undertaken by the broadcasting rules committees based on the BCNZ Rules Committee be transferred to a Rules Committee of the Broadcasting Tribunal.
2. That the Broadcasting Rules Committee of the Tribunal be given power in the Act to prescribe rules and standards for broadcasting in accordance with the general guidelines laid down in sections 24 and 95 of the Act, and that these be binding on all warrant holders.
3. That the Act provide for the membership of the Rules Committee of the Broadcasting Tribunal to be made up of: the members of the Tribunal; a representative of the Tribunal's Advisory Committee; one representative each from public television, private television, public radio, and private radio.
4. That this Rules Committee be presided over by the Chairman of the Tribunal empowered with both a deliberative and a casting vote.

TERM OF REFERENCE 8(a)

1. Accordingly, this Commission recommends that the present maxima of nine minutes per hour and twenty minutes in any two hour period which have been fixed since 1977 should remain for the present and be applied to all TV warrant holders as an upper limit. Both the Broadcasting Commission and warrant holders should keep the possibility of some reduction under periodic review in relation to economic circumstances and after the degree of attainment of other statutory goals is fully considered in relation to the benefits of reduction.

TERM OF REFERENCE 8(b)

1. Accordingly, for the present, in the light of there being little sign of concerted public demand for change, and in the light of the current flexible levels employed by the Corporation and private warrant holders, we recommend that the most widely used maximum of 16 minutes be considered by the Tribunal for adoption as a maximum at that point when the impact of three channel television has been experienced and viably withstood by

commercial radio as a whole. Otherwise, we recommend no immediate change in the amount of commercial radio advertising.

TERM OF REFERENCE 8(c)

1. That the National and Concert Services remain non-commercial and be reinforced as essential elements in public service broadcasting, but that this policy for the Concert Service be kept under review in the light of available financial resources.

TERM OF REFERENCE 8(d)

1. In view of the fact that the Commission considers sponsorship in all its forms is a mode of advertising, we recommend that the Broadcasting Tribunal's Rules Committee give its attention to formulating further specific rules in relation to sponsorship so that a parallel code to that for advertising in general is established to govern the treatment of all forms of sponsorship by broadcasting warrant holders, and that the rules of the Independent Broadcasting Authority of Britain be considered as furnishing a model.

TERM OF REFERENCE 8(e)

1. Accordingly, we recommend that the principles underlying the existing situation with regard to certain programmes being free of advertising and with respect to the use of natural breaks wherever possible, should be maintained by all warrant holders and that this be a matter for continuing Broadcasting Tribunal review and clarification.

TERM OF REFERENCE 8(f)

1. That the internal monitoring procedures of both the BCNZ and private broadcasters be assessed by the reconstituted Broadcasting Rules Committee of the Broadcasting Tribunal and that their results be considered in any warrant reviews or fixing of conditions by the Broadcasting Tribunal.
2. That the third channel warrant holders establish and maintain codes of practice and clear internal monitoring procedures to accord with existing, and in future with any revisions of Television Standards and Rules.
3. That the BCNZ, the third channel warrant holders and the advertising industry revise their practices and codes to take more account of changing community attitudes relating to the perception of women on television advertisements.
4. That the suitability of rock videos for television viewing be assessed by the same standards applying to other programmes.

TERM OF REFERENCE 8(g)

1. That all warrant holders support a system of advisory committees, perhaps grouped together as the third channel

warrant holders, the IBA, and the BCNZ, but that the number, method of composition and mode of choice and operation should be left to the warrant holders to decide.

2. That in the case of the Corporation's Committee structure, contact between BCNZ executives and the advisory committees and occasional meetings with the Corporation Board should prove valuable as they have in the past and elsewhere.
3. That annual meetings of chairpersons, which the Corporation has held for the heads of its various committees, could well set the agenda and plan the papers they would like from the Corporation's executives in consultation with those who must prepare them.
4. That the Broadcasting Tribunal should conduct a joint meeting of representatives from the various groups who will be setting up advisory committees to explore how best to compose and conduct a system which will be of value in bringing public opinion to bear on the broadcasting service each provides.
5. That the Broadcasting Tribunal set up an advisory committee of its own to act as a consultative body which can contribute to the understanding of issues in broadcasting which the Tribunal would like to explore.

TERM OF REFERENCE 8(h)

1. That warrant holders should work towards and take responsibility for a substantial reduction in the amount of violence on New Zealand television, especially during children's viewing hours.
2. That warrant holders should have in mind a programme for the reduction of violence on their schedules, and especially the more harmful kinds of violence, when they are purchasing programmes.
3. That warrant holders should indicate to those from whom they purchase that they would prefer less violence in the programmes on offer and that they were actively seeking alternatives on a wide basis.
4. That the recommended Broadcasting Tribunal Rules Committee make more precise and clear the present rules and standards about the types of violence which are to be avoided as particularly harmful or to be reduced in general.
5. That the Broadcasting Tribunal should monitor warrant holders' adherence to the rules and standards regarding the portrayal of violence.
6. That sections 24 and 95 of the Broadcasting Act 1976 be amended to include specific reference to the reduction of violence.
7. That programme classifications and explanation of those classifications be published with all programme listings and that

the classifications be screened, as identifiable symbols, at the commencement of each programme.

8. That there be a "watershed commercial" screened which indicates the end of family viewing time.
9. That the Broadcasting Tribunal and the Broadcasting Commission should support, contract for or conduct research on the relationship between violence and broadcasting and its impact in New Zealand, and that warrant holders should have a substantial part in the funding of this research.
10. That the same rules and standards in respect to the treatment of violence in programming should apply to advertising.

ADDENDUM OF L.A. CAMERON

This addendum embodies opinions which I hold in addition to those contained in the Commission's Report. Where the Report and this addendum differ, the latter represents my views.

Our wide-ranging terms of reference, and their complexity against a moving background of technological advance gave me considerable concern as to whether specific recommendations can be made or whether all credible options ought to be ventilated. With great respect to my fellow Commissioners I have when I felt necessary chosen the latter path.

INTRODUCTION

The Commission in reaching its findings has been required to examine and synthesise a wide range of factors involving technological, political, legal, social and cultural issues.

From an economic and business perspective the structure of the New Zealand broadcasting system must be considered of major importance for the following reasons:

1. Broadcasting involves the use of scarce resources. The more public or private resources directed to broadcasting, the less there are available for other social and economic activities. For instance, increases of taxes or licence fees to fund public service broadcasting are at the expense of other Government and private activities.
2. How effectively and efficiently the broadcasting industry employs the resources will have a pervasive effect on the rest of the economy. In this respect broadcasting, in its role as a major advertising and marketing medium, is a key component of the information on which consumers must base their choices. In other words, the broadcasting industry is in broad economic terms like any other economic activity.
3. This addendum attempts to develop further an economic and commercial framework within which the general findings of the Commission in relation to the complex issues it has addressed can be interpreted. An outstanding feature of the New Zealand broadcasting industry is the dominant role played by the public sector as a producer of broadcasting services. This raises a wide range of issues currently being addressed in relation to the performance and efficiency of state-owned enterprises and whether or not broadcasting should be exempt from the move to shift these enterprises to a more competitive and commercial footing, as part of a strategy to improve New Zealand's economic performance.
4. A further outstanding feature of the broadcasting industry is its high degree of regulation. To date it has been largely insulated from the moves towards a more open market economy. There is little doubt in my view that a greater use of market-based

solutions can better assist an allocation as between broadcasting and other economic and social activities, and help ensure that these resources are applied effectively within the industry.

5. Although the submissions and evidence did not give a clear picture of the future impact of the converging technologies of broadcasting and telecommunications, the lesson of what has happened in other western democratic countries is plain to see. New Zealand, because of its geographical remoteness and the smallness of its domestic markets, has been protected from international and even Australian broadcasters "bearing gifts". Fiji apparently no longer seeks this protection, and no doubt will be followed in this by other Pacific Island nations. Conversely, with New Zealand's freer economy, without the barriers and regulations which have hampered the USA and UK markets, and especially with the use of cables and satellites the propensity of the entrepreneur to adapt and market technology in a much shorter space of time than that predicted by scientists and engineers, a broadcaster in New Zealand will face new forms of competition from technology developments.

I also do not believe that the effects in New Zealand of available technology, including VCRs with their ability to eliminate advertisements, can be dismissed too lightly. This view appears to receive some endorsement from recent public statements by the Chief Executive of the BCNZ, Mr Dick, about the decline in the size of the viewing audience.

SUMMARY

Outlined below is a summary of the conclusions and comments of the addendum.

1. The frequency spectrum to be allocated by a competitive tendering system.

Comment

The frequency spectrum should be regarded as a scarce national resource. Allocating this resource through a more market based mechanism should ensure its fuller and more effective use. The option preferred by the Commission is an attempt to achieve this objective.

2. The non-commercial (public service broadcasting) activities of the BCNZ be separated from its commercial (profit earning) functions.

Comment

Many of the past difficulties faced by the Corporation are directly related to the conflict between its role as a trustee of public service broadcasting and the attempt to provide an efficient commercial broadcasting service.

Broadcasting is a difficult and complex industry, and when the major roles of the public service broadcaster are mixed with the role of a large

commercial profit-making business the complexity becomes a dilemma. I do not think the conclusions of the Annan Committee on the Future of Broadcasting in the United Kingdom are entirely analogous with the BCNZ's entirely different financial structure and conflicting policy objectives. The BCNZ Board must deal not only with the "incredible difficulties" facing the Governors of the BBC but also with the role, equally if not more complicated, of a commercial broadcaster who "must sell programmes to advertisers".

Further the Annan Committee saw advantages for the BBC in the complete separation of the Chief Executive/Director-General from the Governors because it was not an "industrial concern". The same reasoning cannot, in my view, be applied to the BCNZ. For the Corporation to be directed and monitored as a commercial business, it is my view that its Chief Executive should be a member of the Board in the same way as the Managing Director of any large business is a member of its Board.

In this respect serious consideration should be given to the option of dedicating one television channel solely to public service broadcasting. There is also a number of options available in addition to licence fees to fund public service broadcasting and questions are raised about the funding of public service radio broadcasting relative to public service television broadcasting.

3. The non-commercial functions should be determined by a separate body—Trustee—whose role is to apply the available public funds to public service broadcasting.

Comment

This resolves the conflict between the BCNZ's objectives of efficiently carrying out its commercial activities and performing the role of a public service broadcaster.

4. The licence fee should be applied solely to the funding of these non-commercial activities. In turn this requires the BCNZ's commercial operations to be funded in a normal commercial manner.

Comment

Nevertheless the Corporation's present structure still leaves it with the dilemma of, on the one hand, trying to be a sensitive public service broadcaster in a bi-cultural society with increasing demands on its resources, and on the other, experiencing increasing competition because of its commercial role: a "slippery slope" as the Peacock Report states when referring to New Zealand broadcasting. The licence fee is the sound way of ensuring a public service broadcaster is properly funded.

5. As part of the move to a more effective framework for its commercial operations the BCNZ should be permitted to adopt an appropriate financial structure.

Comment

The balance sheet of the BCNZ, especially the equity capital and reserves, need restructuring before any large borrowing programme is commenced, so that at least a substantial proportion of the capital and revenue reserves are converted into equity capital. Until the prudent borrowing level has been utilised, it would seem sensible for the BCNZ to proceed cautiously about raising from Government new equity capital on which it would be required to service a dividend. In the light of the BCNZ's considerable cash flow since 1982, it is difficult to understand its "so called" funding problems. Including depreciation, the funds generated totalled \$97.20 million. Capital expenditure over the same period was \$51.82 million. In the year ending March 1986, \$39.99 million funds were generated and the same amount spent. Evidently there were no difficulties about the necessary Minister of Finance authorities.

The Commission was also informed that during the period 1982—1985 no formal request was made to the Minister of Finance to borrow additional funds. The funds generated and the comparatively low capital expenditure in my view indicate not (as was represented to the Commission) that the BCNZ could not afford to borrow, but more likely that there were difficulties in formulating the necessary financial policies and capital expenditure programmes.

I would also like to comment on the following passage in the Commission's Report on term of reference 2(b).

"It is also to be noted that, as shown in the Income and Expenditure Statement above, because licence fee revenues have always been included in operating income, there would have been no net surplus in any of the five years covered without the licence fee contribution. Indeed the losses would have ranged from approximately \$32 million in 1981 to \$12.5 million in 1985. In our view there have only been three reasonably good years and even then they needed the licence fee." [Para. 123]

These sentences do not, in my view, fairly reflect the much improved commercial profitability of the BCNZ in the years from 1982 to 1985.

It is also my view that, with the improvements constantly taking place in broadcasting technologies, a precise separation cannot be drawn between capital replacements and new developments. If capital expenditure does not either increase profits, or reduce costs and increase efficiency and productivity, then it is questionable whether it can be justified unless for purely public service broadcasting.

6. As with all state-owned enterprises the Corporation should be held accountable for their commercial performance. Similarly the Trustees should be held accountable for expenditure of the public funds including licence fees dedicated to public sector broadcasting.

Comment

The reporting of the Chairman and Members of the Corporation and the Trustees should reflect the stewardship of their important duties including their policy planning, financial operations, especially licence fee expenditure, and their programming standards. This reporting function should ensure that the managers of the BCNZ are held accountable for their commercial performance and programming standards. All of this would show clearly that they recognise and deserve the unique independence entrusted to them by the New Zealand people and their Parliament.

7. Where the BCNZ is placed at a commercial advantage or disadvantage, these barriers to competition should be removed to ensure the most efficient use of resources within the broadcasting industry.

Comment

The Commission's Report details many of the disadvantages confronted by the BCNZ and recommends the removal of these barriers. Current restrictions regulating participation in the broadcasting industry by the private sector which may prevent their employing technologies such as networking which effectively limits the size and scope of their operations constitute a major competitive barrier to the private sector. These barriers should be removed or modified to eliminate the competitive disadvantages faced by the private sector. It should also be noted that a market-based mechanism for allocating the frequency spectrum (as outlined above) would substantially enhance the overall competitive environment of the broadcasting industry.

8. The addendum merely suggests some further options to the Commission's findings as a result of the corporatisation of the Post Office and the need for independent ministerial advice both from the Department of Communications and other advisory resources.

Comment

In view of the importance of communications to all industries, including broadcasting, and of the conversion of the Post Office into a state-owned enterprise, one option which is available is for the Department of Trade and Industry to be restructured into a Department of Trade and Communications. This department, besides carrying out the usual policy advice role, would also administer appropriate regulations, including those related to the total frequency spectrum. A Minister of Trade and Communications would have a senior position in Cabinet and with his Department's overview both of the New Zealand market, and of international markets and their technologies, would have obvious advantages when considering policies to deal with the conflict that invariably arises between the forces which lead to the desirable factors of innovation and entrepreneurship. Further, the basic transmission technologies (microwave, cable including fibre-optics, and satellites combined with computer networking systems and digital technologies) are all converging, and this inevitably means that data communications and broadcasting transmissions will become increasingly competitive,

and conflicts will arise which will require a strong government policy role.

POLICY ALTERNATIVES AND OPTIONS

It was extremely disappointing that those making submissions placed a great deal of emphasis on the past and the defence of the status quo. Although inquiries have been held into particular aspects of broadcasting such as how it should be structured and funded, this Royal Commission is the first comprehensive and public inquiry into general policy issues on broadcasting in New Zealand. For this reason I believe that all options of public service broadcasting should be examined.

The Treasury submission placed broadcasting into the broad picture of New Zealand's economy, the competition in the market place, the choice of the viewer and listener and the funding of public service broadcasting through the procedure of Government Departmental Vote. The Treasury also drew extensively on the United States experience of de-regulation since the 1970s but there was very little economic evidence from other parties, with the exception of Mr B. H. Easton who appeared as an expert witness for the BCNZ. Both the Treasury submission and Mr Easton's relied extensively on economic literature, the Treasury in the main on USA studies including 'A Market Place Approach to Broadcast Regulation' by Mark S. Fowler, Chairman, and Daniel L. Brenner, Legal Assistant to the Chairman, of the Federal Communications Commission. Mr Easton's studies extended beyond the USA, and he made available to the Commission several publications including "Financing of the BBC", a paper by the Director-General of the BBC based on its submission to the Peacock Committee emphasising why the licence fee is the most effective way of financing the BBC.

Mr Easton in part countered but in the main interpreted the Treasury submission. He nevertheless stated there were grounds for experiment in New Zealand and concluded "I would say the concern of those economists I have quoted would be more towards a market direction. I suspect they would also state that each broadcasting system was unique and have to work through its own solution." The Commission's brief visit to the United States, although instructive, did not give this writer at least, any opportunity for serious study or, in my view, for conclusions to be reached. It perhaps should be noted that the Treasury submission won the attention of the Peacock Committee on Financing the BBC.

Perhaps the fact that the Broadcasting Tribunal was holding hearings for a third television warrant when the Commission's Hearings were taking place created constraints for broadcasters and placed severe strains on their ability to provide the information for both the Tribunal and the Commission. These circumstances could have also contributed to the defensive attitude of the BCNZ. Only after the arrival of Messrs Dick and Mounter did the Commission, in my view, receive a more

realistic picture of the BCNZ and its organisation and at that time was given some vision of the future for broadcasting in New Zealand as a result of advances in technology and the increase in future competition.

The Commission was therefore required to analyse and research a great deal of BCNZ policy, financial and commercial information and to put it into a form which an efficient business would require, so that the Commission or, for that matter, any Board of Directors, could interpret in order to develop an effective policy direction. It was clear from the Commission's research that the BCNZ has remained, in both form and attitudes, a Government Department for too long, and its staff has continued to be trained and promoted accordingly. So long as the BCNZ remained a monopoly in television and a near monopoly in radio, and despite adverse financial results during the 1970s, the motivation was lacking to make the drastic changes required to meet the increasingly competitive environment for radio and the increasing costs of local New Zealand television production. The submissions prepared by the Director-General of Radio New Zealand described how Radio New Zealand had responded strongly to competitive pressures during the 1980s, but this lack of commercial motivation was still evident in the submissions of Television New Zealand. The criticisms directed at successive Governments for not "achieving" BCNZ licence fee increases is, in my view, unjustified until perhaps the early 1980s, when the BCNZ began to exploit its potential for profit achievement and Radio New Zealand responded to competing pressures by increased efficiencies.

A further important point was, in my view, missing in the Corporation's submissions, but subsequently emerged from its oral evidence and from documentary evidence (which, it must be said in fairness, was provided at every request of the Commission): that commercial broadcasting is a vital link of the advertising business of the economic and commercial activities of the New Zealand market place. Therefore, any activity, including the social activity of public service broadcasting, which may act as a barrier to achieving maximum efficiency in its commercial broadcasting role, may be detrimental to New Zealand's commercial and economic development. The insistence, quite rightly, by the BCNZ that public service broadcasting should be funded by licence fee (Treasury preferring direct Government votes and grants), as well as being supported by submissions from individuals, was in my view supporting the principle that public funded service broadcasting has no place in driving purely economic activity.

The role of public funded service broadcasting should be to support society's standards, and its cultural and educational activities, including high quality indigenous entertainment and the New Zealand identity in a bi-cultural society. The commercial activity of broadcasting should not therefore be seen as merely an activity which can be regulated and manoeuvred to fund public service broadcasting. It is one thing to levy advertising revenue to help pay for public service broadcasting, as is done in the United Kingdom. It is another thing entirely to structure and

conduct the business of broadcasting advertising in such a way as to shape and even distort the competitive market to meet public service broadcasting funding requirements. Conversely it could be said that public service broadcasting should not be driven by a commercial motivation and perhaps more so for broadcasting which is given statutory protection from Ministerial control of programming.

It is not difficult to accept the thrust of the Broadcasting Act, which requires that all commercial broadcasting must have an element of public broadcasting in it. I am, however, far from convinced that the mixed funding structure of the BCNZ is still necessarily the most effective method of achieving both the objectives of public service broadcasting and a healthy competitive market.

THE BCNZ STRUCTURE

The Corporation's attempts over the years to vary the forms of its Board meetings, their agendas, and their frequency illustrate the difficulties of organising meetings so that Members could play their various roles, including those of Trustees in the policy formulation and management of a public service broadcaster, and of Directors of a large commercial profit making organisation.

It is clear that the BCNZ Board had the utmost difficulty in formulating policy because of these different roles and because of the inadequacies of financial management reporting, which is an essential ingredient of policy formulation.

Broadcasting is a difficult and complex industry, and when the major roles of the public service broadcaster are mixed with the role of a large commercial profit-making business the complexity becomes a dilemma. I do not think the conclusions of the Annan Committee on the Future of Broadcasting in the United Kingdom are entirely analogous with the BCNZ's different financial structure and conflicting policy objectives.

The BCNZ Board must deal not only with the "incredible difficulties" facing the Governors of the BBC but also with the role, equally if not more complicated, of a commercial broadcaster who "must sell programmes to advertisers".

Further, the Annan Committee saw advantages for the BBC in the complete separation of the Chief Executive/Director-General from the Governors because it was not an "industrial concern". The same reasoning cannot, in my view, be applied to the BCNZ. For the Corporation to be directed and monitored as a commercial business, it is my view that its Chief Executive should be a member of the Board in the same way as the Managing Director of any large business is a member of its Board.

The real "dilemma" facing the BCNZ Board is when, in attempting to formulate a policy decision, the first and vital question for any organisation must be asked (a question which must be asked by those who fund the business or activity): "What business or activity are we in?".

The separation of public funding from its commercial and financial operations will assist in answering this question and partially resolve the "dilemma", as will a structure of Board Committees. Nevertheless, these changes will also sharpen the problem of the many conflicting objectives and roles of the Board.

The changes to the Corporation's policies and management since the Commission began its inquiries have created a much more constructive environment for changes to its structure and funding. And assuming the BCNZ follows the recommendations of this Commission on programming, including the monitoring of programmes, the case for appropriate funding from licence fees and/or Government revenues must be further enhanced.

The Corporation's present structure leaves it with the dilemma of, on the one hand, trying to be a sensitive public service broadcaster in a bi-cultural society with increasing demands on its resources, and on the other, experiencing increasing competition because of its commercial role: a "slippery slope", as the Peacock Report states when referring to New Zealand broadcasting. The licence fee is the sound way of ensuring a public service broadcaster is properly funded.

Competition from a commercial television channel is not the only future competition to be faced by the BCNZ. There is also the advances and convergences of communications technology which will be a formidable competitor originating from both within and outside New Zealand, and not only from other broadcasters and the traditional media. Yet it has to be accepted under the present system of funding that any reduction in the commercial profits of the BCNZ strikes at the very heart of its funding for public service broadcasting.

FINANCIAL STRUCTURE

The balance sheet of the BCNZ, especially the equity capital and reserves, need restructuring before any large borrowing programme is commenced, so that at least a substantial proportion of the capital and revenue reserves are converted into equity capital. Until the prudent borrowing level has been utilised, it would seem sensible for the BCNZ to proceed cautiously about raising from Government new equity capital on which it would be required to service a dividend. In the light of the BCNZ's considerable cash flow since 1982, it is difficult to understand its "so called" funding problems. Including depreciation, the funds generated totalled \$97.20 million. Capital expenditure over the same period was \$51.82 million. In the year ending March 1986, \$39.99 million funds were generated and the same amount spent. Evidently there were no difficulties about the necessary Minister of Finance authorities.

The Commission was also informed that during the period 1982—1985 no formal request was made to the Minister of Finance to borrow additional funds. The funds generated and the comparatively low capital expenditure in my view indicate not that the BCNZ could not afford to borrow, but more likely that there were difficulties in formulating the necessary financial policies and capital expenditure programmes.

It is also my view that, with the improvements constantly taking place in broadcasting technologies, a precise separation cannot be drawn between capital replacements and new developments. If capital expenditure does not either increase profits, or reduce costs and increase efficiency and productivity, then it is questionable whether it can be justified unless for purely public service broadcasting.

Whilst acknowledging the substantial progress made in the past 25 years of creating a broadcasting structure by the present system of funding, changes should now be considered to serve New Zealand society over the next 25 years. What should not be adopted, in my view, are the kind of tactics employed when negotiating with the ABS, and the failure to explore both structural and funding options. For instance, the BCNZ has publicly stated that there is insufficient total advertising revenue available to fund three television commercial channels in New Zealand. This defence surely raises the question whether, if New Zealand society is to have the choice of three or more television channels, all the channels should be commercial and earn advertising revenue; or should one non-advertising channel be managed by the BCNZ to be solely dedicated to public service broadcasting?

One of the attitudes which apparently prevents this question being examined is the one which states that the structure and funding of New Zealand broadcasting are absolutely constrained, if not completely pre-determined, by the country's small population, and by geographical conditions which render transmission difficult. This attitude, in my view, is full of unexplained contradictions. For example, New Zealand society in the future may question the funding of two non-advertising radio channels whose coverage serves only major cities and some provincial centres. On the other hand, it seems New Zealand will never be able to fund one advertising-free television channel.

In any case the present method of mixed funding to support public service broadcasting under competitive conditions can hardly be judged a successful one, and it is clear from the BCNZ's forecast of revenues and cash flows that they do not see it being any more successful in the future.

It is a strange if not an illogical philosophy that insists that radio must have two public service broadcasting channels free of advertising while television, with all its pervasive influence on society, cannot be adequately funded and structured in a similar way. Also, according to broadcasting programming experts, the more intensive the competition the greater is the tendency towards the lowest common denominator in the quality of television programming. Yet the same experts will insist that New Zealand television must, regardless of the present or future number of television channels, remain without question totally commercial. These attitudes obviously require close examination together with consideration of alternative funding of public service broadcasting in New Zealand including more realistic Government funding and licence fees.

A possible source of funding would be a lease or rental charge for all commercial users of the broadcasting frequency spectrum. There is, in addition, the option of a levy on gross advertising revenue on all commercial broadcasting, including the BCNZ's commercial operations.

Further to the alternative funding regime for a separate public service broadcasting television, there is one other factor which needs to be added: a much strengthened trustee role for public service broadcasting.

Although it can be envisaged that the BCNZ, (as with radio in the case of 2YA and 2YC) and any other dedicated non-advertising stations, would manage and operate the public service broadcasting television channel, its funding and governing of policy should be by Trustees entirely separate from the more commercial Board of Directors of the BCNZ. The privately owned third television channel thus offers to the BCNZ and to New Zealand society not only an option and an opportunity for healthy competition, but an opportunity to dedicate one television channel solely to public service broadcasting. It is therefore my view that it is not sufficient to separate out the commercial and non-commercial activities of the BCNZ by modifying the accounting structure and creating a committee structure for the Broadcasting Corporation. Although they meet the requirements for improved accountability, these measures do not ensure that either the BCNZ's exclusive public service broadcasting role or its commercial role, with its "market" element of public service broadcasting, will achieve the separate and disparate objectives which are now required of the BCNZ.

To achieve these objectives and to carry out the quite different roles required of it, the BCNZ must face changes in its structures, funding and policy formation. If not, it will be increasingly difficult for the BCNZ to justify the existence of a state-owned enterprise structure to carry forward into the next 25 years a mixed commercial public service broadcasting role on its two television channels. A state-owned broadcasting enterprise such as the BCNZ should have as its prime responsibility a public service broadcasting role, and must be able to demonstrate clearly its superior performance and be worthy of its licence fees and other Government funding. Thus, it is only by finally separating out structurally the trustee role of public service broadcasting that both public service broadcasting and the commercially competing parts of broadcasting can reach their maximum efficiency. Indeed, such a structure lets each play its own role to the benefit of society as a whole and ensures maximum independence and freedom for all broadcasters. It is one of the strange paradoxes of broadcasting that those who espouse public service broadcasting and its aim of building a freer and culturally sensitive society with greater individual choice are the first to suggest regulations and controls for others while resisting any regulation of themselves. In New Zealand this paradoxical attitude comes, in my view, from defending the present structure of the BCNZ and funding of public service broadcasting, whereas what is really required from both the

Government and the BCNZ is a much greater commitment to public service broadcasting, its funding and structures. A small quantity of excellent programmes which the BCNZ has provided, especially in childrens' programmes, documentaries and some New Zealand drama and sport should have whetted the appetite of New Zealanders for a public service broadcasting television channel. If that is not the ultimate objective and the fundamental premise on which the BCNZ has built its present structure, it will fail to meet what New Zealand society could reasonably expect from a state-owned broadcasting corporation. It will also continue within the vicious circle of inadequate licence fees and Government funding chasing an unsupportive public and political opinion.

PAYMENT OF DIVIDENDS

This problem illustrates the difficulty of the mixed funding of public service broadcasting and the dilemma which I believe it creates.

Whilst I accept that the "dividend" the BCNZ pays should take the form of "an ever-widening range of programmes", there is no doubt that the equity capital subscribed by government and applied to its commercial broadcasting should pay a dividend to its "principal shareholder" the Government, if only to keep some equity with their competitors in the private sector. On the other hand, as it is government policy to apply BCNZ commercial profits to public service broadcasting to save government spending public funds and/or increasing the licence fee, it can be argued fairly that revenue reserves converted to equity capital should not be expected to return a dividend to government.

LICENCE FEE

It is accepted that commercial broadcasting, to meet market demands, has elements of public service broadcasting in its programming i.e. news, community broadcasting; and 68 percent of the BCNZ's New Zealand content has been calculated as news, current affairs and sport. It should also be understood that the Broadcasting Act 1976 requires commercial broadcasters to have both a required content and standard of public broadcasting in their programming; so the extent and cost to commercial broadcasters needs to be taken into account, since the BCNZ, their commercial competitor, funds public service broadcasting programmes from both commercial profits and licence fees.

If, therefore, the private broadcaster is called upon, quite properly by the terms of the warrant, to carry out elements of public service broadcasting in its programming which the BCNZ could meet from its licence fee, there is a situation which may place the private broadcaster at a commercial cost disadvantage *vis-a-vis* the Corporation. This may fuel a case for the private broadcaster to claim a share of the licence fee. The lack of complaints from the private broadcasters in their submissions shows that to date the Tribunal has managed to keep an equitable competitive balance between the BCNZ and the private broadcasters. The recent announcement by Radio New Zealand in its

staff Bulletin dated 11 September 1986 on the restructuring of its organisation and accountability states:

"The operation side is then structured to reflect the commercial licence fee funded areas."

This is a welcome step in the right direction.

I am in agreement with the general thrust of the argument for regular review of the licence fee, including relating it to the annual CPI. I am not so certain about relating the costs to a daily metropolitan newspaper subscription rate.

I have already stressed that the mixed funding of the BCNZ calls on it to be an efficient profit earner and that it cannot expect and should not allow the licence fee to subsidise commercial inefficiencies.

If, during the 1970s and up to the early 1980s, the licence fee had been increased, a substantial part of the increase would no doubt have been devoted to public service broadcasting; but it seems to me that, because of lack of proper accounting and internal structures, part of the increase might well have been used to subsidise unprofitable commercial operations.

Again I must emphasise that although I agree with licence fee funding, the structures and the present mixed funding of the BCNZ are, in my view, not an effective way either of ensuring the most efficient commercial broadcasting, or of funding the unique social activity of public service broadcasting.

I believe that the Tribunal should continue to be serviced by the Justice Department rather than any other statutory authority connected with broadcasting and, for the same reasons it should not set the licence fee. But because of its knowledge and understanding of the complex factors which must be considered when reviewing the fee, its advice should be sought.

ACCOUNTABILITY OF THE BCNZ

If, as I believe, because of the unique responsibilities of public service broadcasting, the BCNZ should have its licence fee fixed by an independent method free from ministerial and political approval, then its standard and accountability to the New Zealand public and Parliament will need to be considerably improved.

The reporting of the Chairman and members of the Corporation and the Trustees should reflect the stewardship of their important duties including their policy planning, financial operations, especially licence fee expenditure, and their programming standards. This reporting function should ensure that the managers of the BCNZ are held accountable for their commercial performance and programming standards. All of this should show clearly that they recognise and deserve the unique independence entrusted to them by the New Zealand people and their Parliament.

DEPARTMENT OF COMMUNICATIONS AND THE INFORMATION SOCIETY

The Mason/Morris *Post Office Review* and its recommendations for the conversion of the Post Office into state-owned corporations was not available to the Royal Commission until after the time had expired for the receiving and hearing of submissions.

The Telecommunications Corporation will be one of the largest corporate organisations in New Zealand, and it is almost certain that the submissions to the Royal Commission would have dealt much more comprehensively with the "cases for and against the Department of Communications", had the Mason/Morris *Review* been available earlier. This Commission has agreed on the need for a Minister of Broadcasting to have an independent advisory source and there are many matters of broadcasting such as transmission frequency use, and the overall broadcasting competitive market and programming, that require a special government policy role. On the other hand, the case for a Department of Communications rests on the need for a much broader policy role, which could become even more compelling when the following factors are considered.

1. It should not be necessary to describe in detail the adverse economic climate into which New Zealand has been heading since the early 1970s. Certainly, agriculture can no longer be the only major activity which will ensure New Zealand being a prosperous nation. Prosperity can now be assured only by new and different industries, and service industries in which the successful transfer of technology is an essential ingredient, together with the most innovative financial and marketing techniques which can be applied. These essential ingredients must be both assured by New Zealand industry developing and using the most advanced information systems available, and by its people applying their skills and knowledge so that New Zealand is internationally competitive in all its industrial and service industries, including the farming industry. From now on New Zealand's future success in achieving productivity and removing itself from the bottom of the OECD table of productivity achievements depends to a large extent on how it applies the basic technologies of information, including computers and communications, aiming to build what is now termed an information society.
2. Essential to the requirements of the information society is the application of communications technology, including the use of computers, digital technology, cellular telephones, systems such as telex and viewdata, and transmission systems; microwave optic-fibres and satellites. All these technologies are the tools of an efficient and modern society. They are already converging and are a part of broadcasting technologies, which in turn, like any other large modern business, form part of an international system of communications.

3. The efficient use of all these technologies forms part of a nation's resources, and, like the agricultural counterparts of land and water, must be conserved and used to the benefit of the nation as a whole. The need for wise planning and government policies which create the necessary environment, requiring that the government play an important role in ensuring that the balance is maintained between the competing demands of both social and economic activities. For it to do so, a government must be supplied with the best possible policy advice. There is no doubt that the Communications Advisory Council played a competent role in monitoring, reviewing and recommending communications policies, as well as advising government on the structure of the industry. But it has recently been announced that it will be one of the quangos to be eliminated. What is to replace it has not yet been officially decided, but it is hoped that the concept of a restructured CAC type council would be considered. Hopefully, any such decision will be subject to this Royal Commission's Report. The corporatisation of the Post Office, in particular telecommunications, makes it all the more important for the government to now have independent advice.
4. Broadcasting, when it uses the frequency spectrum, the co-axial and fibre-optic networks, and satellites, is using the national resources of communications and information technologies which must be in market balance with other competing users, especially those who will in future play a vital part in contributing to New Zealand's economic prosperity. There are already signs that the use of the VHF and UHF frequency spectrum can be better applied to the advantage of broadcasters and viewers, and other industries and users competing for this national resource. One of the conflicts which will affect broadcasting will be the constraints placed on information communications for domestic users (i.e. teletex, viewdata and other information systems) by the present telephone co-axial system. This conflict will give rise to demands to use the line-of-sight microwave frequencies, and this in turn will hasten the use of fibre-optics. All of these will allow the domestic user greater flexibility for television entertainment, education and information.
5. It is my view that the experience of the USA, and even of the United Kingdom are not necessarily an adequate guide to the future rate and progress of fibre-optic cabling in New Zealand. For instance, the anti-trust laws and the FCC regulations in the USA in the 1960s and the early 1970s were major inhibiting factors in the progress of cabling in that country, and although the de-regulation of telecommunications in the United Kingdom is relatively recent, there are already signs of rapid changes. The high penetration of video cassette recorders into the New Zealand domestic market demonstrates the willingness of New Zealanders to apply modern technologies for their convenience,

and it is likely that the greater availability of teletex and viewdata systems will meet the same response when they are more readily available. Indeed teletex affords to broadcasters an additional source of revenue as a hedge against reductions in licence fees or the limitations of the advertising market. The requirement of the average New Zealander to be provided with information in, say, sport (especially racing), and for specialised services and advertisements, points to the scope for broadcasters for the transmission of that information. The rapidly growing viewdata and home retailing and banking types of service will provide the incentive for the Telecommunications Corporation to establish optical-fibre telephone network systems, which will also access hundreds of data-bases for both business and domestic users. The use by small businesses and the self-employed of enhanced information services based on their domestic premises provides one way of encouraging self-employment and small businesses, and of combatting unemployment in New Zealand. Here again because of these pressures, demand must grow for satellite CTV and DBS types of service for both data and television transmission. Any new, privately owned television channel will be seeking every avenue to increase its advertising revenue and will act as a spur to all broadcasters to move more rapidly into related telecommunication technologies where viewers and listeners have a wider choice away from mass-audience programmes. The opportunity to consider broad policy issues for broadcasting in New Zealand has been a rare occurrence, and my plea would be that the independence of broadcasters and the structure of broadcasting, including ownership, should not be so constrained as to prevent the application of modern technologies and the achievement of maximum efficiencies and satisfaction for the viewer and listener.

DEPARTMENT OF TRADE AND COMMUNICATIONS

In view of the importance of communications to all industries, including broadcasting, and of the conversion of the Post Office into a state-owned enterprise, one option which is available is for the Department of Trade and Industry to be restructured into a Department of Trade and Communications. This department, besides carrying out the usual policy advice role, would also administer appropriate regulations, including those related to the total frequency spectrum. A Minister of Trade and Communications would have a senior position in Cabinet and with his Department's overview both of the New Zealand market, and of international markets and their technologies, would have obvious advantages when considering policies to deal with the conflict that invariably arises between the forces which lead to the desirable factors of innovation and entrepreneurship. Further, the basic transmission technologies (microwave, cable, including fibre-optics, and satellites combined with computer networking systems and digital technologies) are all converging, and this inevitably means that data communications

and broadcasting transmissions will become increasingly competitive, and conflicts will arise which will require a strong government policy role. For example, the New Zealand Railways Corporation has the potential to be a strong competitor and/or partner of the Telecommunications Corporation for the provision of fibre-optic carrier services between the main centres of New Zealand.

The corporatisation of telecommunications also facilitates partnerships with the private sector and other state-owned enterprises, including broadcasting, all of which will require the government as the principal shareholder to approve appropriate policies. The restructuring of the Department of Trade and Industry into a Department of Trade and Communications obviates the costs of establishing a separate department, and with a Minister of Trade and Communications all the users of the basic transmission systems and information technologies have a powerful voice in Cabinet.

One of the Department's first and most important roles might well be the de-regulation of the Post Office monopoly over the use of the transmission systems including radio and television, transmission between the studio and the transmitting sites, and satellite transmissions.

With New Zealanders being able for the first time to apply communication technologies under "free market" conditions, it would be unwise, I feel, to attempt to base predictions about the future growth of the related communications technology on New Zealand's past history or even recent surveys.

THE GOVERNMENT ROLE IN BROADCASTING

The role of government is the formulating of broad social and economic policies and creating an environment within which the communications industry including broadcasting can operate to the advantage of New Zealand society.

Future government ministerial roles in broadcasting could include:

- (i) A Minister of Trade and Communications who reviews and implements broad policies concerning communications and industry and the overall use of the frequency spectrum.
- (ii) A Minister of Finance who performs his role as a shareholder of the BCNZ and who in future should play a more positive role of ensuring financial accountability and efficiency.
- (iii) A Minister of Broadcasting with advice from an advisory source which could be either a division of the Department of Communications, a Commission or Statutory Advisory resource which would take an overview of the performance of broadcasting in relation to the Broadcasting Act, as interpreted by the Tribunal and contained in the Conditions of the Warrants issued. Because of the need to ensure the independence of all broadcasting, it is my view that the monitoring role must be as free of bureaucratic regulation as possible, and would therefore

be better performed by a quality assurance approach associated with the issuing of the warrants by the Tribunal. Quality assurance requirements are a vital condition of contracts and if they are not performed according to specification, the contractor is subject to penalties and even cancellation. In the case of broadcasting, the contract would be the warrant. The quality assurance system is therefore largely a self-regulatory one, and it is possible that the quality assurance approach may even eliminate the need for a complicated quota system. But if the quota system is employed, the quality assurance approach is still the most effective monitoring technique.

L. A. CAMERON

APPENDICES

Appendix 1

ORGANISATIONS AND PEOPLE WHO MADE SUBMISSIONS

(Many submissions were presented orally at public hearings and the people who appeared were subject to questioning. Those submissions which were presented orally are distinguished by an asterisk. In some cases, more than one witness appeared in support of a submission. Where this happened, only the organisation or the person in whose name the submission was made has been included in the list which follows.)

ORGANISATIONS

- *Access Radio Hamilton
- *Access Radio Users' Group
- *Action Against Alcohol Abuse Inc
- *Action on Smoking and Health
- *Actors Equity of New Zealand
- *Alcoholic Liquor Advisory Council
- *All Saints Anglican Church Palmerston North
- *Alternative Cinema Inc
- *Anglican Church Provincial Communications Committee
- *Aotearoa Broadcasting System Inc
- *Art Galleries and Museums Association of NZ
- Association for Continuing and Community Education (Otago)
- *Association of Accredited Advertising Agencies of NZ Inc
- Association of NZ Advertisers Inc
- Association of University Teachers of NZ Inc
- Auckland Chinese Community Centre Inc
- *Auckland City Opera Ballet Company
- *Auckland District Maori Council
- Auckland East Federation of NZ Country Women's Institutes (Inc)
- *Auckland Federation of Parent Teacher Associations
- *Audio Broadcast Services Limited
- Austral Standard Cables Pty Limited
- Book Publishers Association of NZ
- Brewers Association of NZ Inc
- *Broadcasting Corporation of New Zealand
- Broadcasting Tribunal
- *Canterbury Actors Equity
- *Canterbury Trade Unions Research and Training Group
- Capital City Radio Ltd

- *Catholic Communications
 - Catholic Women's League of NZ
 - Cerebral Palsy Society of NZ Inc
 - Chatham Islands County Council
- *Children's Literature Association of NZ Inc
 - Christchurch Broadcasting Sub-group of the NZ Public Service Association
- *Christchurch Polytechnic
 - Churches Education Commission
 - Citizens Association for Racial Equality Inc
- *Combined State Unions
 - Communications Advisory Council
- *Composers Association of New Zealand Inc
 - Dargaville Borough Council
- *Department of Education
- *Department of Health
- *Disabled Persons Assembly (NZ) Inc
- *Distance Education Association of NZ
- *Dowse Art Museum
- *Educational Programmes Advisory Committee of Radio New Zealand
- *Energy Source Television Network Limited
 - Fiji Association in Auckland Inc
- *Film Operations Group
 - Fox Glacier Progress League
 - Fox Glacier Promotion League
 - Franz Josef Community Council
- *Friends of Peacesat
 - Friends of the Concert Programme (Inc)
- *Good News Trust
- *Group Opposed to Advertising of Liquor
- *Hamilton Teachers College
 - Hawke's Bay Community College
 - Higher Education Development Centre, University of Otago
 - Hillmorton High School
- *Humanist Society of New Zealand (Inc)
- *Independent Broadcasters Association
- *Independent Producers and Directors Guild Inc
- *Independent Television Limited
- *Integrity Centre

- Jayrem Records Limited
- *Johnston Dick and Associates Limited
- Karori Listening Group
- *Kiwi Radio
- Lion Breweries Limited
- *Maori Broadcasters Association
- *Maori Economic Development Commission
- Maori Women's Welfare League, Waiwharariki Branch
- *Massey University
- *Media Women (Wellington)
- *Mental Health Foundation of NZ
- Ministry of Agriculture and Fisheries
- Ministry of Women's Affairs
- *Ministry of Works and Development
- *Music Federation of NZ Inc
- *National Art Gallery
- National Council of Adult Education
- *National Council of Women of New Zealand Inc
- National Library of New Zealand
- Netherworld Dancing Toys
- New Film Group
- *Northern Regional Advisory Committee on Broadcasting
- *NZ Association for Community and Continuing Education
- NZ Association of Radio Transmitters Inc
- *NZ Association of Student Broadcasters Inc
- *NZ Board of Health
- *NZ Educations Boards' Association Inc
- *NZ Federation of Alcohol Co-ordinating Committees & Related Workers
- NZ Federation of Labour
- NZ Federation of Sports Medicine
- NZ Federation of University Women (Inc)
- NZ Film Archive
- *NZ Film Commission
- *NZ Greyhound Racing Association Inc
- NZ Institute of Agricultural Science
- NZ Jewish Council
- NZ Liquor Industry Council
- NZ Meteorological Service
- NZ Musicians' Union
- *NZ Oral History Archive

- *NZ Post Office
 - NZ Post Primary Teachers' Association
- *NZ Public Service Association
 - NZ Secondary School Boards' Association
- *NZ Sports Foundation (Inc) together with NZ Racing Conference, NZ Trotting Conference and NZ Rugby Union
 - NZ Temperance Alliance
- *NZ Thoroughbred Breeders Association Inc
 - NZ Values Party
- *NZ Workers' Education Association Inc
- *NZ Writers Guild Inc
- *Office of the Race Relations Conciliator
 - Otago/Southland Regional Advisory Committee on Broadcasting
 - Overseas Investment Commission
- *P E N (NZ)
 - PACIFICA Inc, Tokoroa Branch
 - Pacific Communications Systems Limited
- *Pacific Islands Advisory Committee on Broadcasting
- *Palestine Human Rights Campaign
- *Post Office Union (Inc)
- *Presbyterian Church of NZ Communication Committee
- *Queen Elizabeth II Arts Council of New Zealand
- *Radio Rhema Inc
- *Recording Industry Association of NZ Inc
 - Reformed Churches of New Zealand
- *Regional Orchestras of New Zealand
 - Religious Society of Friends (Quakers)
- *Seven Seas Television
- *South Auckland Co-ordinating Committee on Alcohol and Drug Abuse
 - South Wairarapa Women's Network
- *South Westland Federation of the NZ Country Women's Institutes (Inc)—Whataroa Institute
- *Southern Cross Television Ltd
 - Southland Council of Churches
 - Southland Museum and Art Gallery
 - St Mary's Star of the Sea Catholic Parish of Gisborne
 - Sunshine Stereo FM (Mid-North) Ltd
- *Talking Union Collective
 - Tamaki Playcentres Inc

- *Te Aute College
- *Te Waiora o Aotearoa Trust
- *Televid Group of Companies
- *Television Producers and Directors Association
- Television and Radio Services Limited
- Thames Coromandel Community Alcohol Services
- *The Treasury
- *Tobacco Institute of New Zealand (Inc)
- *United Telecast Corporation Limited
- *University of Auckland
- *University of Waikato

Victoria University of Wellington Centre for Continuing Education

Waikato Regional Advisory Committee on Broadcasting

Wellington Audio Club (Inc)

Wellington Chamber Music Society Inc

Wellington Community Arts Council

- *Wellington Equity Women's Caucus

Wellington Palestine Group

- *Wellington Regional Advisory Committee on Broadcasting

- *Wellington Waitangi Coalition—Pakeha Caucus

- *Wellington Workers' Educational Association Inc

- *Westland (REAP) Community Education Service

- *Women's International League for Peace and Freedom

PEOPLE

Adam, Dorothy E.

Bailey, Dale Cameron

Barker, P. H. and H. R.

Barker, Ruth

Bartlett, Gray

Bateman, (Mrs) R. A.

Bauld, (Mrs) F. M.

Beaven, Professor D. W.

Body, Jack

- *Bradley, Philip Arthur

Brew, Helen

Bridger, Godfrey David

Briesman, M. A.

- *Britland, E. J.

- *Brock-Smith, (Dr) R., et al

Brons, Ronald
Browne, Carrol and Mike
Bulling, G. G.
Burke, John R.
Butler, J. E.

Clark, Bryan D.
Clark, Fiona
Clark, Unity
Clarkson, T. R.
Cox, Sir Geoffrey
Curran, P. G.
Curtis, C.
Cushen, Arthur T., MBE

de Graaf, Hans
*Douché, R. P.
Duthie, Birnie

Elworthy, Fiona
Evans, A. B.

Firth, Jolyon Rex
Fleming, Mary
Fouhy, Michael Joseph

Gilderdale, Betty and Alan
*Grant, J. R.
Grant, Wilma Forrest
Gregory, Dr R. J.

Hall, H.
*Harpham, P. W.
Harris, Alvan S
Hassall, Tim
Hobman, Ray H.
House, Tom
Hoy, Rosemary
*Hunkin, Galumalemana A. L.
*Hurford, Maurice
Hutchins, Robert Dick

Jackson Campbell, Reverend Michael
*Janssen, W.
Jensen, H. E.

Johnston, W. H. M.

Kelly, Maurice

Kremer, A

Langdon, John

Lee, David

Lindeman, Johannes

Low, D.

Maindonald, J. H.

McDonald, B. A.

*McDonald, Morehu

McGibbon, Alastair with H. A. Moodie and Peter S. Moodie

McGrath, Patrick

McHale, Philip J.

McIntyre, E. R.

Miles, (Mrs) Lyn-Louise

Milne, M. R.

Minister of Overseas Trade and Marketing, Hon. Mike Moore

*Moir, Margaret

Moore, Syd

Nissen, Evelyn and Kevin

*Nolan, Margaret A.

*Noonan, Michael Anthony

Norman, A. S.

O'Neill, J. S.

*O'Neill-Joyce, Terence

*Ogden, David

Pain, G. F.

Palmer, Dr Viola

Paterson, J. A.

Peck, L.

*Pidgeon, F. C.

*Piggin, Desmond

Priestley, Brian

Rawstron, (Mrs) Janet and A. C.

Read, Stuart

Reynolds, Dave

Robertson, Clare with Jeanette Leigh and E. R. Nye

*Rosenberg, Nick

Sanderson, Pippa
Schwendener, Swen
Sleigh, Caroline
Smith, Ross N.
Smith, S. D. M.
Spiers, Barbara G.
Stern, John
Stokes, Oliver
Summer, James

*Talbot, Vern
Teeuwen, W.
Thomson, Tony Ngataua
*Tiffin, Dr John W.
Trenwith, Bryan

van Valkenburg, George L.
Veltkamp, Paul

*Vere-Jones, Peter
Vincent, R. S.
Vowles, Dr Jack

Walker, F. T.
Wesney, Noel
Whitehead, Paul E.
Wilkinson, Dennis
Willis, Helene and Wilton

The following also appeared at the invitation of the Royal Commission:

Mr Ian Cross
Mr Allan Martin

Appendix 2**PUBLIC HEARINGS OF THE ROYAL COMMISSION**

Auckland	1, 2, 8, 9, 15, 16 August 1985 20, 26, 27 September 1985 3, 4, 10, 11 October 1985 14, 15, 16, 31 October 1985 1, 26, 28, 29 November 1985 3, 4, 5, 6 December 1985 17, 18, 19, 20, 21 February 1986 24, 25, 26, 27, 28 February 1986
Auckland	17, 18 October 1985 (Hoani Waititi Marae)
Christchurch	29, 30 October 1985
Hamilton	12 September 1985
Te Aute College	19 September 1985
Wellington	20, 21, 22, 23 August 1985 27, 28, 29, 30 August 1985 2, 3, 4 September 1985 5, 6, 7, 8, November 1985 12, 13, 15, November 1985 19, 20, 21, 22 November 1985 10, 11, 12 December 1985

Appendix 3

EXTRACT FROM THE REPORT OF THE COMMITTEE ON FINANCING THE BBC (THE "PEACOCK COMMITTEE")

The following extract comprises paragraphs 303 to 316 inclusive of CMND 9824 The Report of the Committee on Financing the BBC, July 1986. These paragraphs are reproduced with the permission of the Controller of Her Majesty's Stationery Office, London.

303. The Committee sponsored a wide-ranging study by the Centre for Television Research at the University of Leeds. It is published separately. Professor Blumler and his colleagues were asked:

- (i) To prepare a comparison of programme content in the United Kingdom, the United States and at least three other countries, each with a differing structure of broadcasting. This was intended to provide the Committee with a simple guide to the range of programmes available to television audiences in each country.
- (ii) To obtain commentaries from known academic authors in each country on aspects of programme range and quality.
- (iii) To undertake interviews with a cross-section of programme-makers and broadcasting professionals in the UK and the US, to discover their views on the way their work was influenced by the structure and finance of broadcasting, by political and commercial influences, by consideration of audience reactions, and by other factors: and to report on their view of the requirements for creative programme-making.
- (iv) To provide comparative conclusions drawing on all the preceding material.

This research was undertaken between September 1985 and January 1986.

304. The study concludes that the range of programming available to all the population in the UK—through the two BBC channels and the two ITV channels—is "among the most extensive" provided by the major broadcasting systems throughout the world. The authors qualify their comment by saying that a more definitive statement could not be made without unacceptably expensive and time-consuming further research. Nevertheless, they say, it is "highly probable" that the range of choice on any day in the UK is greater than most other countries including the United States. They note that in the United Kingdom there is comparatively little day-time entertainment, but that the peak evening schedules provide a broad range and, unlike the peak schedules of the three main networks in the United States, include information, arts and science programmes. The British study notes that, compared with schedules of 10 years ago, the peak viewing range has narrowed somewhat; but still finds that it is likely nevertheless to be more extensive than in most other countries. The American study notes that the "Big Three" networks (ABC, CBS and NBC) rely heavily in peak time on series, serials and soaps; whereas American public television, with

only a very small audience, concentrates in peak time on news, current affairs, documentaries and cultural programming.

305. As to quality, the authors of the five European essays are cautious because judgements must often be subjective. They share a common concern lest judgement of quality is influenced by social or political preconceptions. They find, however, that among professional broadcasters in European countries there is a high respect for the quality of British output—BBC and ITV about equally—and that that respect applies both to the high cost, prize-winning programmes and to the general daily schedules. The authors of the European studies claim that high quality drama—judged by writing, direction and performance—is to be found in the television output of Sweden, Holland, France, Germany and Italy, and that there is “pluralism” of content among the public service broadcasters in each of those countries. In Italy—the only one of these countries with channels wholly dependent on advertisement revenue—it is thought that commercial competition has forced the state channels managed by RAI to “impoverish” the content of some programme categories, particularly drama, and to modify schedules in order to reach larger audiences. At the same time it is suggested that RAI has been prompted to “break out of the inertia induced by monopoly” and to respond with ‘some extremely good new programmes’.

306. As yet no advertising is allowed in Sweden although policy there is under review with the probable establishment of a new commercial channel. In France, Germany and Holland the amounts of advertising allowed each day are strictly limited. The comparative studies show that the highest levels of advertising are reached in the United States, Australia and Italy, with the most intrusive impact of that advertising in Australia and Italy. On the big three networks in the United States, advertising averages 10 to 12 minutes in the hour (18 to 20% of air time), occasionally reaching as high as 17 minutes in the hour. It breaks into programmes often with a brutal disregard for the pace and content, even though American telefilms and series are designed to provide for such gaps. The Australian Channel Ten is even more ruthless in interrupting programmes, regardless of content, and it averages about 12 minutes of advertising to the hour. By far the largest amount of advertising among the countries studied was on the Italian Canale 5—with 18 minutes to the average hour in peak time. This is said to be normal on Silvio Berlusconi's three commercial channels of which Canale 5 is one; among the smaller private stations in Italy the impact of advertising can be even higher. Two illustrative examples: in Italy a 1985 pre-Christmas showing of the US feature film “Rambo” included in three hours no fewer than 119 advertisements in some 40 commercial breaks; and in Australia, on Channel Ten the HTV-Columbia feature film “Jenny's War” was broken up by some 21 commercial breaks amounting to about 20% of programme time. To viewers accustomed to the more discreet styles of Britain, France or Germany, these intrusion are likely to come as a shock.

307. As to the range of programmes, the pattern differs country by country. In general, the greater the amount of advertising the narrower the range of programming. Those systems most dependent on advertising (such as the United States) concentrate primarily on entertainment and cater less for information, the arts and minority interests. Those systems most dependent on income from a licence fee (as in Sweden) on the other hand are less sensitive to mass demand and more ready to cater for minority interests. British television caters for both and with a reasonable balance. More specifically the Leeds commentary makes these points:

(a) *The United States*

The three big US networks have an exceptionally narrow range of programmes in peak hours, with nearly three quarters of programme time (excluding advertisements and continuity) given to entertainment and one quarter to news or information. Almost all the entertainment is American made; it includes a number of feature films or telefilms in peak time but no single plays. Outside peak time the American experience suggests that full competition for advertising maintains the pressure on broadcasters to attract large audiences, imposing a restricted range of programmes. Output is biased towards what entertains, what pleases immediately, what requires little viewer effort, and what does not strain at the leashes of familiarity and acceptability. There are no arts programmes on US commercial television; documentaries are becoming obsolete, and children's programming, blatantly [sic] commercialised with ties to toys sold in shops, consist almost entirely of cartoons. Current affairs programmes appear only at weekends or in off peak time. In spite of the exceptionally narrow range, however, the qualities of direction and performance are high; and some of the live comedy, such as the *Cosby* show, has won international acclaim. The news programmes too, are generally of high quality.

(b) *US: The Public Broadcasting Service*

As already noted the American public service system, which is not financed by advertising, reaches only a very small audience and concentrates in peak time on news, current affairs, documentaries and cultural programming. At the weekend it carries high quality entertainment programmes including many bought from the UK.

(c) *Canada*

In Canada 80 to 85% of viewers can receive US television, direct or by cable, thereby providing fierce competition for CBC (modelled on the BBC) and CTV (commercial). CBC aims to provide a balanced schedule, and largely succeeds, though there are divided views about its quality. It is also restoring a higher proportion of Canadian-made programmes, after ten years or more of deterioration. CTV carries almost exclusively

US programmes in peak hours. In 1984 CBC English-language television was estimated as taking 24% of the audience, CTV 29%, and US channels 33%. Local stations and French-language took the rest.

(d) *Australia*

The Australian position may be summarised, perhaps too neatly, as providing three commercial networks over much of the country with a limited range of programmes, some of high quality, but differing from the US pattern in that a substantial amount of home-created drama is included in the schedules. In addition the whole country is covered by a single ABC (Australian Broadcasting Corporation) network, derived from BBC traditions but now regarded as of declining quality. The "Special Broadcasting Service", catering for ethnic interests, consists mainly of imported programmes (Italian, German and others).

(e) *France*

Here there are three state channels, a fourth channel financed by individual subscription, and two new (spring 1986) commercial channels though as noted in paragraph 150 the future of the new channels is uncertain. The state channels provide a range of programming not far short of that available in the UK. Although primarily dependent on advertisement revenue the hours of advertising are strictly limited and this has permitted a broader range of output. A separate, government-owned organisation produces a large amount of public service programming for the networks. The French state channels also have a reputation for supporting the French film industry and for cooperating in prestigious projects. News coverage is extensive; and although in 1981 President Mitterand replaced the Conservatives in most senior news posts the socialists who took over are reported to have behaved as "free journalists, with real independence of judgement". As to the subscription channel, Canal Plus, it mainly broadcasts feature films—with 7 or 8 in the day repeated a number of times over a fortnightly or three week period. As to the two new commercial channels one is devoted to music and the other (the Seydoux-Berlusconi channel "La Cinq") consists chiefly of soap operas and other light entertainment.

(f) *Germany*

Here there are three state owned television channels managed by a federal system, though commercial satellite channels are about to come into being. The range of programming provided by the three state channels is extensive; and by common consent among qualified observers, the general standard is high though with an element of stodginess in some programmes. Appointments to senior posts are overtly

political, though with strict balance between Socialists and Christian Democrats.

(g) *Italy*

Here we find the most diverse system in Western Europe, with three state channels, three (Berlusconi) commercial channels, and as many as 300 private commercial stations operating. For ten years the legal position of the commercial stations has been uncertain; that has led, with increasing competition, to a measure of demoralisation in the state channels. Outwardly at least however they maintain a substantial range of programmes but they are under increasing pressure to concentrate on popular entertainment and inevitably are tending to do so. The commercial stations depend heavily on imported American entertainment and that has forced the state (RAI) channels to lower their domestic product from 90% to below 70% of total output. The Italian commentator in the Leeds study concludes that RAI still achieves quality in all genres, but that the overall impact on Italian broadcasting of ten years of chaos has been damaging.

Swedish broadcasting—all state controlled—has a strong commitment to regional, minority and factual programming; but with growing popularity of entertainment programmes received by satellite and distributed by cable, there is again a pressure for change. In the Netherlands broadcast production is in the hands of a number of religious and political groups; they share a time on the two state channels and a high proportion of programming is factual. Yet again, however, pressure from satellite, cable, and foreign terrestrial television which can be received in Holland is beginning to force a change.

308. In all the European studies finance was found to be a key influence in determining the range and quality of programmes. With this, in all countries, was a growing sense of the added competition for large audiences—even among public service broadcasters—and for the provision of more mass appeal programming. In the German study, for example, it was noted that “marketing criteria are increasingly determining the broadcasters’ decisions on programme structure and content”; while the schedules for RAI in Italy were said to show big increases in entertainment programming from 1980–1983. In Holland broadcasting is reported as becoming “more commercial in spirit if not in structure and finance”, with “more entertainment and films . . . more show business styles and format . . . more quizzes, chat shows and game shows”. French television was said to have moved “closer to matching, without totally imitating, the recipes for success and programming schedules of American and European commercial television networks”. And in Britain the “new BBC” was said to be pursuing “more aggressive scheduling strategies, with arts and current affairs funds recently cut in favour of entertainment and daytime television”. A further factor in some European countries has been the indecision of politicians about the future of broadcasting policy and

finance. Again, in Italy, they are said to have allowed broadcasting to lapse into "a lawless state" without "clear-cut policies"; while in France "contradictory policies" have been adopted for public and private television. In Sweden "the raising of the licence fee is considered politically risky among the majority in parliament, in spite of increases in real terms having declined by about 30%". Public service broadcasters in Holland, it is stated, have to cope with a tendency "from on high to will cultural goals that will not be adequately funded".

309. A significant part of the Leeds study lay in it interviewing a cross section of programme-makers, broadcasting management, and other professionals, both in the BBC and in the ITV companies. While many of these interviews were admittedly partisan—and generally favouring only modest changes in the status quo—nevertheless the view of broadcasting professionals ought to be taken into account as in any other professional field. The Leeds interviewers admit to having been surprised by the "passionate commitment" of many of the broadcasters to their concept of public service broadcasting. Both in ITV and in the BBC this embraced all three aspects of broadcasting—education, information, and entertainment—and to most of the respondents the three were seen as inseparable if public needs were to be satisfied. A number of those interviewed argue that the real issue was not finance as such but the nature and purpose of British broadcasting in years to come. If the public wished another broadcasting system, well and good; if not, then in their view the Peacock Committee's recommendations ought to concentrate on secure financing of public service broadcasting in all its aspects as it moved into the new era of satellite and beyond. From within the BBC there were many critics of the "defensive posture" of BBC top management in its approach to these issues—a defensive posture of which the committee itself has not been so conscious, since those presenting the BBC's case have stood solidly in support of existing concepts of public service broadcasting and on maintenance of the licence fee as the prime means of finance. Be that as it may, those interviewed in the Leeds study were predominantly of the view that British broadcasting in its existing public service mode should and did assert and reflect Britain as a community, society, and culture and that it was the principal forum by which the nation as a whole was able to talk to itself. An emphasis was placed on the degree of innovation in British television, again in ITV and BBC alike, and on the readiness within the British system to allow time for new styles of programme to evolve and become acceptable to large audiences. Two much quoted examples were "Last of the Summer Wine" and more recently "EastEnders": the first having taken some seasons to mature with only small audiences but having become highly popular in its more recent series; and "EastEnders" being the first series or soap played out in a multi-racial environment, with an immediate social context, and nevertheless to have become quite quickly a top rating series. Emphasis was also placed on regional commitment, particularly in ITV, and Yorkshire was cited as an example of a company seeking regional output not only from the centre of its area but from the outlying districts

with permanent crews as far apart as Ripon and Grimsby. Similar comments were made of, for example, Central as a large company and Grampian as a smaller one, each with commitments to remote parts of their regions. On this aspect some of those interviewed believed that there were deficiencies in the BBC. In particular it was suggested that during the coal dispute "the initial lack of comprehension of the miners" was a sad reflection of the BBC's centralism. An example of differences of style from American production lay in the way British programmers are ready to make more subtle use of lighting to symbolise plot, character and drama, whereas in America full lighting in-doors and out is regarded as essential almost all the time. Among programme production staff adequate and secure funding was still regarded as the first requirement for creative programme-making; and within the BBC there was much anxiety about recent economies which were perceived as cutting into programme quality, as in the 10% cut in educational programmes, as against the overall average of 2.5%. Among ITV programme-makers there was common concern lest a shortfall in advertisement revenue following changes of structure might mean severe cuts in regional and local output.

310. Overall, on programme quality, Professor Blumler and his team say that British television stands up very well to international comparisons. They say that they are not blind to the shortcomings of BBC and ITV—some of which explain the decision to create Channel 4 with an innovatory brief—and they cite among other criticisms the more aggressive scheduling practices of recent years "which seem designed to black the rival channel's eye without evident public benefit". By contrast, however, they draw attention to the remarkable record of British programme-makers in winning international awards—saying that if this is a measure then "British television is far and away the best in the world". A tabulation of awards shows British television to be "far ahead of any other countries" with more than double the number achieved by its nearest rival and three times the number won by American programme-makers.

311. Finally the Leeds team offers, on the basis of its interviews in the US and the UK, an assessment of some of the options being considered by our Committee. Of *full advertising* on the BBC it says that although historically and culturally there are differences between Britain and the United States nevertheless the American experience suggests that the introduction of advertising on the BBC could "disrupt for the worse" the internal dynamics of British broadcasting. The commitment to programme range and quality, it says, would become vulnerable to the need to maximise audiences; and much of the good drama and current affairs output would become starved of funding. Moreover, once advertisers gained a foothold in the system they would inevitable become a "political force" within it so that regulatory deals would become less durable. On the alternative of *limited advertising* on the BBC the report finds this a more attractive option. It suggests that the encroachment of advertising influences would be less difficult to

restrain. Even so, it quotes warnings by American informants that it can be difficult to make controls on advertising stick, whether on amount, content of placement. It also draws attention to the experience in Italy, where regulation is widely evaded. A further option, the Leeds report says, is to "*divide the licence fee*" between the BBC and ITV, permitting both to compete for the pool of advertising income. Licence revenue could then be destined to provide core finance to support information, educational and some forms of cultural programming. This, it says, would entail fundamental restructuring of British broadcasting "with unforeseeable consequences". The international evidence, it suggests, is that such mixed funding arrangements could not avoid deleterious effects. Nor would it prevent the tendency to schedule for maximum audiences—with the consequent narrowing of programme range—most of the time. As to *sponsorship* it accepts that limited sponsorship could provide a modest supplement to BBC funds but sees it as achieving no more than that. On *subscription* television it draws attention to the conclusion reached in the French report (by Professor Roland Cayrol) that Canal Plus in France has had to depart from its original intention of specialising in cultural programming because it has found unavoidable the need to seek a more popular format. It suggests that as cable television becomes more widely available in Britain, the BBC will come under greater competitive pressure forcing it to narrow the ranges of its programmes and to limit its commitment to quality. It sees some advantage, however, in the fact that subscription for BBC services would preserve the long established principle of British broadcasting that each major provider of television can count on its own distinctive source of revenue. And as to the *licence fee* the report concludes that while it is far from free of problems it nevertheless causes fewer problems than any other evidence solution.

312. The Committee's visits abroad gave us unusual and welcome opportunities to talk to broadcasters, broadcasting executives and advertising bodies in a number of countries, as well as opportunities to watch some television channels in the appropriate national settings. Individual members of the committee each gained their own impressions, but a few outstanding aspects may be mentioned here. In the United States we encountered the uncompromising devotion of the three networks to their ratings war, and their belief that it is the best way to give the public what it wants. Also in the US we encountered the conviction among advertising agencies that the British market is more elastic than British research suggests. In Japan one of our members, by contrast, found a common opinion that Japanese advertising expenditure is stagnant and cannot adequately finance developments in the new media. In France and Italy we quickly became aware of the dismay among those working for state-owned television channels over the growth of commercial competition, though it does not follow that any such dismay is felt among consumers. In Germany the benefits of stability brought about by Federal and inter-Land agreements 20 years ago were evident, though in Germany too commercial pressure is likely to bring early changes. In every country we encountered expressions of

amazement—even from NBC and ABC in the United States—that the British should be thinking of changing their system, which is almost universally admired.

313. The Canadian experience is particularly relevant. Unlike the United States, Canada did not at first go wholly for free-enterprise, competitive broadcasting. CBC was created as a public service. Today CBC's revenue is drawn partly from a Government grant, fixed annually, and partly from advertising. But the burden of raising revenue falls heavily on the CBC English-language television service, because neither radio nor the French-language service can contribute as much. The requirement placed on English television has risen each year and now represents almost half its revenue. The effect on CBC programming was described candidly to us by Mr Jack Craine, Director of English television programmes. Its application to the BBC's future is self evident. These were his main points:

- It is essential that the Sales Director goes with him when purchase of programmes is considered. They go together on their periodic visits to Los Angeles. They get on well together, and Mr Craine has the last word, but he knows he must take account of the Sales Director's view on whether he can sell advertising time to go with a particular programme.
- Canadian networks rarely buy British programmes for scheduling in prime time because few advertisers will buy slots alongside them. British drama is often seen as unpredictable or abrasive in the eyes of advertising agencies. By and large the imported programmes scheduled as peak periods are all American.
- In the US even the casting of drama is influenced by audience/market research. Advertising agencies are interested above all in "urban women aged 18 to 49", especially affluent ones. The casting of men to appeal to them is now more important than the casting of women to appeal to males, though the second most desirable audience group is affluent urban men aged 18 to 55 or thereabouts. The women want "men with their shirts off".
- It is extremely difficult to keep any good places for Canadian productions, though CBC's Sales department has devised a strategy of programme "linking". The advertiser who wants to buy a minute in "Dallas" must also buy a minute, for example, in the Canadian "Tommy Hunter".

314. In spite of these problems, CBC says that its ratings for Canadian programmes have risen over the past two years; and it is worth noting the comment of CTV's Executive Vice-President, also speaking in Toronto. He expressed admiration for CBC's creativity and standards, even though they are competitors, and said that without CBC his choices would be more limited.

315. Even though it is not possible to find a case overseas which fully reflects the situation which would arise if the BBC were financed by advertising, the Committee are in little doubt about the lesson to be learned from an examination of other broadcasting systems in which advertising plays a major role. In the absence of regulation, competition for advertising revenue between the duopolists, now no longer "protected" by separate financing, would be bound to change their programme strategies. They could in theory come to an agreement about sharing the market but in practice this would be bound to be contrary to successive governments' anti-monopoly policies. In a duopolistic situation with no entry into the terrestrial broadcasting business, both the BBC and ITV companies would look for revenue by scheduling programmes in order to maximise audiences in peak time and probably at most other times. With more advertising "slots" available, advertisers would be in a stronger position to influence programme content. We are not persuaded by the claim of advertisers that it would never be in their interests to influence programme content. There would certainly be a risk that controversial drama, critical consumer programmes, current affairs programmes and satirical programmes which challenged conventional attitudes and prejudices would not be supported by them.

316. Strict regulation might ensure that each channel would continue to carry some information or documentary programmes in peak time, and such programmes may themselves be consonant with advertisers' perceptions of the audiences that they wish to reach. Draconian measures might be necessary to ensure that controversial and critical programmes would continue in being, though it is doubtful if any regulatory authority would feel comfortable about forcing advertisers to look for other broadcasting outlets, such as satellite or cable, because programmes did not attract the audience volume and pattern which advertisers were looking for. Limited advertising on the BBC could be expected to have less effect on the range and quality of output, but might not in itself be an attractive alternative for advertisers to "spot" advertising on ITV channels.

Appendix 4

The following is an extract from information provided to us by the Corporation at the request of the Royal Commission.

RADIO NEW ZEALAND

PER-MINUTE TRANSMISSION/PRODUCTION COSTS 1984/85

The following represents total costs for the areas indicated, both above and below the line. *Not* included is each Section's share of Head Office administrative overheads.

(1) NATIONAL PROGRAMME	\$18.84 per minute
(2) CONCERT PROGRAMME	\$ 9.81 per minute
(3) PRODUCTION DEPARTMENTS	
	Cost per minute
(a) DRAMA (including plays, short stories, readings etc)	\$108.80
(b) RELIGIOUS PROGS	\$ 14.22
(c) CONTINUING EDUCATION (includes CHILDREN'S PROGRAMMES)	\$ 29.50
(d) LIGHT MUSIC (NZ instrumentalists and vocalists)	\$102.80
(e) TE REO O AOTEAROA (incl. PACIFIC ISLAND PROGRAMMES)	\$ 19.20
(f) SPECIAL PROJECTS (incl. Spectrum documentaries, interviews, consumer progs, science progs, progs for disabled, talks, book reviews etc)	\$ 17.35
(4) "REPORT" PROGRAMMES (Morning; Mid-day; Midnight)	\$ 87.70 per minute
(5) NEWS (Commercial Network; National Programme; Concert Programme)	\$ 26.42 per minute
(6) SPORTS	\$ 9.61 per minute
(7) RURAL BROADCASTS	\$ 23.38 per minute
(8) CURRENT AFFAIRS (NON COMMERCIAL) (Including such programmes as Checkpoint; Insight; Money Matters; Sunday Supplement; The World This Week; etc)	\$ 39.97 per minute
(9) CURRENT AFFAIRS (COMMERCIAL) (Including daily Current Affairs items fed to stations, plus weekly 'Seven Days', etc)	\$17.02 per minute

Appendix 5

We have set out below a summary of budgetary increases that the Broadcasting Corporation estimated would be required to extend Radio New Zealand's in-house production. The estimates are reproduced from the Corporation's written submission on term of reference 2(f), pages 2 and 3, paragraphs 2(f)5 to 2(f)12.

Given the funds, the Corporation would consider re-establishing drama production in the South Island, but significant additional costs would result, estimated at around \$187,000.

Cultural programmes are centred on the Concert Programme where, of the total music content, 10% is of New Zealand origin. . . . Currently artists' and facilities fees of \$187,600 are needed to achieve the present New Zealand content level. To raise this to a level of say around 30% will require a total budget of some \$643,800 to cover the additional fees, and salaries of three more senior music producers.

... There is a monthly science programme on the National network. Radio New Zealand has considered more frequent production of the programme but increasing costs weighed against the proposal. In the 1979/80 financial year it was estimated that a 32 week series of 32 programmes would cost \$23,140. By 1984/85 the estimate had risen to \$40,980.

... With an additional budget allocation of approximately \$20,000 more work could be commissioned from available composers, and more visiting expatriate New Zealand artists; and visiting overseas jazz musicians in concert with local artists would be recorded.

Radio New Zealand sees a need to reflect and include New Zealand comedy in its light entertainment output. . . . If suitable writers and comedians can be found a series of 13 half hour programmes would cost (approximately) \$45,500.

Appendix 6

TELEVISION NEW ZEALAND

PRODUCTION COSTS : 1984/85 FINANCIAL YEAR

The following is an extract from the Corporation's written submission on term of reference 2(f), para 2(f)14 and 2(f)15, pages 3 and 4.

The following table records the hours produced in each production area, the estimated average cost per hour of production and the estimated average cost per minute of production.

Production Area	Hours Produced	Average Cost Per Hour \$	Average Cost Per Minute \$
News	543.00	32,278	538
Current Affairs	283.50	28,462	474
Sport (excluding olympics)	615.00	15,668	261
Sport—Olympics	220.00	35,323	589
Drama	51.20	249,023	4,150
Entertainment	221.67	36,987	616
General and Special Interest	279.40	26,127	435
Documentaries and Features	42.87	126,639	2,110
Children's and Young People's	194.00	21,804	363
	2,450.64		

Beside the costs that can be clearly related to specific production areas, average costs in the tables above include an apportionment of general staff and overhead costs which cannot be separately identified with individual production departments. These latter costs have been allocated to departments on the basis of the proportion of identifiable expenditure in each department and also on the basis of programme hours produced by each department.

The range of relative production costs for the programme areas specifically referred to in the term of reference are:

- (i) DRAMA: The average hourly cost is \$249,023 but costs may range from \$65,760 per hour for a long running series such as Country GP to \$500,000 for a shorter adult costume drama series like Hanlon.
- (ii) NATURE: The Television New Zealand National [sic] History Unit operates within the Documentary and Features department where average hourly costs are \$126,639 which would relate to this type of production.
- (iii) SCIENCE, RELIGIOUS AND CULTURAL: The topics are handled within the General and Special Interest Programmes department whose average hourly costs are \$26,127. Hourly production costs for the telecast of a church service may be \$4,800, for a studio-based Credo \$12,000 and for the arts programme Kaleidoscope \$19,680.
- (iv) LIGHT ENTERTAINMENT: Programmes in this area may include comedies, personality talk shows, studio music shows or awards ceremonies. Relative costs per production hour are comedy (Billy

T. James) \$63,000; talk shows \$12,900; That's Country \$48,360 and Music Awards \$51,300.

- (v) QUIZ AND GAME SHOWS: are produced within the Entertainment Department where average hourly costs are \$36,987. These shows are among the less expensive output of the department and may cost as little as \$10,200 per hour to produce.
- (vi) SPORTS: Hourly costs will vary widely between studio-based programmes with film or videotape injects, and direct coverage of events. The movement of crews and facilities between centres can add substantially to costs and a major undertaking such as live cover from the Los Angeles Olympic Games involves a larger-than-average hourly expenditure. The table [above] shows the difference in cost between the ongoing sports productions (\$15,668 per hour) and a special undertaking such as the Los Angeles Olympics (\$35,323 per hour).

Appendix 7

The following is an extract from an exhibit presented to the Royal Commission during its public hearing on 22 August 1985 by Mr J. S. Craig, Controller of Programmes, Radio New Zealand.

RNZ : A RANGE OF FEES**1. DRAMA:**

(For 1 broadcast from each network)

WRITERS: Plays: \$30.46 per min

Short Stories: \$109.64 (for 12-15 mins)

(These are minimum rates. More could be paid, depending on quality of script.)

ACTORS:	Principals	\$20.37 per hour
	Proven Established	\$17.00
	Developing Talent	\$13.64

All the above rates are the subject of prolonged negotiations for increase with Writers Guild and Actors Equity.

2. TALKS

(For 1 broadcast from each network)

Up to 2 mins	\$25.57
2-4 mins	\$31.97
4-8 mins	\$48.42
8-12 mins	\$57.55

Commissioned material is paid 25% above these rates. These are also minimum rates, as with Drama writers.

These rates are currently under negotiation with the Writers Guilders.

3. LIGHT MUSIC:

(For unlimited number of broadcasts for 12 months from date of first b/c.)

Group Leaders	\$147.74 (per 1/2 hr prog)
Soloists	\$126.56 (" " ")
Players	\$112.49 (" " ")
Conductors (18 + orchs)	\$259.90 (" " ")
Conductors (11-17 players)	\$246.24 (" " ")
Vocalists	\$250-\$300.

(These are the finally negotiated 1985 rates.)

CONCERT PROGRAMME FEES

1. For a 15 minute programme
 National Artists as at
 24 February 1982
 New Zealand Rights

79.74	(Probation)
79.25	(Step 1)
88.74	2
99.40	3
111.33	4
124.68	5
139.63	6

 Local Artists

30.11	(Step 1)
33.73	2
37.77	3
42.31	4
47.37	5
53.06	6
2. Choirs as at 19 January 1978
 (complete concert)
 Local Broadcasts

—with orchestra	\$1,150
—with piano	\$ 775

 National Broadcasts
 —Each Concert is separately
 assessed—depends on
 duration
 e.g. Auckland Dorians \$1,000
3. Regional Orchestras
 —Each programme is
 auditioned and a fee is
 assessed based on material
 used.
 e.g. Auckland Regional
 Orchestra Complete Concert \$1,800

Appendix 8

The following is an extract from Appendix IV(a) and IV(b) of the written brief of evidence of Malcolm Harry Kemp, Head of Entertainment, Television New Zealand.

ENTERTAINMENT AND VARIETY PERFORMERS

To include singers, singing acts, speciality acts, comedy acts, pop solo and pop group acts, dancers and dance acts appearing in entertainment and variety programmes.

Minimum Rates Per Assignment

	Number of Artists In Act	Self Contained Act \$	Other Act \$
1	171.37	137.08
2	235.42	203.40
3	299.49	267.46
4	363.56	331.53
5	427.63	395.60

Acts with six and more artists: Fees for Assignment to be negotiated.

RATES OF PAYMENT

Ordinary Rates (excluding work paid for on an assignment fee basis in terms of clause 16. Minimum rates of payment shall be as follows:

	Category	Weekly	Daily (8.5 hrs)	Half Daily (4.5 hrs)
(A)	Leading Performer or Artist or Singer or Dancer or Presenter	\$450.13	\$123.79	\$61.90
(B)	Performer or Artist or Singer or Soloist Dancer or Presenter	\$402.35	\$110.65	\$55.33
(C)	Small Part Performer or Corps de Ballet or Dancer or Chorus Member	\$249.41	\$68.59	34.30
(D)	Supporting Artist or Presenter	\$306.75	\$84.36	\$42.18
(E)	Choreographer for ballet, dance dramas and for production numbers in light entertainment and variety	\$364.11	\$100.13	\$50.07

(F) Choreographer for ballet, dance dramas and for production numbers in light entertainment and variety also dancing in production	RATE (E) plus 25%	RATE (E) plus 25%	RATE (E) plus 25%
(G) Mover in light entertainment and variety	\$230.31	\$63.34	\$31.67
(H) Resident performer	\$325.86	\$89.61	\$44.81
Extras: \$7.37 per hour			

The following is an extract from Appendix IV(c) of Mr Kemp's written brief of evidence on term of reference 2(h).

Not less than the following fees shall be paid.

Rate per hour or part thereof	..	28.41
Appearance fee	..	19.11
Production meeting (hourly rate)	..	9.46—9.76
Doubling fee (first extra instrument)	..	6.94
Doubling fee (subsequent extra instruments)	.. .. .	3.53
Cartage allowance	.. .. .	6.62
Extra music bonus	.. .. .	6.66

- (i) The Hourly Rate shall be paid for all time worked at rehearsal, recording or studio production.
- (ii) Subject to section 8(b) an Appearance Fee shall be paid for each programme in which musicians are to be visible to the viewer while playing.
- (iii) A conductor of a musical group shall be paid the Hourly Rate and an additional (50) fifty percent.
- (iv) A Playing Group Leader shall be paid the Hourly Rate and an additional (25) twenty-five percent.
- (v) Any musician engaged to perform as a solo player, or as one of a duet of players, shall be paid the hourly rate and an additional (25) twenty-five percent; only payable when a musical director is not present.

The following is an extract from Appendix IV(d) of Mr Kemp's written brief of evidence.

Original Play for Television: A self-contained drama.—The minimum fee shall be \$64.08 per minute (rounded up to the next nearest minute).

Documentary—The minimum fee for a documentary shall be \$51.26 per minute (rounded up to the next nearest minute).

Documentary Commentary—The minimum fee for documentary commentary shall be \$38.45 per minute (rounded up to the next nearest minute).

ENTERTAINMENT PROGRAMMES

Writers commissioned to write jokes, sketches, vignettes, lyrics or similar material for an entertainment programme shall be paid a minimum of \$67.28 per minute. Fifty percent shall be paid within 15 working days of commissioning and fifty percent shall be paid within 15 working days of acceptance.

Entertainment Team Writing: Where three or more writers are commissioned to write an entertainment programme, they shall share equally a minimum fee of \$67.28 per minute multiplied by the programme duration. This initial fee to cover the cost of meetings and development of the programme. In addition, individual writers will be paid \$67.28 per minute for material used which is written by them. This fee shall be paid within 15 working days of acceptance.

Link Writers: Writers commissioned to write links between acts for a front person/s in an entertainment programme shall be paid a minimum fee of \$33.64 per minute. Fifty percent of this fee to be paid within 15 working days of commissioning and fifty percent within 15 working days of acceptance.

NOTE: Where a writer is responsible for the creation of an idea, character or development that becomes a subsequent continuing or marketable element of the Corporation's output, the said writer's contribution will be subject to the proper credit acknowledgement and may become the subject of an separate contract. Where such a contract is deemed appropriate, payment will be made at no less than the rates currently in force under this agreement. It is understood that the application of this clause is subject to the Corporation being a party to the subsequent use of the writer's work.

CHILDREN'S PROGRAMMES (OTHER THAN DRAMA)

Children's documentary material involving detailed research shall be paid at a minimum fee of \$38.45 per minute (rounded up to the next nearest minute).

Link material including sketches, vignettes, stories and poems (other than self-contained acts) shall be paid at a minimum fee of \$33.64 per minute (rounded up to the next nearest minute).

Appendix 9

We have set out below programme categories which we consider would be suitable for inclusion in a New Zealand points system.

Arts

Children's and Young Persons (including pre-school)

Children's drama

Current Affairs

Documentary

Drama

Education

Entertainment

Ethnic other than Maori

Films

Information

Maori

Maori News

News

Quiz

Sports

Appendix 10**EXTRACT FROM INDEPENDENT BROADCASTING AUTHORITY
TELEVISION PROGRAMME GUIDELINES APRIL 1985
SPONSORSHIP AND INDIRECT ADVERTISING****12.1 SPONSORED PROGRAMMES**

'Sponsored programmes' in the normal sense of the term are not allowed on Independent Television. Section 8(6) of the Broadcasting Act requires that, with certain limited exceptions set out in Sections 8(7) and (8), 'nothing shall be included in any programmes broadcast by the Authority, whether in an advertisement or not, which states, suggests or implies (or could reasonably be taken to state, suggest or imply) that any part of any programme broadcast by the Authority which is not an advertisement has been supplied or suggested by any advertiser; and, except as an advertisement, nothing shall be included in any programme broadcast by the Authority which could reasonably be supposed to have been included in the programme in return for payment or other valuable consideration to the relevant programme contractor of the Authority'.

12.2 PROGRAMMES FUNDED BY NON-BROADCASTERS

- (a) When a programme is funded in whole or in part, directly or indirectly, by a commercial organisation, the editorial content of the programme must not include any element of advertisement on behalf of the funder, and must not be directly related to the funder's commercial activities.
- (b) Responsibility for the content and scheduling of all programmes must rest with broadcasters, i.e. the programme company—and the IBA.
- (c) Credits may be given on screen to ITV companies, independent production companies and other broadcasting organisations who have financed a production. Acknowledgements to other funders of programmes need the IBA's approval.
- (d) Acknowledgements to other funders will only be considered when the programme consists, in the terms of the Broadcasting Act, of a factual portrayal of doings, happenings, places or things. This includes recordings of live relays of sporting, artistic and entertainment events which have an existence independent of the television broadcast itself. It may also include documentary programmes, but is not to be taken as including (i) programmes on matters of political or industrial controversy or relating to current public policy, or (ii) news programmes.
- (e) Acknowledgements may be in vision at the end and, where considered appropriate, at the beginning also of the programme. Such acknowledgements may refer to brand as well as corporate names, but they may not include cigarette brand names or other products banned by the IBA Code from advertising. The wording must be agreed with the IBA in advance. The broadcasters

reserve the right to impose restrictions on publicity in other media that the funder may wish to give to the programme.

- (f) When a programme contains an acknowledgement to a funder, advertisements containing that funder's name will normally be permitted within or around that programme, provided that there is no link in content or style with the programme. The Authority retains the right not to allow a funder's advertisement to be transmitted in or around a particular programme if it is judged that such transmissions could offend against Section 8(6) and paragraph 1 of Schedule 2 of the Broadcasting Act 1981. Advertisements for products in competition with those of the programme funder will normally be acceptable with the proviso that there is no direct link in content or style with the programme.
- (g) Funding by non-broadcasters of coverage of events which themselves are sponsored is not permitted.

12.3 ANCILLARY MATERIALS OR SERVICES PROVIDED BY NON-BROADCASTERS

On-air references may be made to those organisations which contribute resources for off-air accompaniments to broadcasts agreed to be of 'an educational or socially purposive kind.'

Programme providers should avoid over-use of one contributor to off-air activities (e.g. one journal among several in the same field) that would justify complaints of the exclusion of suitable and willing competitors.

References to books arising from a series should normally be confined to the name of the book, the publisher, the price, and its availability at bookshops, the publisher or the programme contractor. The name of retail outlets should not be given.

Reference to contributors should normally take the form of some brief statement after a programme has ended or in trailers to a programme. However, there may be reasons for including a reference within the body of a programme: such a reference will be agreed by the IBA *only if it seems clearly essential in the context of the programme.*

On-air references to contributors may not contain any undue element of advertisement. They should have the character and tone of a statement of information, not that of an advertisement or public relations 'plug'. The references must clearly relate to off-air activities only. References off-air to contributors—in print, in announcements etc., should share the same character and tone.

Any on-air references to contributors must be cleared in writing in advance with the IBA. Programmes providers should send details of the nature and extent of the contribution, and the exact wording of the reference intended.

References to contributors etc., which arise from programmes designed for educational or socially purposive ends should be sent to the IBA's Education Department for initial consideration.

12.4 COVERAGE OF SPONSORED EVENTS AND DISPLAY ADVERTISING

Detailed guidance was given to the companies in 1976, following reports by an SCC Working Party on Indirect Advertising. A paper was prepared for distribution not only within companies but also among organisers of major sporting events and potential sponsors of such events. A copy of the paper, with an amendment to bring it up to date in relation to advertisements at football matches, is attached as Appendix IV to these Guidelines.

12.4(i) Coverage of Sporting Events Sponsored by Tobacco Companies

Following agreement between the Government and the tobacco companies a code of practice for the coverage of sporting events sponsored by tobacco companies has been drawn up and is contained in Appendix IV to these guidelines.

12.5 USE OF FOREIGN SPONSORED PROGRAMMES

Some foreign television programmes are sponsored by advertisers when transmitted in the country of origin. Both BBC and Independent Television transmit such programmes, and there is no objection to their use provided that the requirements of Section 8(6) of the Broadcasting Act are observed and the sponsor's message is omitted. It would not be acceptable that special arrangements should be made for the association with such a programme of advertisements for the advertiser's products in this country, and companies should be wary of any opportunities to acquire on exceptionally favourable terms any foreign programme sponsored by an advertiser whose products are on sale in this country.

12.6 OFFERS OF FREE SERVICES FACILITIES ETC.

Many organisations (not all of them commercial) and official bodies are prepared to offer programme-makers free services in return for the presumed commercial or public relations advantages thought to accrue from the presentation of their organisation and its activities on television. Although in the majority of cases such arrangements are justifiable, all such offers (e.g. free passages on a cruise liner, indirect subsidisation of a documentary film unit, overseas travel and accommodation), should be treated with circumspection. Nothing should be done that might give rise to doubts about the independence, impartiality and integrity of the programme. No commercial organisation that provides services should engage before the broadcast in any advertising campaign, in the press or elsewhere, linked to the programme in question. In accepting help from any commercial organisation, producers should make this clear before agreement is reached.

12.7 THE USE OF BRAND NAMES OR BRANDED PRODUCTS

The display in programmes of identifiable or clearly labelled products should be avoided whenever possible. There are, however, defensible

exceptions, and it is not always possible to avoid the names of commercial products or services in outside broadcasts or location filming. This is an area for producer judgement, with the need always borne in mind to avoid any undue element of advertisement.

12.7(i) Publicity for Plays, Books, Films, Records and other Creative Work

Reviews of literary, artistic, or other publications or productions—including interviews with the writers or artists concerned, and excerpts from the work—are usually acceptable. So, for example, are references to the place of any performance included in a programme, the name and description of the persons appearing as performers, or an announcement of the number and description of a record.

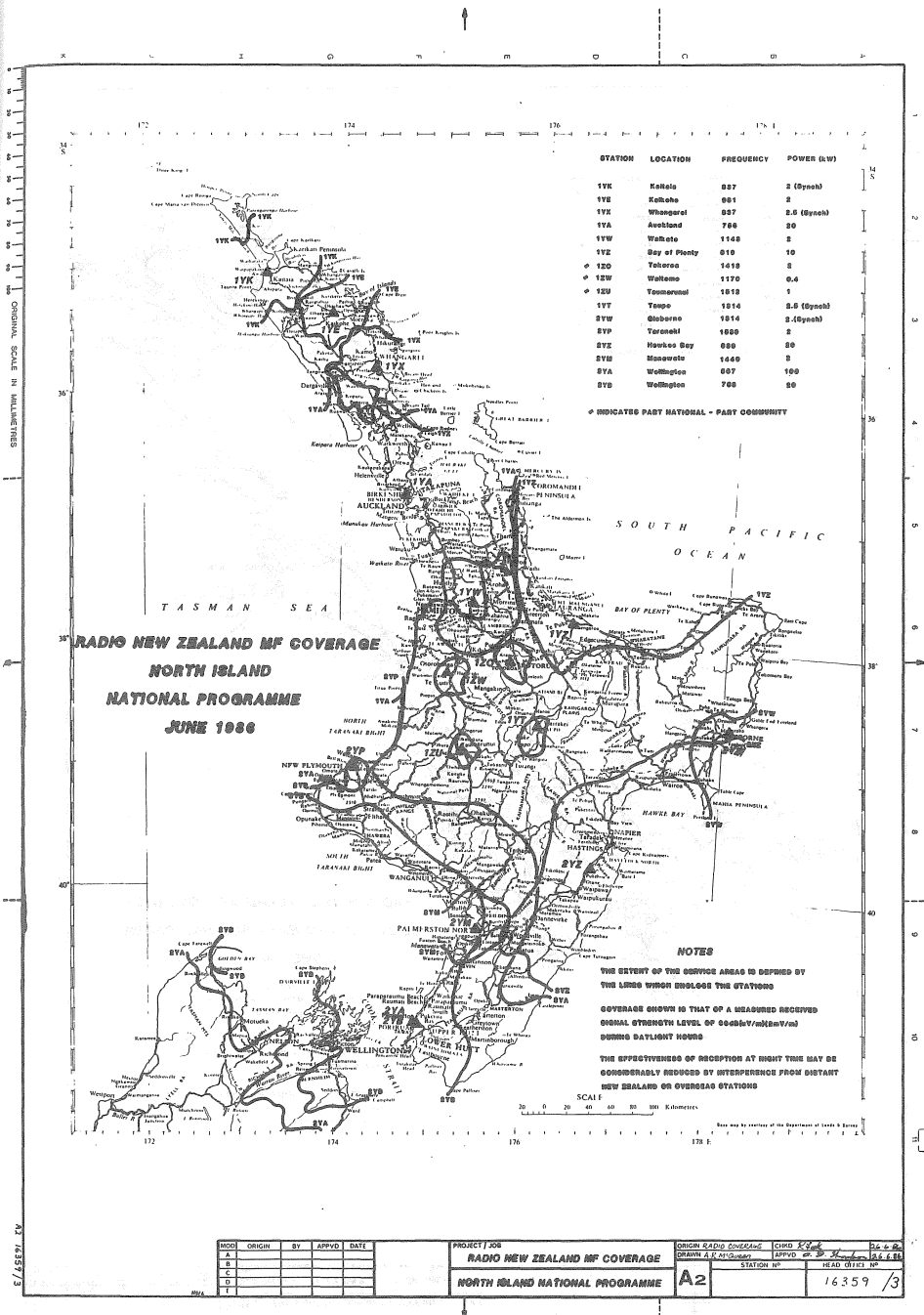
12.8 PROGRAMME PERFORMERS WHO APPEAR IN ADVERTISEMENTS

There are agreed rules about the appearance in advertisements of people closely identified with Independent Television programmes. These are matters of advertising control, and are not dealt with in these Guidelines. Certain points need to be noted, however, by programme producers. It is unacceptable, for instance, for presenters or experts featured in a consumer advisory programme to appear also in advertisements, on Independent Television or elsewhere, for products or services connected in any way with those discussed in the programme: companies should ensure that those they engage for such programmes do not have commitments to appear in advertisements of that kind.

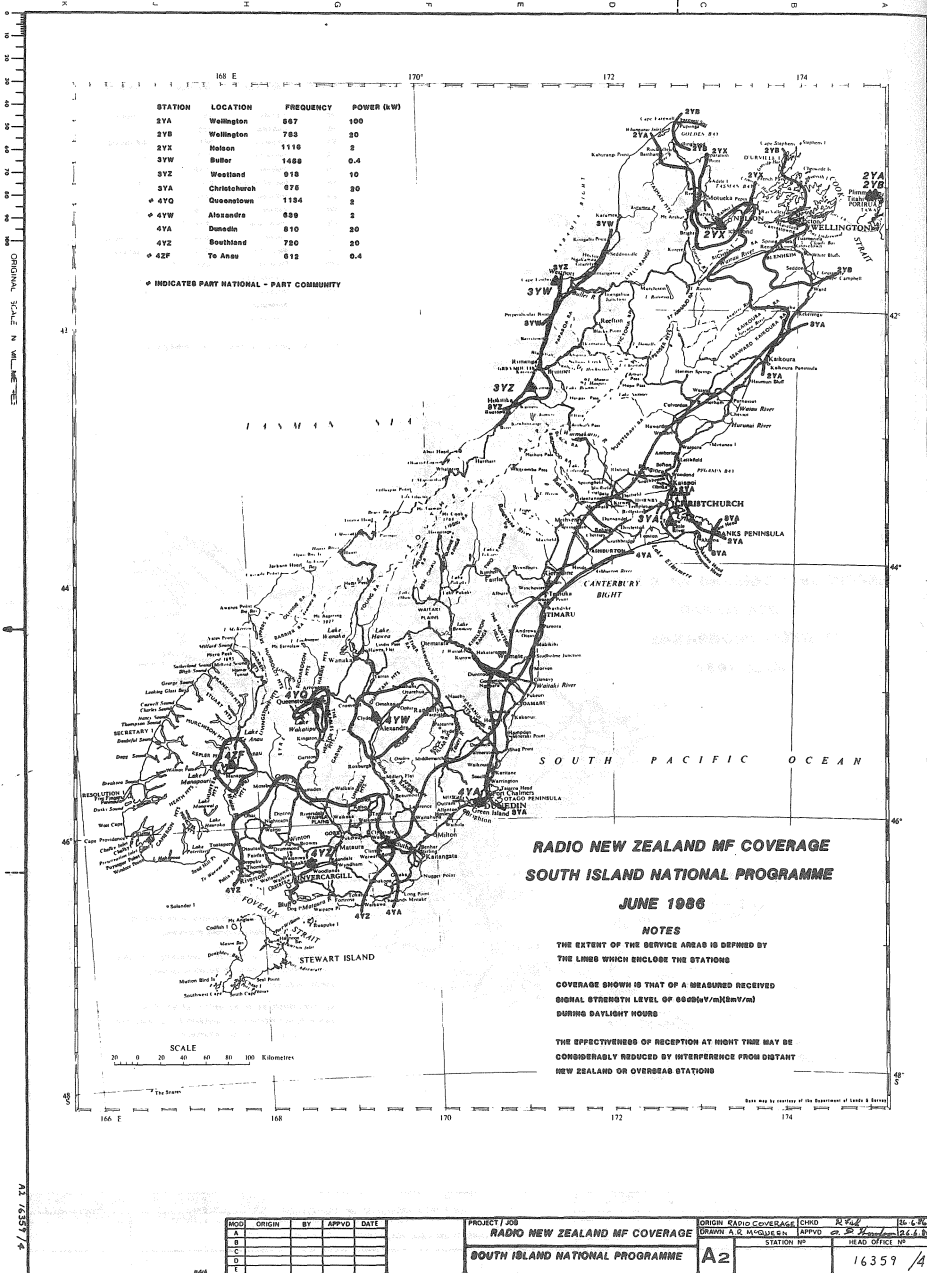
12.9 PRIZES AND GIFTS IN PROGRAMMES

Guidelines on competition and reward shows are given in Section 13. Presentation of prizes or gifts within a programme should avoid the impression of an advertisement for the products or the manufacturer, or the suggestion that the programme idea has been suggested by an advertiser. There should be no mention of brand names either in the programme itself or in any published publicity about the programme, and there should be no gratuitous emphasis on the value of the articles offered as prizes. As mentioned in 13.1(i), all prizes and gifts presented in programmes should be purchased out of programme company budgets at not less than wholesale prices.

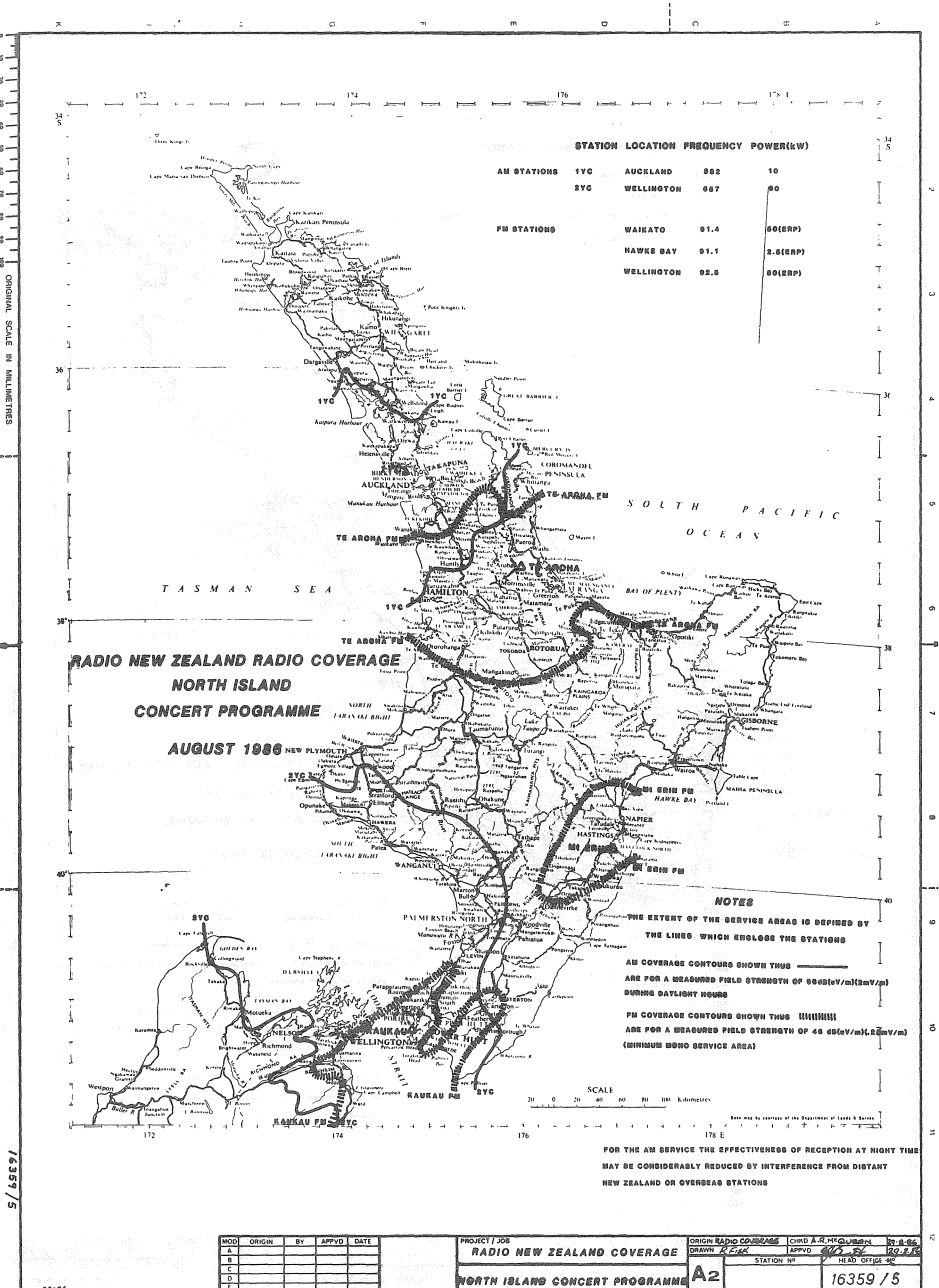
MAP 1



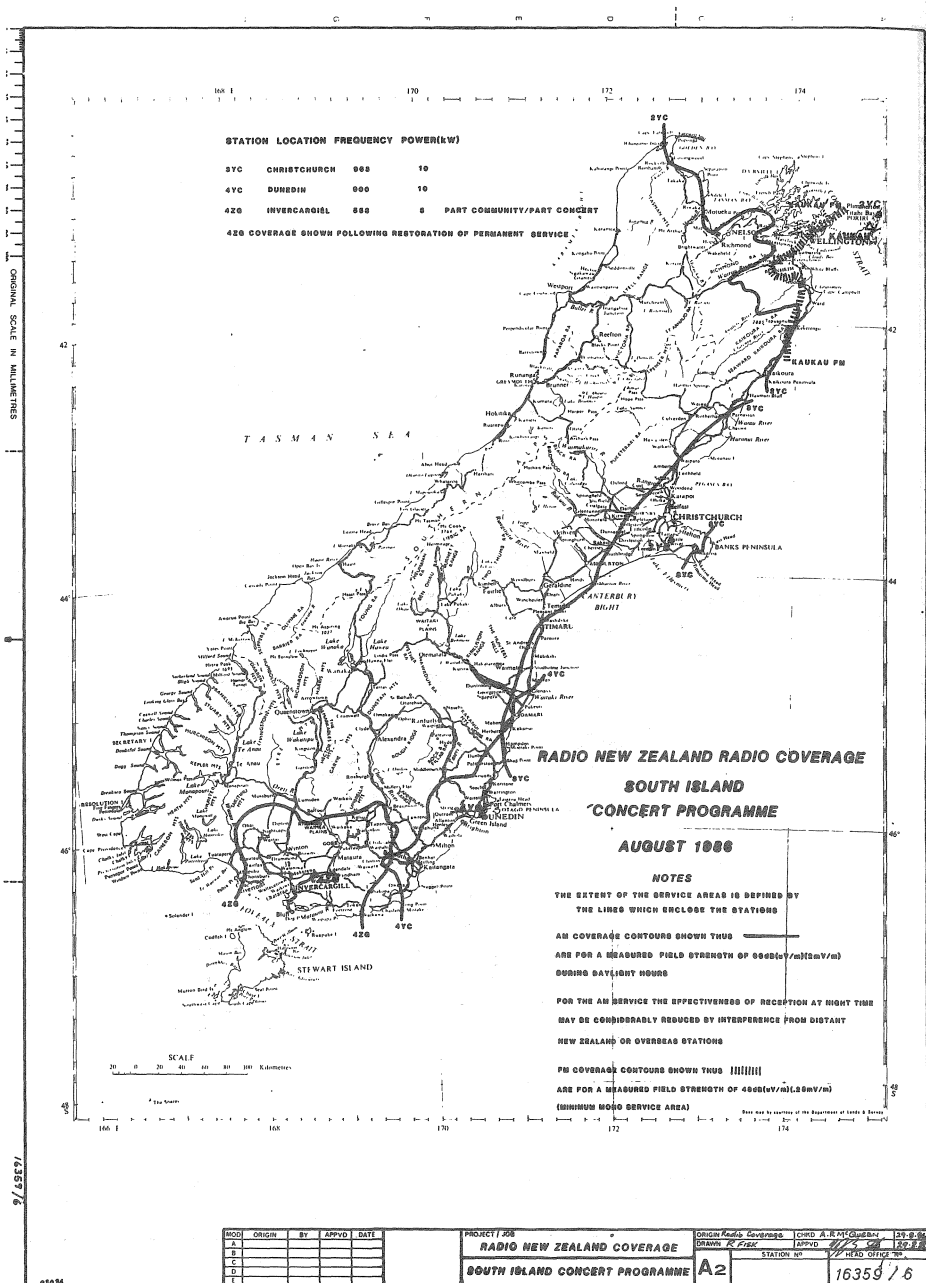
MAP 2



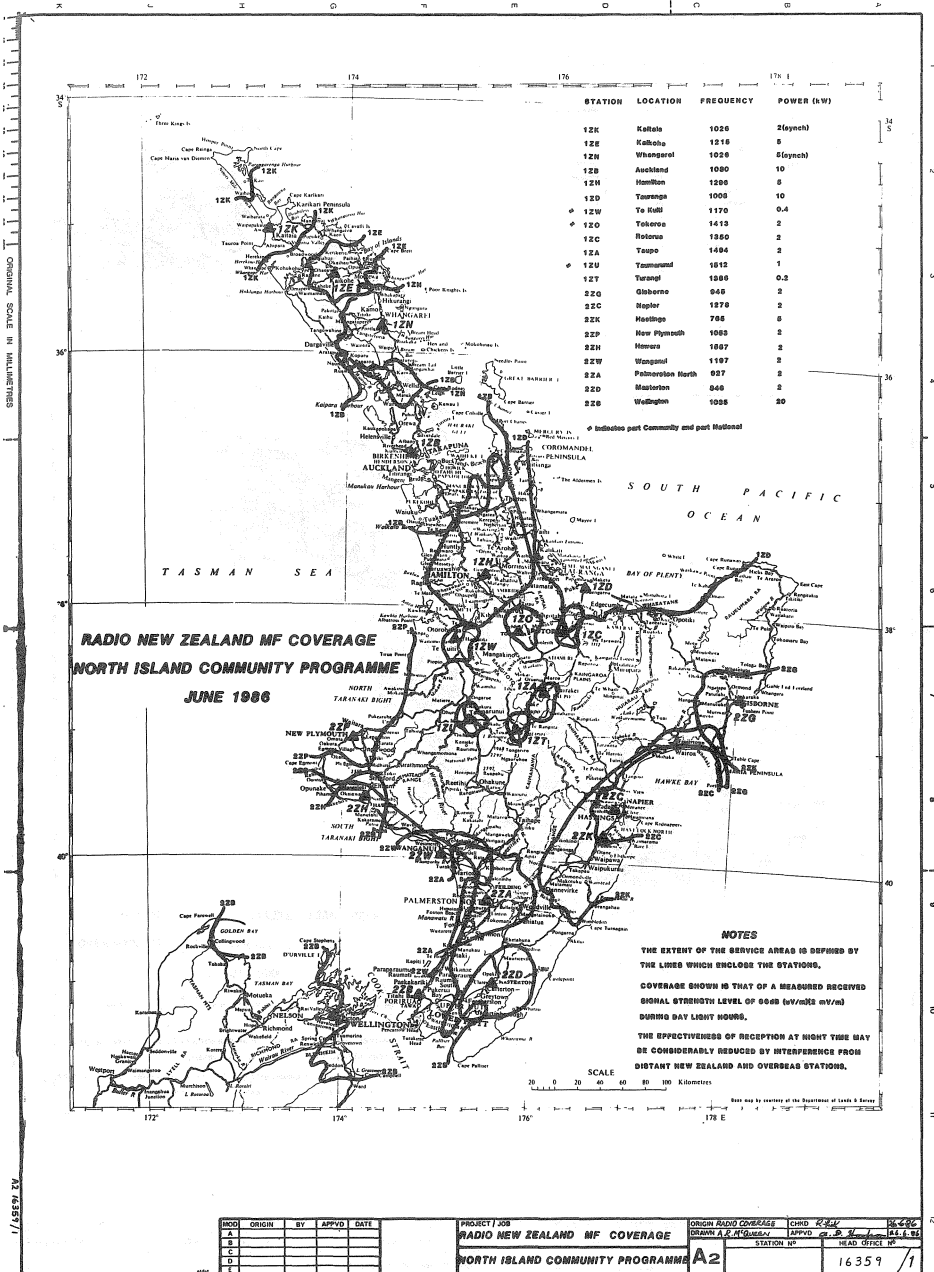
MAP 3



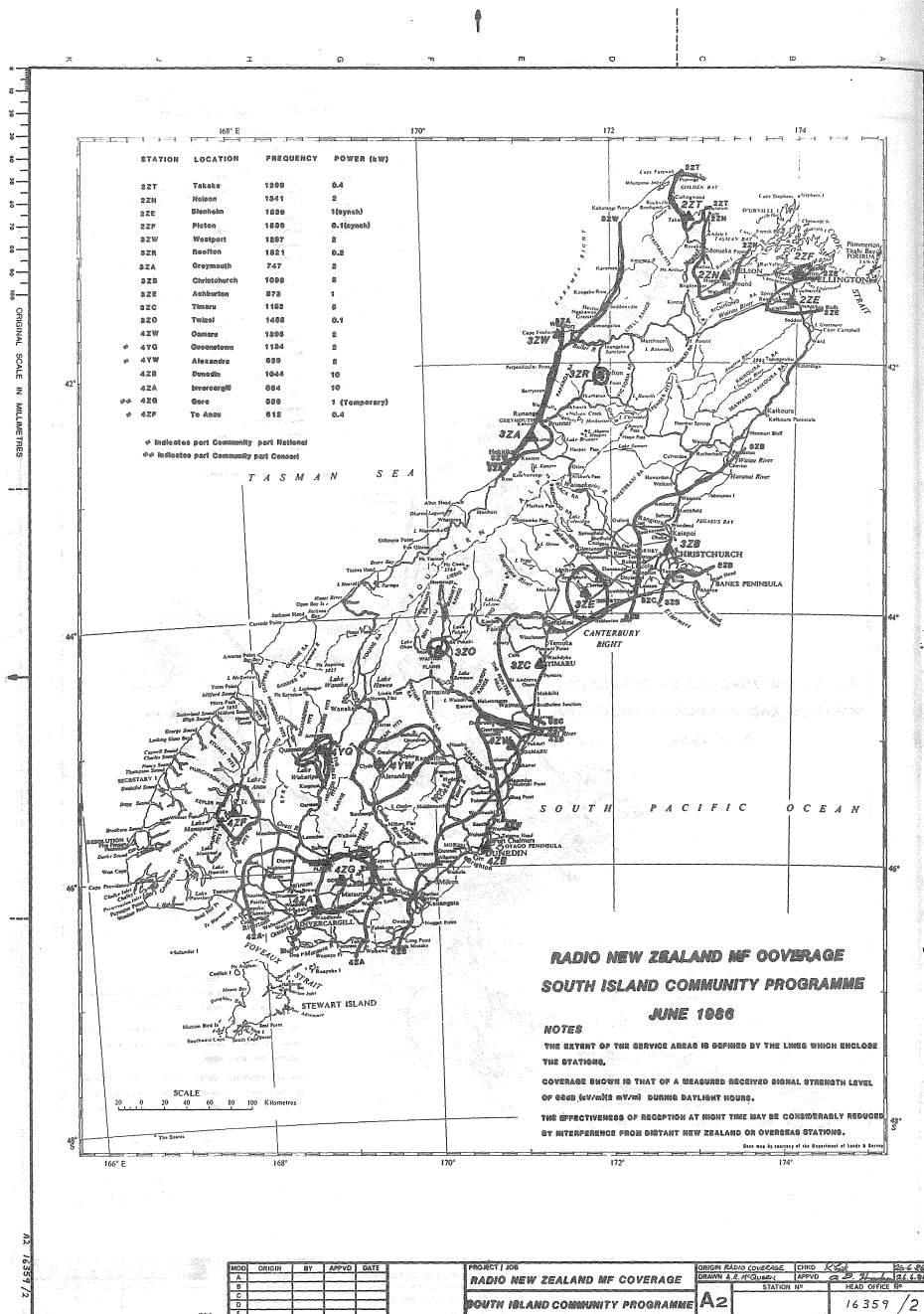
MAP 4



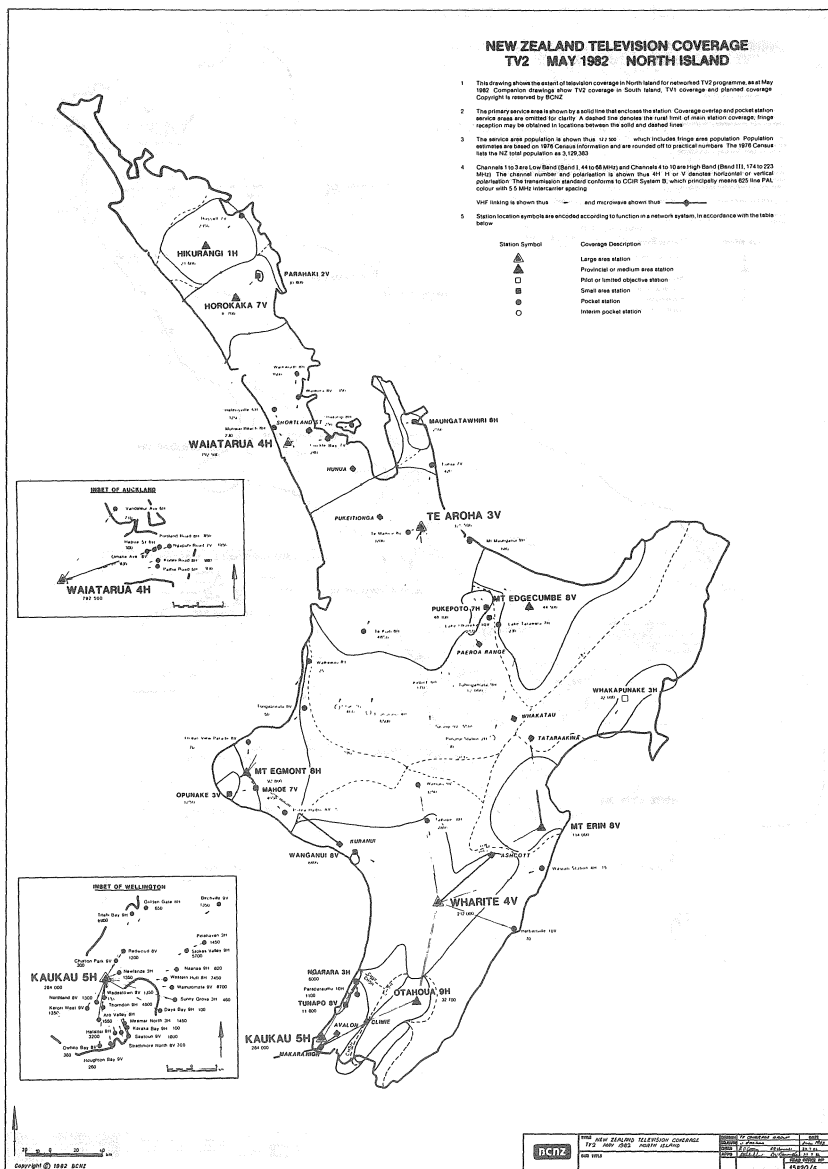
MAP 5



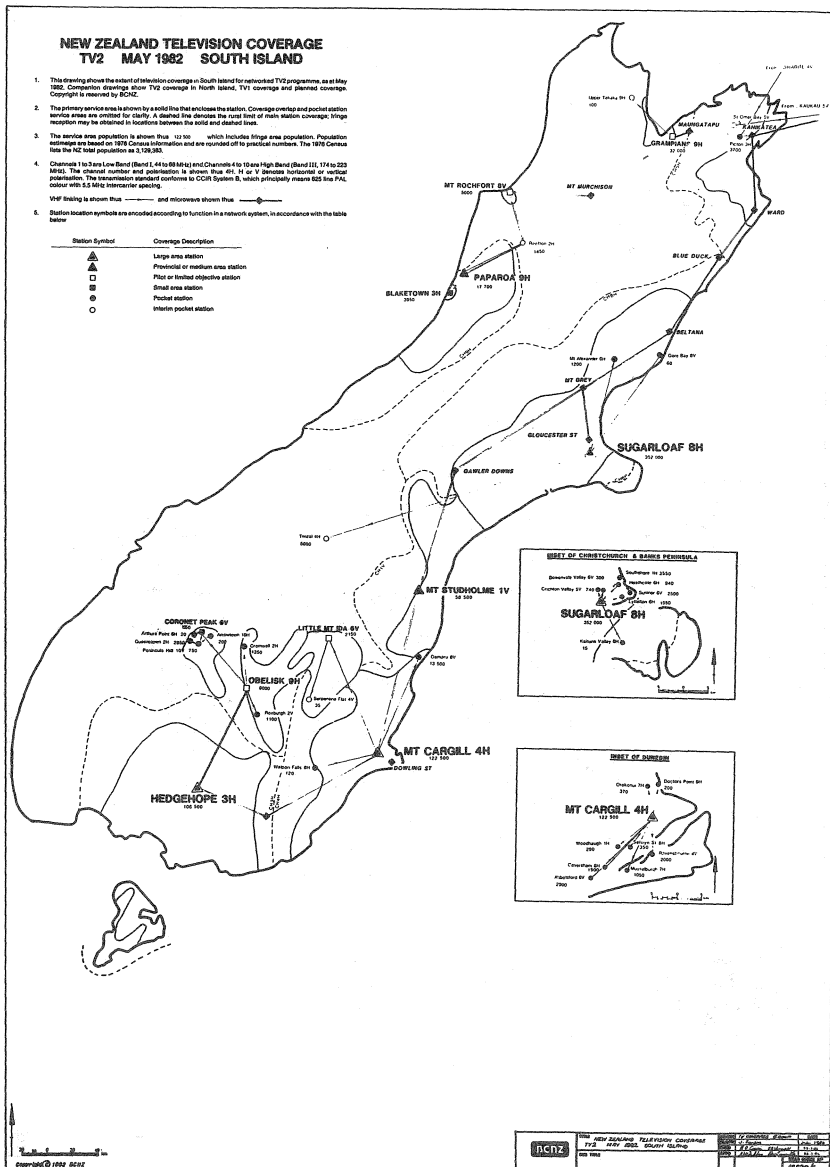
MAP 6



MAP 9



MAP 10

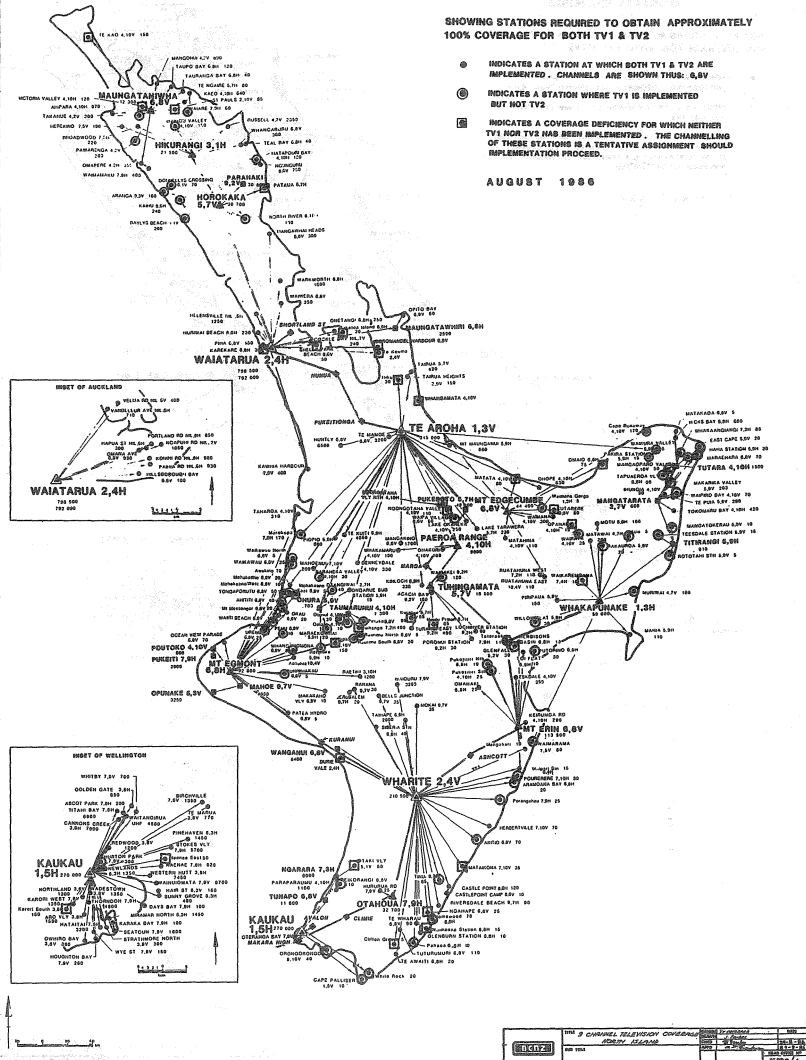


MAP 11

2 CHANNEL TELEVISION COVERAGE
NORTH ISLANDSHOWING STATIONS REQUIRED TO OBTAIN APPROXIMATELY
100% COVERAGE FOR BOTH TV1 & TV2

- INDICATES A STATION AT WHICH BOTH TV1 & TV2 ARE IMPLEMENTED. CHANNELS ARE SHOWN THUS: 6,5V
- INDICATES A STATION WHERE TV1 IS IMPLEMENTED BUT NOT TV2
- INDICATES A COVERAGE DEFICIENCY FOR WHICH NEITHER TV1 NOR TV2 HAS BEEN IMPLEMENTED. THE CHANNELING OF THESE STATIONS IS A TENTATIVE ASSIGNMENT SHOULD IMPLEMENTATION PROCEED.

AUGUST 1966

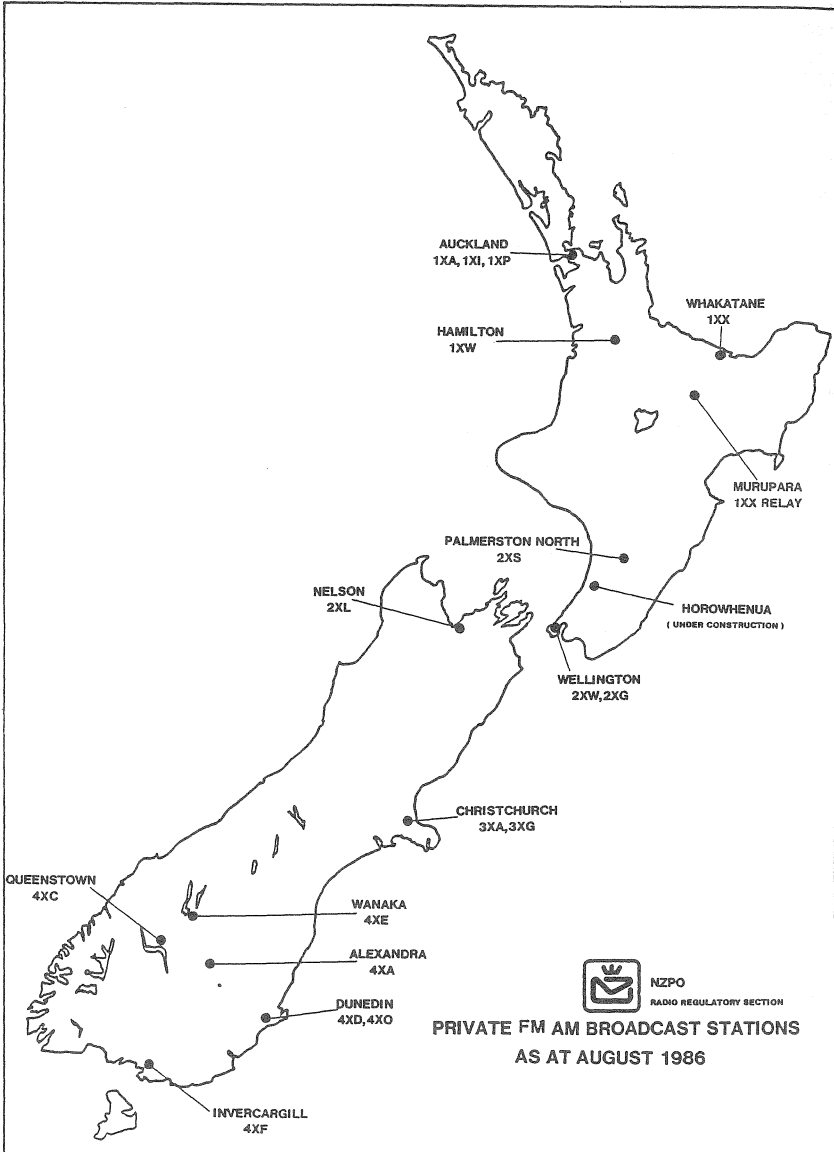


PRIVATE MF AM BROADCAST STATIONS

<i>Call Sign</i>	<i>Transmitter Location</i>	<i>Studio Location</i>	<i>Power kW</i>	<i>Freq.kHz</i>
1XA	Mangere	Auckland	5.0	1476
1XI	Te Atatu	Auckland	5.0	1332
1XP	Manukau	Orakei	5.0	1593
1XW	Ruakura	Hamilton	2.0	954
1XX	Whakatane	Whakatane	2.0	1242
1XX	Murupara (Relays 1XX)	Whakatane	1.0	1242
2XS	Palmerston North	Palmerston North	2.0	828
2XG	Wellington (Relays 3XG)	Wellington	5.0	1503
2XW	Horokiwi (Wellington)	Wellington	5.0	891
2XL	Nelson (Relays 3XG)	Nelson	1.0	801
3XA	Christchurch	Christchurch	2.0	1260
3XG	Christchurch	Christchurch	2.0	1503
4XA	Alexandra	Alexandra	2.0	531
4XC	Queenstown (Relays 4XA)	Queenstown	1.0	1359
4XE	Wanaka (Relays 4XA)	Queenstown	0.1	1359
4X0	Highcliff (Dunedin)	Dunedin	2.0	1206
4XD	Dunedin	Dunedin	2.0	1305
4XF	Invercargill	Invercargill	2.0	1224

(Courtesy of New Zealand Post Office Radio Regulatory Section)

MAP 13



PRIVATE VHF FM BROADCAST STATIONS

<i>Call Sign</i>	<i>Transmitter Location</i>	<i>Studio Location</i>	<i>TX kW</i>	<i>ERP kW</i>	<i>Freq. kHz</i>
1KCF-FM	Maungataniwha	Whangarei	2.0	10.0	91.20
1KCD-FM	Mt Hikurangi	Whangarei	1.0	10.0	89.60
1KCC-FM	Parahaki	Whangarei	0.1	0.1	90.30
1KCE-FM	Horokaka	Whangarei	1.0	10.0	92.40
1MJK-FM	Waiatarua	Auckland	10.0	50.0	91.00
1MMM-FM	Waiatarua	Auckland	10.0	50.0	89.40
1JJJ-FM	Te Aroha	Hamilton	10.0	50.0	89.80
2RHB-FM	Mt Erin	Hastings	1.0	2.5	92.70
3FMC-FM	Pareora	Freezing Works	0.02	0.02	91.00

(Courtesy of New Zealand Post Office Radio Regulatory Section)

MAP 14

