

Mr Stoker was not satisfied with this explanation however and laid his formal complaint with the Tribunal. The complaint was for the period December 1983 until the date of filing of the complaint, in other words from the time of the change of format.

His particular objection was stated as "because broadcast time signals have been accepted for over 50 years as reliable and accurate for the determination of time for astronomy and navigation and for the rating of chronometers, the delay to time signals (broadcast by Radio Pacific) could mislead users of accurate time and could result in significant navigational errors".

The formal complaint was referred to Radio Pacific whose reply was to the effect that Radio Pacific had already altered the rhythm of the audio signals as a result of Mr Stoker's earlier submissions.

Mr Lowe's reply advised that during the entire period Radio Pacific had been broadcasting audio signals of this style they had only received one comment, which was Mr Stoker's. He felt that if the broadcasts were likely to cause distress to those at sea, Radio Pacific would have heard of them.

For these reasons Radio Pacific did not feel it necessary to make any additional changes. He did not however suggest that Mr Stoker's measurement of the accuracy of Pacific's time signals was incorrect, and confirmed that while Radio Pacific was broadcasting talk-back programmes it was "in delay" for 7 seconds for the reason that it may at time be necessary to exist from particular calls.

The Tribunal considered all the arguments put forward by Mr Stoker and by Mr Lowe. It also listened to the time signals given on 2YA, as an example of the official New Zealand Time Service signals in August 1986, and those on Radio Pacific. It concluded that the differences between them were not such as to make Radio Pacific's signal, by comparison, unusual or distinctive.

The Tribunal's view was that the Pacific signals sound similar to the official time signals and could be confused.

It may be that these audio signals are not intended by Radio Pacific to be official, accurate time signals, but Mr Lowe himself refers to these audio signals as "the time signals" (refer letter dated 3 February 1984).

If a station is broadcasting an audio signal closely resembling the official time pips played by Radio New Zealand stations, then such signals are likely to be perceived as time signals by members of the listening public. This being so, they must be accurate.

As Mr Stoker pointed out, time signals have been broadcast in New Zealand for over 50 years. They were in fact first broadcast on 2YA in 1930 and then, as now, were broadcast as accurate time signals. These signals originate from the New Zealand Time Service and are regarded as the "official" time signals for many purposes.

The Tribunal considered Mr Stoker's argument that the delayed time signals from Radio Pacific could mislead users of accurate time and could result in significant navigational errors. Our view was that in fact significant navigational errors were unlikely as those

navigators of military or commercial vessels who use regularly time signals for their navigation would probably be aware of the exact form of the official time signals. They would be able to distinguish between the Pacific signal and the Radio New Zealand signal. However this might not apply to amateur sailors who could possibly be misled by Pacific's signal to the extent of navigating incorrectly.

The Tribunal understands however that a signal that is inaccurate by 7 seconds could result in a navigational error of up to ¼ mile or so. A similar level of error could well be caused by tidal flow or currents, and navigation involving the use of time would typically be used out at sea where such a level of error would be of little significance compared with coastal navigation.

The Tribunal considered Mr Lowe's reasons for not discontinuing the Pacific time signals. First, they are used as an indicator for talkback hosts that it is time to cross to the newsreader. The Tribunal has some difficulty with this argument as we considered that this indicator may not be essential for the smooth running of Radio Pacific. There are alternative non-broadcast procedures available for indicating the time to radio hosts.

Secondly, the time signals are used as a definitive warning that all network stations must join the link to take Radio Pacific's news service. The same comments apply here: such an indicator is not necessary and there are other alternatives available.

The Tribunal considered the complaint in the light of rule 1.1 (h) which says:

"In the preparation and presentation of programmes, broadcasters are required:

(h) to avoid the use of any deceptive programme practice which takes advantage of the confidence listeners have in the integrity of broadcasting."

Radio Pacific has not maintained that these audio signals are broadcast as official time signals. However there is so little difference between the signals broadcast by Radio Pacific and the official time signals broadcast by Radio New Zealand that the Tribunal considers that they could easily be confused; that Pacific's signals could deceive a listener into thinking an accurate time signal originating from the New Zealand Time Service was being broadcast. The Tribunal therefore considers that there has been a breach of this rule and the complaint is upheld.

Co-opted Members

Messrs Aked and Carlisle were co-opted as persons whose qualifications or experience were likely to be of assistance to the Tribunal in dealing with the complaint. They took part in the consideration of the complaint and the deliberations of the Tribunal but the decision is that of the permanent members.

Dated the 12th day of September 1986.

A. E. WILSON, for the Tribunal.

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