

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 20/91
Dated the 10th day of May 1991

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

NGA KAIWHAKAPUMAU I TE REO
(INC)
of Wellington

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson
J.B. Fish
J.L. Hardie
J.R. Morris

DECISION

Introduction

In March 1990, the following advertisements appeared on TV1:

- * A CRC caption contest advertisement featuring two Maori fishermen;
- * A Telecom advertisement in which John Hore sang "I've Been Everywhere"; and
- * An L.V. Martin Ltd advertisement featuring Alan Martin describing his warehouse at Ngauranga, Wellington.

Nga Kaiwhakapumau I Te Reo's Complaint to Television New Zealand Limited

Mr Piripi Walker, secretary of the Society, wrote to TVNZ Limited on 28 March 1990 to lay a formal complaint in respect of these three advertisements.

The CRC advertisement, he wrote, used racial stereotypes and was in bad taste and offensive. With regard to the Telecom advertisement, he said that about 70 - 80% of the



Maori place names were pronounced in a way that was a "pure bastardisation of our language". Because, as is the case with many Maori place names, a number of the names remembered ancestors, the advertisement was considered to be in bad taste and offensive to Maori language and culture. The pronunciation of Ngauranga in the L.V. Martin advertisement, which was described as an unrecognisable bastardisation, was also considered to be in bad taste.

The complaint alleged that the three advertisements breached the good taste and decency requirement in the Broadcasting Act 1989 and, in addition, the CRC advertisement breached standard 26 in the Television Codes of Broadcasting Practice which discourages the portrayal of persons in a manner which encourages the denigration of, or discrimination against, sections of the community on the grounds of, amongst other things, race.

The good taste and decency requirement is contained in s4(1)(a) of the Broadcasting Act 1989. It reads:

- (1) Every broadcaster is responsible for maintaining in its programmes and their presentation, standards which are consistent with -
 - (a) The observance of good taste and decency;

The complaint about the CRC advertisement was withdrawn in March 1991 because it did not deal with the Maori language and the Society accepted that there may have been no racist "intent" in making the advertisement. Any further references to this complaint will be brief.

TVNZ's Response to the Formal Complaint

Despite receiving the complaint beyond the statutory time limit during which complaints must be received, TVNZ exercised its discretion in favour of the complainant and decided to deal with it formally.

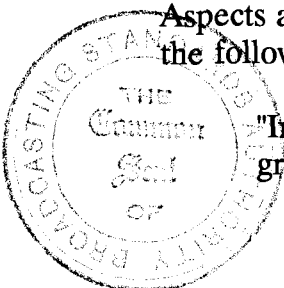
TVNZ advised the Society on 13 August 1990 that the complaint had been considered by TVNZ's Complaints Committee, with the following results.

First, the CRC advertisement was found not to have breached s4(1)(a) of the Broadcasting Act 1989 or standard 26 of the Television Codes of Broadcasting Practice.

Secondly, noting that the complaint about the Telecom advertisement related to the soundtrack, TVNZ wrote:

Aspects about the soundtrack were referred to the advertising agency who made the following comments:

"In the case of 'I've Been Everywhere' by John Hore, we have gone to a great deal of trouble to ensure it sounds exactly like the original hit of the



1960's. This has included using the original singer, recording equipment and techniques used in that era, and even 'scratched' the track to age it.

"There were words in the original like I'm a Guy and That's a Hui that were absolutely out of context with our commercial and made no sense in the track, but again out of respect for the original recording, we insisted that they must stay unchanged."

TVNZ acknowledged that some of the place names were mispronounced but believed this to be unintentional. TVNZ expressed the opinion that the Maori attitude to language differed from the European approach to English. The former, it was said, perceived language in a spiritual and emotional sense and admired the beauty of oratory. The latter tended to adopt a utilitarian approach to language as a means of communication although often finding beauty in literature.

Taking these points into account together with the fact that only two formal complaints had been received, the Complaints Committee did not believe that there had been a breach of the legislative requirement.

Nevertheless, TVNZ continued:

That did not mean that the Committee was happy with the imperfect pronunciation of the place names, or that it was not conscious of the fact that to Maori offence could be taken. The advertising agency concerned is being made aware of the Committee's viewpoint in the hope that if there are any new recordings made, advice will be taken as to correct pronunciation, that is if Maori place names are again used.

Thirdly, with regard to Mr Alan Martin's pronunciation of Ngauranga, TVNZ wrote:

Mr Martin's difficulty with the pronunciation was acknowledged by the Committee but it considered that it was not offensive or in the same category as the multiplicity of mispronunciations of the Telecom commercial. It was certainly not deliberate. Likewise, as with the other two advertisements, the Committee did not believe the statutory standard relating to taste and decency had been breached. Accordingly, your complaint was not upheld.

The letter concluded by pointing out that because pronunciation shortcomings were usually based on ignorance and lack of consideration, TVNZ was taking "strong and positive measures to ensure correct Maori pronunciation in its programmes".

Nga Kaiwhakapumau I Te Reo's complaint to Te Mana Whanonga Kaipaho (The Broadcasting Standards Authority)

As the Society was dissatisfied with TVNZ's decision, it referred the complaint to the Broadcasting Standards Authority on 15 August 1990 under section 8(a) of the Broadcasting Act 1989. A completed Complaint Referral Form required by the



Authority was received on 8 November 1990.

The Society stated that it was unacceptable for Maori place names to be mispronounced knowingly on television. Further, as TVNZ had the opportunity to preview advertisements, "there is no excuse for the language to be mangled". It added that TVNZ, on the issue of the pronunciation of Maori in the advertisements, should have sought the Maori Language Commission's advice.

Television New Zealand's Response to the Broadcasting Standards Authority

The Authority referred the complaint to TVNZ for comment on 8 November 1990 and TVNZ responded in a letter dated 13 February 1991. Regarding the Telecom advertisement, it said that its Complaints Committee had not accepted the allegation that the imperfect mispronunciations of Maori place names were insulting. Pointing out that the pronunciation of Maori varied in society, including between iwi, it asked which authority determined correctness. It continued:

To expect every Maori place name used in the Telecom advertisement, or for that matter oral communication in Maori, to be absolutely correct is, with due respect, hoping for the impossible. Furthermore, there is no evidence to show to what degree the pronunciation of the advertisement may be astray. Given the speed at which the place names tumbled forth it is submitted that it is very difficult to determine this aspect with any precision. But it is accepted that they were not spot on, and furthermore to expect correctness of any language being uttered at a musical gallop would be a case of misplaced optimism.

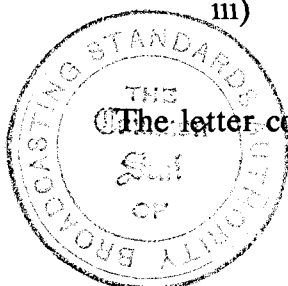
The advertisement's euphony and lilt, it was said, gave cause for admiration rather than allegations of dubious taste and decency. Furthermore, the reality of pronunciation was controlled by established usage. Accordingly, the currently accepted taste and decency boundaries were not breached in the context of an advertisement which involved "a musical gallop".

In the case of the L.V. Martin advertisement, TVNZ repeated its claim that the presenter pronounced the word Ngauranga in the way used by most Wellingtonians.

In reply to three specific points made by the Society, TVNZ stated:

- i) seeking the advice of the Maori Language Commission was not necessary when assessing the legislative requirement for good taste and decency;
- ii) the acknowledged shortcomings in pronunciation did not amount to a breach of the taste and decency requirement; and
- iii) an advertisement vetting system was in operation but, again, the acknowledged imperfections did not breach the legislation.

The letter concluded:



Finally the company would submit that while there may have been some shortcomings with regard to pronunciation they do not amount to breaches of statutory provisions given all the relevant circumstances as outlined above.

Nga Kaiwhakapumau I Te Reo's Final Comment to the Authority

At the Authority's invitation, by a letter dated 12 March 1991, the Society commented on TVNZ's response.

It began by withdrawing the complaint against the CRC advertisement as it did not deal with the Maori language and it was accepted that there may have been no racist "intent" in making the advertisement.

With regard to the point made by TVNZ that there were few complaints, the Society wrote that this assumed that the majority had the right to decide standards. Moreover, the Society described itself as a representative voice on Maori language issues and it was also of the view that many Maori considered it futile to complain in view of the continuing way in which the Maori language was abused.

Secondly, the protection of Maori culture was guaranteed by the Treaty of Waitangi. Questioning the extent of Maori representation on the bodies which had and were assessing the complaint, it asked:

... how can any of these bodies purport to decide what is decent for the Maori community?

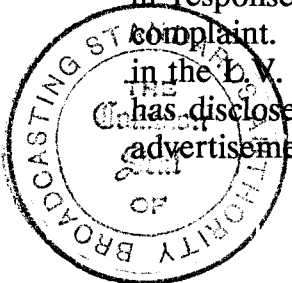
Thirdly, it considered that TVNZ's acknowledgement of some "shortcomings" was insufficient and that the reproduction of an historical hit had revived attitudes which were more prevalent at the time which the record was first released.

Fourthly, pointing out that Maori are sensitive to the use of the language, the Society observed that there was more than one community in New Zealand. In addition, it was necessary to distinguish between public and private use of the language.

In conclusion we repeat: mangling Maori language which is a taonga is offensive to Maori especially when on the prestigious medium of television.

Decision

The Authority has studied the correspondence and carefully considered the arguments put forward by Nga Kaiwhakapumau I Te Reo in support of its complaint and by TVNZ in response. All members have viewed the advertisements which gave rise to the complaint. It is recorded that all parties accepted that the pronunciation of "Ngauranga" in the B. V. Martin advertisement was incorrect. Further, the Authority's own research has disclosed that approximately two thirds of the Maori place names in the Telecom advertisement were mispronounced.



The Society has claimed that the broadcast of these advertisements breached the legislative standard in s4(1)(a) of the Broadcasting Act 1989 which requires all broadcasters to maintain in their programmes standards which are consistent with the observance of good taste and decency. The Act defines a programme in a way which includes an advertisement. Thus, the requirements of s4(1)(a) apply to these advertisements.

The correspondence about this complaint necessitates a focus on a definition of the concept of good taste and decency. In Decision No: 2/90, the Authority wrote:

In the Authority's view the concept of good taste and decency in a given situation or context pertains to conformity with such standards of propriety as the Authority considers to be in accord with the generally accepted attitudes, values and expectations in New Zealand society.

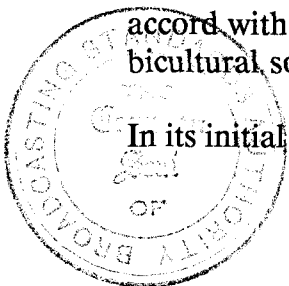
The Authority considers that this complaint requires an expansion of this definition and in particular the phrase "New Zealand Society", believing that the definition advanced in Decision No: 2/90 gives inadequate recognition to the fact that New Zealand is a pluralistic society. Biculturalism is the aspect which must be acknowledged when assessing the current complaint. Specifically, it is recognised that the Maori language was established as an official language in New Zealand by the Maori Language Act 1987.

Furthermore, the Authority takes cognisance of the fact, as the Society concludes in its final letter to the Authority, that television is an important medium. The Authority does not expect either television or radio always and invariably to meet traditional standards on or concerning the "Queen's English". However, the correspondence columns in a variety of media reflect a continuing concern that television in particular should maintain an acceptable level of standard New Zealand English - both in terms of grammar and pronunciation. Because of the legal status of the Maori language, the Authority considers that similarly all broadcasters should maintain an acceptable level of pronunciation and grammar of New Zealand Maori.

The Authority acknowledges that there are dialectal differences in Maori between iwi. For example, New Zealand's tallest mountain is known as both Aorangi and Aoraki, depending on the speaker's origin. Similarly, in English, Dunedin's Castle Street is pronounced differently by the locals and those from other parts of the country. The Authority uses these examples to make the point that regional variations do not detract from the fact that, overall, there are generally accepted national standards for New Zealand's two official languages.

Notwithstanding this conclusion about national language standards, the Authority is required first, to consider whether the pronunciation of Maori in the Telecom advertisement was consistent with the good taste and decency requirement. Or, to use the definition from Decision No: 2/90 as expanded, whether the advertisement was in accord with the generally accepted attitudes, values and expectations in New Zealand's bicultural society.

In its initial letter of complaint to TVNZ, the complainant pointed out that place names



frequently recalled ancestors. The Authority recognises that Maori place names are special and have a spiritual significance which is an integral part of the culture. A place name is an historical account of that area. It enhances teachings from ancestors which have been transmitted orally from generation to generation. Indeed, Maori history and culture is intrinsically bound to the oral use of the Maori language.

Both the programmes complained about were advertisements. As advertisements (and this point is confirmed by the agency which made the Telecom advertisement), their preparation and presentation were carefully planned. Furthermore, as advertisements, they were presented in a way designed to attract the viewers' attention which, in many cases, involves portraying an ideal social situation which by implication viewers may wish to emulate.

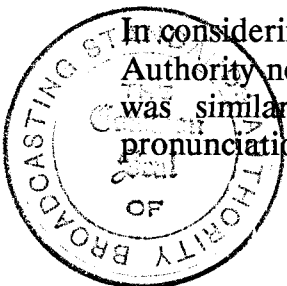
The Telecom advertisement, TVNZ advised, was intentionally designed, by the use of the scratches for example, to evoke the 1960s when the song "I've Been Everywhere" was a popular tune. The Authority considers that the historic or nostalgic aspect of the advertisement was inadequately portrayed in the final product as broadcast. In addition, regardless of the beautiful lilt claimed by TVNZ for the advertisement, it contained 43 rapidly pronounced Maori place names of which approximately two thirds were mispronounced. A number of the mispronunciations displayed a high degree of insensitivity, such as the use of "Waipuk" for Waipukurau.

On the other hand, the Authority accepts that the mispronunciations occurred during the rapid enunciation of the lyrics, and it is considered that this "musical gallop" would have caused less offence than had the mispronunciations occurred during some other, more sober, form of communication. Furthermore, although the historical theme was inadequately portrayed, the advertisement was light-hearted and included a touch of humour.

The Authority is of the view that the multiple use of mispronounced Maori place names in the Telecom advertisement displayed crass insensitivity - rather than intentional abuse - and was insulting both to fluent speakers of Maori and to bicultural New Zealanders. Dynamic changes have occurred in New Zealand culture (both Maori and non-Maori) in the past 30 years and the advertisement's inadequate historical allusion may be seen by some to revive outdated attitudes rather than to promote humorous themes. Accordingly, the Authority determined that, as the Telecom advertisement was not in accord with the attitudes, values and expectations of New Zealand's bicultural society, its broadcast breached the good taste and decency standard required by the Broadcasting Act 1989.

Accordingly, the Authority upholds the complaint that the broadcast of the Telecom advertisement breached the good taste and decency requirement of section 4(1)(a) of the Broadcasting Act 1989.

In considering whether the L.V. Martin advertisement breached the same standard, the Authority noted that it was qualitatively different from the Telecom advertisement. It was similar to the extent only that it included the erroneous and insensitive pronunciation of a Maori place name, in this case Ngauranga. This was the only Maori



word mispronounced, it occurred only twice and the Authority accepted that the mispronunciation was unintentional.

Accordingly, a majority of the Authority determined that the broadcast of this advertisement did not breach the good taste and decency requirement of section 4(1)(d) of the Broadcasting Act 1989.

For the reasons set forth above, the Authority upholds the complaint in part.

The Authority wishes to record that this decision has been reached only after considerable thought. The same applies to the accompanying decision on Mr Seymour's complaint about the same Telecom advertisement based on an alleged breach of standard 26 of the Television Codes of Broadcasting Practice.

As a result of its work, the Authority has been made more aware of the significance of the Maori language and place names to Maori. It draws the reader's attention to the final comments in the decision No: 19/91 (Mr Seymour's complaint) about the attitude to the Maori language which the Authority expects of broadcasters.

Signed for and on behalf of the Authority

Jocelyn Fish
Jocelyn Fish



10 May 1991