

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 103/93
Dated the 30th day of August 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

C.M.A. THOMPSON
of Christchurch

Broadcaster
TELEVISION NEW ZEALAND
LIMITED

I.W. Gallaway Chairperson
J.R. Morris
R.A. Barraclough
L.M. Dawson

DECISION

Introduction

The broadcast of the programme *Waka Huia* on TV1 on Anzac Day 1993 between 10.00 - 11.00am dealt with one man's experiences as a soldier and prisoner-of-war in Colditz Castle during the second World War. The programme was in Maori and did not include English subtitles.

Mr Thompson complained to Television New Zealand Ltd that the absence of subtitles meant that the vast majority of New Zealanders were discriminated against as they would not have been able to understand.

Maintaining that the purpose of *Waka Huia* was to promote Maori language and culture and that Maori was an official language, TVNZ denied that the broadcast was discriminatory. Dissatisfied with TVNZ's decision, Mr Thompson referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

Decision

The members of the Authority have viewed the programme complained about and have read the correspondence (summarised in the Appendix). As is its practice, the Authority



has determined the complaint without a formal hearing.

The 1993 Anzac Day broadcast of *Waka Huia* included one man's account of being a member of the Maori Battalion during the Second World War and later being a prisoner-of-war in Colditz Castle. Mr Thompson complained to TVNZ that as the entire programme was in Maori without subtitles, it had discriminated against the vast majority of New Zealanders who did not speak Maori. In his later correspondence, Mr Thompson stressed that he was not anti-Maori and that he was not against the broadcast of programmes in Maori. However, as the programme unlike other programmes in Maori had not included subtitles, TVNZ had discriminated against New Zealanders who did not speak Maori.

TVNZ assessed the complaint under standard G13 of the Television Code of Broadcasting Practice. It requires broadcasters:

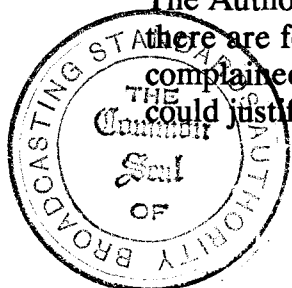
G13 To avoid portraying people in a way which is likely to encourage denigration of or discrimination against any section of the community on account of sex, race, age, disability, occupation status, sexual orientation or the holding of any religious, cultural or political belief. This requirement is not intended to prevent the broadcast of material which is:

- i) factual, or
- ii) the expression of genuinely-held opinion in a news or current affairs programme, or
- iii) in the legitimate context of a humorous, satirical or dramatic work.

Beginning by emphasising the role of *Waka Huia* as an archival Maori language programme recording the oral history and tradition of Maori people, TVNZ pointed out that Maori was an official language and that the Broadcasting Act required broadcasters to recognise Maori culture. Subtitles in Maori, it continued were not included in programmes in English and, furthermore, subtitles in programmes in Maori were distracting to Maori viewers who were usually fluent in English. Pointing to the tiny proportion of television programmes in New Zealand which were broadcast in Maori (0.02%) TVNZ declined to uphold the complaint that the absence of subtitles meant that the vast majority of New Zealanders were discriminated against.

The Authority noted Mr Thompson's understandable annoyance at not being able to follow a programme on a subject in which he apparently had a keen interest. It accepted that he would have liked to hear about one soldier's reminiscences, a sentiment shared by some Authority members.

The Authority also took into account the fact that Maori is an official language and that there are few television programmes in Maori. It also appreciated that the programme complained about was not an item in an English language news bulletin where subtitles could justifiably be expected when a language other than English was used. In addition,



the Authority accepted that te reo Maori is a taonga and that as subtitles can be distracting, it is the broadcaster's decision whether or not to include them. Mr Thompson maintained that other TVNZ programmes in Maori, eg *Marae*, specifically included subtitles.

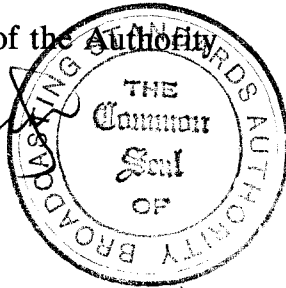
Taking into account, first, the experiences in other countries where television programmes are broadcast in the languages of ethnic minorities, secondly, that radio broadcasts in New Zealand are now broadcast in a variety of languages and thirdly, that similar television programming is likely to occur in the near future, the Authority accepted TVNZ's argument that not including subtitles on *Waka Huia* did not involve discriminatory actions. Further, the Authority accepted that the broadcast of the programme without subtitles was based on an appreciation of the principles of the Treaty of Waitangi. Accordingly, as the programme did not portray people in a way which was likely to encourage discrimination against them, the Authority concluded that the broadcast did not contravene standard G13 of the Television Code of Broadcasting Practice.

For the reasons set forth above, the Authority declines to uphold the complaint.

Signed for and on behalf of the Authority



Iain Gallaway
Chairperson



30 August 1993

Appendix

Mr Thompson's Complaint to Television New Zealand Limited

In a letter dated 28 April 1993, Mr C.M.A. Thompson of Christchurch complained to Television New Zealand Ltd about the broadcast of *Waka Huia* between 10.00 - 11.00am on TV1 on Anzac Day.

Stating that he wanted to hear the story of a prisoner-of-war in Colditz Castle during World War II, he said he was annoyed that the entire one-hour programme was in Maori without subtitles. He wrote:

This is an English speaking country and I believe it should not have been allowed.

In a later letter, he described the broadcast as unacceptable discrimination against the vast majority of New Zealanders who did not speak Maori.

TVNZ's Response to the Formal Complaint

TVNZ advised Mr Thompson of its Complaints Committee's decision in a letter dated 22 June 1993. It reported that it had considered the complaint about the absence of subtitles under standard G13 of the Television Code of Broadcasting Practice which requires broadcasters to avoid portraying sections of the community in a way which is likely to encourage discrimination.

Waka Huia, it began, was established seven years ago as an archival Maori language programme to record the oral history and tradition of the Maori people. For that reason, it had been decided to broadcast the experiences of a Maori soldier in Colditz Castle during the second World War.

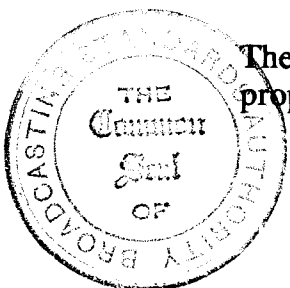
TVNZ also pointed out that Maori was an official language in New Zealand and that the Broadcasting Act required broadcasters to recognise Maori culture. It continued:

The Committee was firmly of the view that Maori speakers who enjoy hearing programmes in Maori should be able to do so without the encumbrance of English language sub-titles over their programmes.

Noting the probable uproar should programmes in English include subtitles in Maori, TVNZ argued that although subtitles could be a useful educational tool, they could also be distracting to Maori viewers who were usually fluent in English.

TVNZ declined to uphold the complaint, concluding:

The [Complaints] Committee felt very strongly that "Waka Huia" acted properly and correctly in showing this interview in Maori without sub-titles. It



dismissed your suggestion that the vast majority of New Zealanders were discriminated against.

Mr Thompson's Complaint to the Broadcasting Standards Authority

As he was dissatisfied with TVNZ's reply, in a letter dated 8 July 1993 Mr Thompson referred his complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

Mr Thompson emphasised that he was not complaining that the broadcast had been in Maori but about the absence of subtitles in the broadcast which had deprived him of the opportunity of hearing about one person's war-time experiences in Colditz Castle.

He agreed with TVNZ about the programme's importance in supporting Maori language and culture but was incensed that he and the vast majority of New Zealanders had been deprived from learning one particular story. The use of a minority language without a translation, he maintained, amounted to discrimination. Moreover, it had been advertised for "General" viewing which, he said, was incorrect.

TVNZ's Response to the Broadcasting Standards Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is 22 July 1993 and TVNZ's response, 26 July.

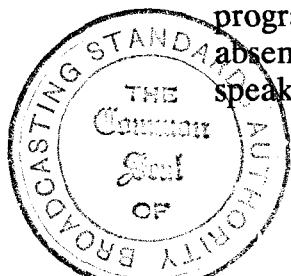
While appreciating Mr Thompson's interest in learning about a man's experiences in Colditz Castle, TVNZ said:

Maori is an official language in this country and as we explained to Mr Thompson in our letter to him dated 22 June, "Waka Huia" is an archival Maori language programme which aims to record the oral history and traditions of Maori people as told through the eyes of Maori elders.

Adding that the programme played a significant role in preserving language and culture, TVNZ argued that Anzac Day was an appropriate time to broadcast one person's war-time experiences.

TVNZ also commented:

On a different level, the Company also believes that proper recognition of the Maori language requires that those who feel more comfortable with programmes in Maori should be able to watch such programmes without the encumbrance of distracting English sub-titles. That only 0.02% of television programmes in New Zealand are broadcast in Maori suggests to us the absence of sub-titles does not place an unreasonable burden on non-Maori speakers.



Referring to the status of Maori as an official language, TVNZ rejected any suggestion that the absence of subtitles meant that a minority received preferential treatment. It also maintained that it was relevant to consider the reaction should programmes in English contain subtitles in Maori.

Mr Thompson's Final Comment to the Authority

When asked to comment on TVNZ's response, in a letter dated 2 August 1993 Mr Thompson made four points:

- 1) Referring to his war experiences, he said that he was not anti-Maori and accepted that Maori was an official language.
- 2) In its response to the formal complaint, TVNZ acknowledged that the programme was an important contribution to the remembrance of all New Zealand soldiers but had omitted that acknowledgment in its report to the Authority.
- 3) As *Waka Huia* was funded by *NZ On Air* and was given a "G" classification, it should be understandable by all New Zealanders.
- 4) Pointing out that English subtitles had been used on the programme *Marae* to ensure that its message was understood widely, Mr Thompson said that lack of subtitles in *Waka Huia* showed an intention to "shut out" English speaking New Zealanders. That, he said, was discrimination.

He concluded:

TVNZ is exercising a selective, manipulative and discriminatory policy which contributes nothing to a broader understanding of the Maori language and culture.

