



New Zealand House of Representatives
Te Whare Māngai o Aotearoa

Social Services and Community Committee

Komiti Whiriwhiri Take Ratonga Pāpori, Take Hapori

54th Parliament

April 2024

**Petition of Hope Cotton: Create legal
captioning standards for New Zealand media**

Presented to the House of Representatives
by Joseph Mooney, Chairperson

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Petition of Hope Cotton

Recommendation

The Social Services and Community Committee has considered the petition of Hope Cotton—Create legal captioning standards for New Zealand media—and recommends that the House take note of its report.

Request for captioning requirements for all television and media organisations

The petition was presented to the House on 17 November 2022. It requests:

That the House of Representatives put in place a requirement for captioning by all television and media organisations in New Zealand.

The Social Services and Community Committee of the 53rd Parliament received submissions from the petitioner, the Broadcasting Standards Authority | Te Mana Whanonga Kaipāho, Ministry for Culture and Heritage | Manatū Taonga, and Whaikaha | Ministry of Disabled People. The petition was reinstated at the start of the 54th Parliament. We received evidence from the Minister for Arts, Culture and Heritage, the Minister for Disability Issues, and the Minister for Media and Communications.

Comments from the petitioner

The petitioner believes there should be a legal requirement that all television and media organisations in New Zealand provide captions. She believes these requirements would, among other things:

- allow deaf, hard of hearing, and neurodivergent New Zealanders to access media for entertainment, news, and current events
- make educational resources more accessible
- make it easier to access information in this digital world
- help those with English as a second language
- combat the potential spread of misinformation caused by incorrect auto-generated captioning.

On this last point, the petitioner maintains that incorrect auto-generated captioning can be dangerous. For example, she said, it has been known to replace phrases like “wear masks”, in relation to COVID-19, with “share masks”.

In the petitioner’s experience as a deaf person, a lack of captioning on popular media and educational resources feels isolating. She finds it “exhausting and demoralising” to access media without captions, particularly educational content.

We heard that in 2015 only 31 percent of free-to-air television in New Zealand was captioned. Captioning is provided for free-to-air television by the organisation Able, and is

funded through NZ On Air.¹ There are currently no legal requirements for captioning in New Zealand media.

A 2017 select committee inquiry into captioning in New Zealand, referenced by the petitioner, recommended that:

- the provision of captioning content be a requirement for NZ On Air and Film Commission funding
- further progress be made in improving captioning access, including all platforms from broadcast to online content, and film screenings.²

The petitioner believes that to make further progress in this area New Zealand needs a legal requirement for captioning. By not doing so, she said, the New Zealand Government is not meeting its obligations or responsibilities under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).³ She told us that New Zealand is one of the only countries in the OECD without a legal requirement for closed captioning. She recommended that the Government create enforceable legislation requiring accurate closed captioning on all digital, broadcast, and online media content distributed in New Zealand.

United Nations Convention on the Rights of Persons with Disabilities

The New Zealand Government signed the UNCRPD in 2008. In article nine of the convention, it states that signatories shall “take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems”.⁴ The petitioner considers that this would encompass legislating to ensure that captioning standards are met.

To support this, the petitioner cited a 2022 United Nations report that commented on the progress made by New Zealand under the UNCRPD. In section 44 of the report, the United Nations recommended that New Zealand “adopt legislation to ensure captioning and audio description is provided on television channels with funding security.”⁵ The petitioner believes the Government is acting against its responsibilities to the UNCRPD by not following this recommendation. She maintains that any legislation must be actionable, enforceable, and with most of the financial responsibility on producers and broadcasters.

Suggested legislation for captioning standards

The petitioner suggested that legislation could establish a regulatory body to set captioning standards and enforce them. It could also serve as a “watchdog”, making sure that captions

¹ Able is a not-for-profit organisation and New Zealand's largest provider of media access services, including captioning, subtitling, and audio description. For more information, see: [Making media accessible | Able](#).

² [Inquiry into captioning in New Zealand \(Report of the Government Administration Committee\) | NZ Parliament](#).

³ For more information about the UNCRPD, see [United Nations Convention on the Rights of Persons with Disabilities | Office for Disability Issues](#).

⁴ [Convention on the Rights of Persons with Disabilities and Optional Protocol | United Nations Convention on the Rights of Persons with Disabilities](#), p 9.

⁵ [Concluding observations on the combined second and third periodic reports of New Zealand | United Nations](#).

are accurate and consistent. She told us that iwi representatives could serve on the board, to ensure that translation of te reo Māori is accurate.

It would be a big step to go from current captioning levels to much wider implementation, the petitioner acknowledged, but she said it would not all need to be done at once. She suggested that the regulatory body could set timeframes for implementation, such as 5 to 10 years.

In the long term, the petitioner envisaged, the body's mandate could expand to increase access for blind New Zealanders to audio descriptive services.

We asked about any international examples of captioning legislation. The petitioner said she believes that "pretty much every other country in the OECD has done it successfully". Specifically, we heard that Australia, the United Kingdom, and the United States are all good examples.

Comments from Ministry for Culture and Heritage | Manatū Taonga

We invited the Ministry for Culture and Heritage to make a written submission. In it, the ministry informed us that it had met with the petitioner in November 2022, alongside the Minister for Broadcasting and Media. The discussion covered the petition, related issues in the media sector, and government initiatives then under way to improve media accessibility. The ministry's submission did not say whether any changes had subsequently been made.

The ministry acknowledged that New Zealand should aim to provide a high level of captioning and audio descriptions in media products. It said that this would mean that people who are blind, vision impaired, deaf, or hard of hearing would be able to access media on an equal basis with others.

The ministry indicated that it intends to progress work on captioning and audio descriptions, and the accessibility of modern forms of media, as part of its review of the Broadcasting Act 1989. It will determine whether regulation is necessary to entrench any changes made. It said that public consultation will be part of this work.

Comments from Whaikaha | Ministry of Disabled People

Whaikaha submitted that it strongly supports increased access to captioning. Part of the ministry's work is to improve outcomes for all disabled people, and to support other government agencies to incorporate disability perspectives into their work. It outlined the benefits of access to captioning, both for those within the deaf community and others.

Increased access to captioning is one of the key outcomes sought under the ministry's New Zealand Disability Strategy (2016–2026). The ministry is also working on the implementation of the UNCPRD. It said that it encourages the use of captioning, audio description, and screen-in-screen use of New Zealand Sign Language translation as ways to increase inclusion in New Zealand media.

The ministry said that improvements to captioning resources would require better technologies and funding. It observed that the budget for captioning is managed by the

Ministry for Culture and Heritage, with captioning services contracted from Able by NZ On Air. It said that in 2020, additional funding from the COVID-19 arts recovery fund allowed for an increase in annual funding to Able, from \$2.9 million to \$4.9 million. It commended this boost to funding for captioning services.

Comments from the Broadcasting Standards Authority | Te Mana Whanonga Kaipāho

The Broadcasting Standards Authority welcomed the opportunity to make a submission, but noted that setting captioning standards is not within its powers.

The BSA was established by the Broadcasting Act to set programme standards in broadcasting. The requirements of the Act do not enable the BSA to mandate captioning. Although the Act allows the BSA to create and enforce codes related to discrimination, this only extends to discrimination through the “portrayal of persons in programmes”.

It said it was unaware of any regulator with direct oversight of this issue, and agrees with the petitioner that legislative change may be needed. It suggested that the committee consider consulting with the Department of Internal Affairs | Te Tari Taiwhenua, which is conducting a review of media and online content regulation to address gaps in existing legislation.⁶

Comments from Ministers in the 54th Parliament

We invited the Minister for Arts, Culture and Heritage, the Minister for Disability Issues, and the Minister for Media and Communications to provide further evidence on this petition. We were interested in hearing what their priorities are in the sector in relation to the issues raised by the petitioner.

The Minister for Arts, Culture and Heritage referred us to the submission made by the Ministry for Culture and Heritage. The Minister noted that the petition’s subject matter is within the Minister for Media and Communications’ portfolio responsibilities.

The Minister for Media and Communications told us that she intends to progress the review of the Broadcasting Act by the Ministry for Culture and Heritage. She said this review will consider options to increase captioning and audio descriptions. There will be public consultation during this process. The Minister commended the petitioner for her commitment to improving captioning and audio descriptions.

Minister for Disability Issues

The Minister for Disability Issues explained that her responsibilities include advocating on disability issues, and implementing and monitoring the UNCRPD. According to the Minister, New Zealand’s main mechanisms for delivering the principles of the UNCRPD are Whaikaha’s New Zealand Disability Strategy and the Office for Disability Issues’ Disability Action Plan.⁷ In 2023 the office was integrated into Whaikaha. Whaikaha is currently reviewing a new Disability Action Plan for 2024 to 2028.

⁶ For more information on this review, see [Media and online content regulation | Te Tari Taiwhenua—Department of Internal Affairs](#).

⁷ [Disability Action Plan 2019–2023 | Office for Disability Issues](#).

The Minister believes that the Broadcasting Act is outdated, as it predates both the widespread use of the internet and human rights laws in New Zealand. An update to this regulatory system would help to create new guidelines based on New Zealand's current needs. She fully supports the review of the Act, and said that her officials have offered to work with the Ministry for Culture and Heritage to support consultation with New Zealand's disabled community to inform this work.

Our response to the petition

We thank the petitioner for taking the time to bring this issue to our attention, and for her advocacy on behalf of the disabled community. We agree that captioning is a vital tool to increase the accessibility of New Zealand media.

We note that the Minister for Media and Communications and the Ministry for Culture and Heritage intend a review of the Broadcasting Act. We believe this could provide an opportunity to create updated regulatory systems around captioning and audio descriptions. We urge the ministry to consider the topic of captioning and audio descriptions in its review.

We also note that there is an intention to digitise all of government. We expect that captioning, and other accessibility needs including other translations, will be included in this work programme.

Appendix

Committee procedure

The petition was referred to the Social Services and Community Committee of the 53rd Parliament on 9 March 2023. It met between 5 April and 19 July 2023 to consider it. The committee received written submissions from the petitioner, the Broadcasting Standards Authority | Te Mana Whanonga Kaipāho, the Ministry for Culture and Heritage | Manatū Taonga, and Whaikaha | Ministry of Disabled People, and heard oral evidence from the petitioner.

On 6 December 2023 the petition was reinstated with us in the 54th Parliament. We met between 13 December 2023 and 10 April 2024 to consider it. We received written submissions from the Minister for Arts, Culture and Heritage, the Minister for Disability Issues, and the Minister for Media and Communications.

Committee members

Joseph Mooney (Chairperson)
Paulo Garcia
Takutai Tarsh Kemp
Ricardo Menéndez March
Hon Willow-Jean Prime
Maureen Pugh
Hon Carmel Sepuloni
Laura Trask
Tanya Unkovich

Related resources

The documents we received as advice and evidence in relation to this petition are available on the [Parliament website](#).

A recording of our hearing can be [accessed online here](#).