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Submission on ‘Principles of the Treaty of Waitangi Bill’

The Justice Committee

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Introduction

Who we are and what we stand for

InternetNZ | Ipurangi Aotearoa operates the .nz domain space. We ensure all domain names ending with .nz are available for people and businesses in Aotearoa to function and thrive online. We're a not-for-profit organisation, and we invest back into the community through grants, and collaborative partnerships and advocate for an accessible and safe internet that benefits everyone in Aotearoa. InternetNZ is not a Māori organisation, nor do we feel we should be speaking on behalf of Māori. We acknowledge that Te Tiriti o Waitangi is a key constitutional document for all New Zealanders. As such Te Tiriti, is central to our work operating the .nz domain name. We advocate for the founding principles and partnership intent of Te Tiriti o Waitangi and He Whakaputanga, which recognise the existing sovereign rights of Māori.

We value our relationship with Māori, hapū, iwi, Māori in tech, and Crown agencies and would be happy to speak on this issue further before the select committee.

Summary of Submission

InternetNZ | Ipurangi Aotearoa opposes the Principles of the Treaty of Waitangi Bill, emphasising its potential to harm Crown-Māori relationships and undermine Māori rights in the digital space.

We, like every organisation, have had to confront our own systemic racism, and we are committed to our ongoing journey to honour Te Tiriti o Waitangi. We are concerned that the Bill restricts Māori participation and tino rangatiratanga in critical areas of digital policy such as digital equity, data sovereignty, and intellectual property. Furthermore, the Bill is already polarising public opinion and eroding social cohesion, which is particularly concerning in the context of the Internet—a space where disinformation and division can thrive.

We urge the Justice Committee to carefully consider the significant concerns raised by legal experts, Māori organisations, and other stakeholders and to reject this Bill in favour of approaches that honour Te Tiriti and strengthen equity and partnership in Aotearoa.

Impact of the Proposed Bill on the Internet and Technology Sectors

Narrow Definitions Undermine Digital Equity:

The Principles of the Treaty of Waitangi Bill introduces narrow, static definitions of the long-established Treaty principles, undermining broader interpretations previously upheld by Courts and the Waitangi Tribunal (Clause 7, subsection 2).¹ These definitions risk weakening the foundation for Māori-specific digital and internet-related legislative considerations, such as digital equity or access policies.

Research has shown that systemic inequities already leave Māori disproportionately affected by digital exclusion, with barriers to internet access and device ownership limiting opportunities in an increasingly digitally integrated society.² Addressing these challenges requires adaptable, co-designed solutions. Initiatives like the Marae Digital Connectivity programme highlight the importance of partnership-driven approaches, that this Bill's restrictive framework would hinder. The systemic inequities experienced by Māori must be prioritised in digital policies, with the Crown providing targeted support to ensure equitable access and opportunities in an increasingly digital society.

Active Protection in the Digital Realm:

Though the Bill acknowledges the Crown's obligation to protect Māori rights, it restricts these to those defined within historical Treaty settlements (Principle 2, Clause 6(2)). This narrow definition weakens the Crown's duty of active protection. This duty must extend to protecting Māori taonga in this digital space, including data sovereignty, cultural knowledge and digital assets. The WAI 262 findings reinforced the Crown's obligation to safeguard Māori rights across evolving contexts, including emerging technologies.³

The Crown's obligation to protect must remain adaptable and capable of evolving. This Bill would erode protections for digital taonga, leaving Māori rights unprotected in the face of rapid technological advancement.

Marginalisation in Digital Governance:

The Bill's restrictive interpretation of rights (Principle 3, Clause 6(3)) dismisses Māori-specific perspectives and tino rangatiratanga in decision-making processes, including Internet governance and digital policy discussions.

This Bill would undermine the foundational partnership of Te Tiriti o Waitangi. Māori leadership in Internet governance, intellectual property, and cybersecurity is critical for equitable digital frameworks. Without a robust commitment to Māori inclusion and leadership in digital governance structures, Māori are provided

¹ "Tribunal Releases Report on Treaty Principles Bill." Waitangi Tribunal, <https://www.waitangitribunal.govt.nz/en/news-2/all-articles/news/tribunal-releases-report-on-treaty-principles-bill>.

² Maré, David C., and Jacques Poot. "Valuing Cultural Diversity: Evidence from the Neighbourhoods of Auckland, New Zealand." Motu Economic and Public Policy Research, Motu Working Paper 19-17, 2019, https://motu-www.motu.org.nz/wpapers/19_17.pdf.

³ WAI262 Report: Ko Aotearoa Tēnei. 2011

limited opportunities to shape policies and technologies directly impacting Māori communities. Ensuring Māori tino rangatiratanga in the digital space is critical for equitable participation and protection against the risks of exclusion and inequity.

Internationally, frameworks such as the UN Declaration on the Rights of Indigenous Peoples emphasise Indigenous peoples' rights to participate in decision-making and maintain control over their cultural and intellectual resources.⁴ Then Prime Minister John Key's support of UNDRIP in 2010 brought New Zealand in line with comparable countries, and although UNDRIP is not a legally binding convention, it is a vital declaration which sets minimum standards for the dignity of Indigenous peoples.⁵

Several comparable countries have made strides in integrating Indigenous rights into digital governance. For instance, Canada's Indigenous Connectivity Summit supports Indigenous communities in developing their own digital networks.⁶ Aotearoa has an opportunity to lead in this space by advancing digital equity and tino rangatiratanga, exemplifying a country which not only respects but champions our Indigenous peoples, their aspirations and innovations. However, the restrictive approach of this Bill risks moving Aotearoa further away from aligning with these global standards, particularly in areas like intellectual property and data/internet governance.

Erosion of Social Cohesion:

InternetNZ | Ipurangi Aotearoa understands the profound impacts of disinformation, having funded partners working within the anti-disinformation space and providing the government advice on the harm and decreased social cohesion caused by online disinformation. The introduction of this Bill has already strained social cohesion and the relationship between the Crown and Māori by polarising public opinion and stoking further anti-Māori rhetoric and disinformation.

Proceeding further with the Bill, particularly any kind of public referendum, would undoubtedly exacerbate these tensions, as it sidelines Māori perspectives in defining the principles that should guide Aotearoa's constitutional and social frameworks.

A lack of social cohesion is most transparent and prevalent online, where misinformation and disinformation thrive, amplifying division and mistrust. A recent analysis of social cohesion after Australia's Voice Referendum recorded the lowest-ever result in the 16 years since the qualitative survey began.⁷ The Voice

⁴ United Nations (General Assembly). 2007. *Declaration on the Rights of Indigenous People*.

⁵ "National Govt to Support UN Rights Declaration." Beehive, 20 Apr. 2010, www.beehive.govt.nz/release/national-govt-support-un-rights-declaration.

⁶ Indigenous Connectivity Summit. Internet Society, <https://www.internetsociety.org/events/indigenous-connectivity-summit/>

⁷ Mapping Social Cohesion: 2024 Report. Scanlon Institute, Dec. 2024, scanloninstitute.org.au/sites/default/files/2024-12/Mapping%20Social%20Cohesion%20-%202024%20Report.pdf

Referendum also illustrated how platform algorithms spread false narratives that deepened societal rifts.⁸ While a powerful tool for connection, the internet can and does amplify discrimination, eroding trust and causing social and societal harm.

The Need for Adaptable and Inclusive Frameworks

To address the systemic inequities faced by Māori and ensure a more equitable digital future, the Crown must uphold the accepted and legally asserted principles of Te Tiriti with flexibility and active protection.

This protection includes prioritising and supporting Māori to determine and develop their own solutions that reflect their aspirations, such as advancing data sovereignty and digital inclusion initiatives. Rather than codifying principles in a way that limits their relevance and application, the Crown should work with Māori to ensure any digital governance frameworks are inclusive, equitable, and capable of addressing future challenges.

InternetNZ's Perspective on the Legislation Generally

Te Tiriti o Waitangi is this nation's founding document. InternetNZ | Ipurangi Aotearoa asserts that equality starts with equity, which is one motivation behind our commitment to becoming a Te Tiriti o Waitangi-centric organisation.

The existing norms and processes of the Waitangi Tribunal, and the resulting legislation address the impacts of colonialism through an equity lens. We do not support the Bill's attempt to rewrite the long-established principles and norms associated with Te Tiriti o Waitangi. We concur with legal experts, such as the over 40 King's Counsel and the Waitangi Tribunal, that this Bill unilaterally redefines Te Tiriti's meaning without authentic Māori engagement or agreement with one of the two partners to Te Tiriti.⁹

This Bill itself breaches Te Tiriti and offends the fundamental principles underpinning New Zealand's representative democracy. Representative democracy relies on inclusivity, fairness and the genuine participation of all people in shaping the laws that govern them. By attempting to unilaterally redefine the principles of Te Tiriti without meaningful engagement from Māori, this Bill undermines the tenets of representative democracy. We encourage The Justice Committee to hold the submissions by legal and Te Tiriti o Waitangi experts with great esteem and careful consideration.

⁸ Bogle, Ariel. "I Studied How Rumours and Misleading Information Spread on X during the Voice Referendum. The Results Paint a Worrying Picture." *The Conversation*, 8 Dec. 2023, theconversation.com/i-studied-how-rumours-and-misleading-information-spread-on-x-during-the-voice-referendum-the-results-paint-a-worrying-picture-236220.

⁹ Grave concerns: 42 KCs tell PM to abandon Treaty Principles Bill. 2024. <https://wellington.scoop.co.nz/?p=165818>

Our Recommendation

InternetNZ strongly opposes the Principles of the Treaty Bill and recommends that it not proceed.

Our opposition is based on significant concerns about its impacts on digital equity, the digital realm, digital governance, and the erosion of social cohesion, particularly on the internet. By rejecting this Bill and instead working in genuine partnership with Māori, the Crown can strengthen social cohesion and advance equitable outcomes for all communities, both online and offline.

Submissions we support:

- Te Hunga Rōia Māori o Aotearoa (The Māori Law Society)
- Te Kāhui Tika Tangata (The Human Rights Commission)
- Digital Equity Coalition Aotearoa
- Amnesty International Aotearoa New Zealand
- Te Kāhui Raraunga Charitable Trust

Want more detail? Get in touch.

We welcome the opportunity for further dialogue on how best to realise Te Tiriti o Waitangi on the Internet. Please contact us at policy@internetnz.nz.

Ana McAllister

Kaiwhakahaere ā Hāpori | Community Engagement Manager

InternetNZ | Ipurangi Aotearoa