

Susan Hall and Marcus Smith
Copyright Act Review Team
Ministry of Business, Innovation & Employment
15 Stout Street
Wellington

21 November 2019

Dear Susan and Marcus,

We are taking the rare step of writing as one to share our alarm and dismay at MBIE's new framework for the Review of the Copyright Act.

The paper that accompanies this framework ('MBIE's approach to policy development') is shocking in its disregard for the people, creativity and industry that our organisations represent. It presents a picture in which New Zealand's vibrant and creative publishing activity is effectively rendered invisible and our authors are portrayed as naturally willing to forgo rights, income and protections to their works.

That might be the world desired by offshore lobbyists and corporations but it is most certainly not the real world we know and work in today. Nor is it, we expect, the aim of a Government seeking a flourishing creative sector and sustainable careers in the arts for the twenty-first century.

There are many things wrong – both conceptually and empirically – with this paper and we will detail these shortly in submissions. It disregards the standard economics of copyright, which understand copyright's central role in stimulating the production and dissemination of creative works. It takes an extraordinarily broad view of exceptions, unprecedented in international jurisprudence and contrary to our international treaty obligations. And it exhibits a technopian faith that digital has upended the role of copyright and the creative sector, flying in the face of industry submissions and our day-to-day work.

Perhaps the most disturbing feature of the paper is how MBIE expressly disavows jobs, earnings and a viable market for copyright works as being a priority for the Review. For one of New Zealand's largest public sector departments, one mandated with delivering strong and inclusive economic growth, to actively deprioritise our creative industries is, quite simply, stunning. Similarly, MBIE's claim that publishers are not creators is so at odds with reality, both in New Zealand and with our trading partners around the world, that we are at a loss to even understand how this conclusion was reached.

The evidence called upon by the paper is utterly inadequate to support such claims. It is very troubling that while MBIE is still at the stage of identifying problems with the current regime, it is already using a lens that, throughout this paper, is skewed in its selection of evidence, theory and examples. This results in a remarkably selective reading of context (including the Living Standards Framework, human rights and international treaty obligations) that consistently silences references to the economic rights of authors and the creative sector. The paper regularly descends into speculation (the word 'may' is used thirty-six times in the report), irrelevant or idiosyncratic commentary and imprecise wording – it is, plainly, unfit to act as a central document for a Review of such importance.

The unheralded arrival of this framework upends many months of work on the Review by people from across our creative industries conducted in good faith. It raises serious procedural questions, including how it appears to pre-empt and compromise MBIE's own commissioned research through Sapere Research Group.

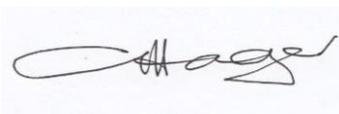
We reject this framework as a fair and reasonable basis from which to proceed with the Review. Changes of this magnitude to the Review's trajectory clearly require proper, good faith consultation and substantial time for stakeholder responses and engagement. We ask that this process be followed to the satisfaction of all stakeholders.

In the meantime, our members – the authors and illustrators, designers and editors who make the New Zealand books ecosystem possible – will be writing to their MPs to alert them to the critical threat that MBIE is posing to the copyright system on which the future of New Zealand's stories depends.

Sincerely,



Julia Marshall
President, PANZ



Mandy Hager
President, NZSA



Pat Walsh
Chairperson, CLNZ Board

cc Carolyn Tremain, Chief Executive, MBIE
Bernadette Cavanagh, Chief Executive, MCH
Stephen Wainwright, Chief Executive, CNZ