Let's do the right thing

Review of the Copyright Act 1994: Issues Paper

About CLNZ

Copyright Licensing New Zealand (CLNZ) is the collective management organisation (CMO) for New Zealand authors and publishers. A limited liability company that operates on a not-for-profit basis, our shareholders are the New Zealand Society of Authors and Publishers Association of New Zealand.

CLNZ is one of the CMOs named in the Issues Paper and has been operating as a CMO in Aotearoa New Zealand for over 25 years. CLNZ is the New Zealand member of IFRRO[1]. We were one of the three IFRRO members that worked with WIPO in the development of the WIPO Toolkit for CMOs[2]. CLNZ's business practices have been aligned with those of the Toolkit.

The licensing services offered by CMOs are designed to meet the needs of both the creators of content and consumers of content. CLNZ operates licensing schemes in the education sector, for businesses and for government agencies that enable access to extracts from books, journals, magazines and newspapers. In the digital world the efficiency of the licensing transaction can be enhanced through the use of technology. CLNZ has invested in the development of cloud-based software to optimise its licensing and distribution services. This system, WISE, is interfaced with the Xero accounting software and our banking provider's online services, leading to a high level of operational efficiency. During 2019 we will launch an online portal that will provide copyright owners with the tools to advise of new works, agree to rights ownership in older works and trigger distribution payments for works copied under licence. Our licensees are also benefitting from our investment in digital services, information and tools. In considering how technology is impacting copyright in Aotearoa New Zealand, emphasis must be placed on legislation that encourages investment in creation of content and that provides access to that content, via both primary and secondary markets. Legislation and available enforcement mechanisms need to deliver justice and tangible outcomes if the law is breached.

We refer to the attached paper ***"Why writing and publishing matters".*** *This paper should be read in conjunction with the responses in this document.*

We support the submissions of:

- *Publishers Association of New Zealand*
- *International Publishers Association*
- *New Zealand Society of Authors*
- *WeCreate Inc*

CLNZ provides responses below on the identified issues with which we have experience and knowledge. There are some questions to which we have not responded.

[1] International Federation of Reproduction Rights Organisations ***http://www.ifrro.org/members/copyright-licensing-new-zealand***

[2] ***https://www.wipo.int/edocs/mdocs/copyright/en/wipo_ccm_ge_18/wipo_ccm_ge_18_toolkit.pdf***

Objectives

1	Are the above objectives the right ones for New Zealand's copyright regime? How well do you think the copyright system is achieving these objectives?
	New Zealand is a small country of diverse cultures and much of our ability to tell our stories rests in having a robust copyright regime that incentivises writers and publishers to bring these stories to life. Objective 1 appears to address this until the inclusions of a caveat "where copyright is the most efficient mechanism to do so". What other "efficient mechanisms" might be on the table are not outlined or evidenced. The latter part of the sentence should be removed from the objective. *We do not agree with Objective 2. New Zealand needs to be a good actor under the international agreements it is a signatory to. Article 9 of the Berne Convention limits copyright exceptions to special cases that do not conflict with the normal exploitation of the work by its creator and with the legitimate interests of the author. In the digital world, opportunities for exploitation of written works are many and varied. These must rest with the creator not, as is the case in many examples, with large tech companies that make permission-less use of others' work for their own profit.* *MBIE's Discussion Paper on the Review of Sec36 of the Commerce Act[3] records that (para 16) "IP is essentially comparable to any other form of property". We fully support this view. Each of the current exceptions in New Zealand copyright law shift decision-making and value away from creators. We are not aware of another area of the economy where government policy decisions enable unremunerated use of New Zealander's property. If a policy decision is made "to permit access to works for use, adaptation and consumption", the provision of this access – via exceptions – should be compensated. We draw an analogy with the Public Works Act where compensation for the public benefit derived from the government's acquisition of private property is negotiated in a way that is "fair to the landowner and the Crown"[4].* *How "net benefits" will be determined is not explained in the Issues Paper. The New Zealand Treasury encourages important public sector decisions to be informed by a cost benefit analysis.[5] This cost benefit analysis now requires agencies to describe the impact of their proposed initiatives on the relevant areas of wellbeing. The publishing industry clearly delivers on at least 3 of the 4 Capitals (Social, Human, Financial and Physical), as well as over half of the 12 domains. The value of the contribution the industry makes to New Zealand needs to be recognised with a copyright law that is fit for purpose for Aotearoa New Zealand's authors and publishers.* *We agree with Objective 3 and note that, within the current New Zealand copyright regime, the system categorically fails in "maintaining integrity and respect for the law".* *We agree with Objective 4 and refer to our comments above in relation to Objective 2.* *We agree with Objective 5 and fully support the statement at para 576 regarding the compatibility of protection for kaitiaki interest in taonga works and mātauranga Māori with the copyright regime.*
2	Are there other objectives that we should be aiming to achieve? For example, do you think adaptability or resilience to future technological change should be included as an objective and, if so, do you think that would be achievable without reducing certainty and clarity?

[3] https://www.mbie.govt.nz/have-your-say/review-of-section-36-of-the-commerce-act-and-other-matters/
[4] https://www.linz.govt.nz/crown-property/acquisition-and-disposal-land/land-involved-public-works/landowners-rights-when-crown
[5] https://treasury.govt.nz/information-and-services/nz-economy/living-standards/our-living-standards-framework/wellbeing-approach-cost-benefit-analysis

	Copyright is at the heart of a successful 21st century economy. 21st century economies are knowledge economies and the New Zealand publishing industry already contributes, and can continue to contribute, significantly to the knowledge economy, with the right copyright settings. An additional objective that acknowledges the economic, cultural and social contribution that New Zealand authors, publishers and other content creators make to Aotearoa New Zealand's wellbeing should be included.
3	Should sub-objectives or different objectives for any parts of the Act be considered (eg for moral rights or performers' rights)? Please be specific in your answer.
	The addition of the objective suggested in #2 above, would address objectives relating to moral rights, removing the need for sub-objectives
4	What weighting (if any) should be given to each objective?
	At both a natural and human rights level and as a party to the Berne Convention, New Zealand's approach to copyright should put the rights of the people who create works at the forefront. Exceptions should, as the Berne Convention requires, not conflict with the economic and moral rights of the author. We support the digital copyright principles of the World Economic Forum[6] and suggest a principles-based approach is preferable to weighting objectives. We also draw attention to the UK IPO's Five Year Strategy[7] – "Making life better by supporting UK creativity and innovation" and the submission to this Review by WeCreate Inc.

Other comments

In 2019, licensing solutions from publishers, authors and CMOs provide unprecedented levels of access to published work. Para 55 suggests that content creators limit access to their works and this somehow creates a copyright paradox or tension. No evidence is provided to assist with understanding the supposed scale or reach of this "issue". We record that, in our extensive dealings with New Zealand authors and publishers, there has never been an occasion when they "limit the distribution of their creative works". Our interactions with authors help us to understand that motivations for writing are diverse. For example, writers of educational materials are often motivated by a desire to see enhanced educational outcomes for students. In the academic world, citation and advancing research may be the motivation. These motivations differ from those of our storytellers who write fiction and literary non-fiction.

The Publishers Association of New Zealand's submission comments further on this and we fully support those comments.

[6] ***http://www3.weforum.org/docs/WEF_GAC_CopyrightPrinciples.pdf***
[7] ***https://www.gov.uk/government/publications/making-life-better-by-supporting-uk-creativity-and-innovation***

Rights: What does copyright protect and who gets the rights?

5	What are the problems (or advantages) with the way the Copyright Act categorises works?
	We support the submission of Screenrights in relation to the definition of a communication work. We believe the definition was only intended to apply to audio-visual works and that the Act should be amended to provide this clarity.
6	Is it clear what 'skill, effort and judgement' means as a test as to whether a work is protected by copyright? Does this test make copyright protection apply too widely? If it does, what are the implications, and what changes should be considered?
	We are not aware of any issues in the publishing industry with the way the test 'skill, effort and judgement' is applied. The small number of cases and the decisions in those cases, in both New Zealand and the UK suggests that this is not an issue of note and that judges are equipped to make decisions based on existing law if a matter arises. We do note that, in the education sector, the issue of compilation of others' materials which is then presented as having been "created" by someone else is an issue. It is important that infringing material does not qualify for copyright protection by anyone other than the original creator/s.
7	Are there any problems with (or benefits arising from) the treatment of data and compilations in the Copyright Act? What changes (if any) should be considered?
	CLNZ creates its own data and works with a considerable amount of other data in its licensing activity. Data relating to copyright works and copyright owners forms the basis of generating revenue and trading of rights in the publishing industry. We have not had any issues with this data from a copyright perspective. It is important to distinguish between the data that relates to the copyright in a work and the work itself – regardless of whether the work is in a physical or digital format. Para 129 appears to conflate the two.
8	What are the problems (or benefits) with the way the default rules for copyright ownership work? What changes (if any) should we consider?
	We have not experienced any issues with the way the default rules for copyright ownership work. We have sought advice from IFRRO on the matter of New Zealand's approach to the authorship of computer-generated works, and they advise that New Zealand's definition is considered to be best-practice. *CLNZ receives enquiries regarding copyright via our website, from our licensees and from authors and publishers. We note that there is often confusion with the application of the commissioning rule. This is at odds with the high level of understanding regarding works created in the course of employment. This suggests there is a lack of available information to readily inform both creators and the public as to how the rule applies. We note that the copyright section of the IPONZ website contains no guidance on the commissioning rule and confusion could be readily overcome through the provision of explanatory materials.*
9	What problems (or benefits) are there with the current rules related to computer-generated works, particularly in light of the development and application of new technologies like artificial intelligence to general works? What changes, if any, should be considered?

	We have not experienced any issues with the current rules related to computer-generated works and support the existing provisions of the Act that give authorship to the programmer or the person who made the arrangements for the creation of the work, as in the UK Act. CLNZ utilises technology that "learns" from the inputs/questions of our customers. There are no copyright issues with this. We suggest that copyright issues in AI are limited to the development of technologies that require the input of other's copyright works and that these can be licensed rather than requiring the provision of a free exception.
10	What are the problems (or benefits) with the rights the Copyright Act gives visual artists (including painting, drawings, prints, sculptures etc)? What changes (if any) should be considered?
	We support the submissions of Caroline Stone and of Copyright Agency in relation to this question
11	What are the problems creators and authors, who have previously transferred their copyright in a work to another person, experience in seeking to have the copyright in that work reassigned back to them? What changes (if any) should be considered?
	The Horizon Research 2018 Report on Writers' Earnings[8] in New Zealand asked writers about reversion clauses in their contracts. 62% of the 356 respondents said that they had a reversion clause. The inclusion of reversion clauses in publishing agreements varies depending on the work being published. For example, education authors and journalists are less likely to have reversion clauses than children's and young adult fiction authors. CLNZ receives advice of reversions from authors and publishers and seamlessly transfers any future royalties due, to the author. *Para 158 refers to the availability of older works to the public, including when a work is out-of-print. The CLNZ licence includes a provision for copying of out-of-print works under certain conditions. This category of literary work can also often also be accessed using the provisions of the Inter-library-loan scheme that operates in New Zealand libraries. We understand that New Zealand libraries offer inter-loan to and from overseas libraries which offers enhanced access for the users of New Zealand libraries.* *In 2011, CLNZ supported the digitisation of over 400 previously out-of-print but in-copyright New Zealand books. We did this by investing in e-publishing services for authors and publishers. The authors who participated in this process had either already had the rights in their work reverted to them or sought those rights in order to participate in the project. There was nothing in CLNZ's experience with this extensive digitisation project that suggested changes were needed to the Act.*
12	What are the problems (or benefits) with how Crown copyright operates? What alternatives (if any) do you think should be considered?
	The Crown has provided access to its publications by adopting the NZGOAL regime and utilising Creative Commons licensing. In terms of the licensing of Crown works, CLNZ's experience suggests that there is an inconsistent approach and understanding of the copyright in Crown works created by various government agencies, particularly those created prior to the adoption of NZGOAL. Increased consistency of understanding of copyright and the Crown's position on copyright and licensing across government agencies would be helpful for the users of Crown content. We note that, in our experience, this confusion also exists with publications by local government agencies. It may be useful to consider copyright of local government works in the Review.
13	Are there any problems (or benefits) in providing a copyright term for communication works that is longer than the minimum required by New Zealand's international obligations?

[8] ***http://copyright.co.nz/about/news-and-event/latest-report-into-new-zealand-writers-earnings-reveals-the-difficulty-to-make-a-living-from-writing***

	Para 170 references the numerically flawed report that was prepared by government during the Trans Pacific Partnership negotiations, in relation to the term of copyright in New Zealand. The objective of net benefits is also repeated here. The Publisher's Association of New Zealand's submission to the Foreign Affairs and Trade Select Committee[9] in 2016 states : *"We assume that the slow phase-in is due to the perceived costs of term extension. As the Publishers Association and Recorded Music have shown through detailed analysis, MBIE's analysis of the costs of term extension is wrong by a factor of 200x and, with anything more than a 0.1% output increase of New Zealand originated titles due to the increased copyright term (experts suggest up to a 10% output increase), term extension will be not a cost, but a net economic benefit to New Zealand."* *During the TPP submission process, CLNZ submitted on the efficiency gains to be made in licensing of copyright works where New Zealand's term of copyright is the same as our major trading partners. Harmonizing copyright is no different to harmonizing any of the other terms of trade that are negotiated in trade agreements and, as stated in 2016, we support New Zealand authors having the same term of rights as their overseas counterparts which will simply licensing practices for both creators and users of published works.*
14	Are there any problems (or benefits) in providing an indefinite copyright term for the type of works referred to in section 117?
	We have not experienced any issues with the term of copyright for unpublished works

Rights: What actions does copyright reserve for copyright owners?

15	Do you think there are any problems with (or benefits arising from) the exclusive rights or how they are expressed? What changes (if any) should be considered?
	We submit there are no issues with the way the exclusive rights are expressed. The ability to take effective action on primary infringement (para 178) is, however, a growing issue for authors and publishers in the digital world. Late last year we wrote to the Minister in regard to a recent example of an overseas website hosting, and making available to New Zealanders, entire copies of New Zealand author's works. Direct approaches to the website elicit either no response or a response that would require a New Zealand author to take legal action in another country. This is, quite obviously, not an effective or accessible mechanism in relation to the infringement. We can provide copies of the communication between these websites and New Zealand authors if that would assist MBIE.
16	Are there any problems (or benefits) with the secondary liability provisions? What changes (if any) should be considered?
	We support the submission of the Publisher's Association of New Zealand in relation to this question.

[9] *https://www.parliament.nz/resource/mi-NZ/51SCFDT_EVI_00DBHOH_BILL68998_1_A524537/c2efdeb0cad68a95a0dc97fbc0f3e0df0ba5464c*

17	What are the problems (or advantages) with the way authorisation liability currently operates? What changes (if any) do you think should be considered?
	As with primary infringement, linking to content that infringes New Zealand copyright law is a growing problem for authors and publishers. We support New Zealand adopting the UK approach as outlined in para 190 and also support the implementation of a regime for blocking access to websites that primarily exist to host illegal content. In a small market like New Zealand, the impact of primary infringement is significant, particularly at a time when New Zealand authors and publishers are investing in providing access to digital versions of their work. The existing regime is limited to circumstances where the authorising party is located in New Zealand. Where the authorising party is located in another territory, legal action relies on both the territory in which the website is hosted having legislation that makes authorising illegal, and on the ability of the New Zealand rightsholder to fund a case in a foreign country. Blocking the site from within New Zealand is the most efficient and effective means to enforce New Zealand authors' and publishers' copyright.

Rights: Specific issues with the current rights

21	Do you have any concerns about the implications of the Supreme Court's decision in Dixon v R? Please explain.
	As a business whose operations rely on the input, processing and output of data, we are in agreement with the Supreme Court decision. We believe that theft of data from CLNZ's systems would fall within the scope of the decision made in Dixon v R. We make our data available in different ways to our customers, however if our data was stolen we would expect to be able to prosecute the theft under the Crimes Act. So long as data such as that created by CLNZ is considered property for the purposes of the Crimes Act, we do not foresee any copyright issues.
22	What are the problems (or benefits) with how the Copyright Act applies to user-generated content? What changes (if any) should be considered?
	We are not aware of any issues relating to user-generated content. If this is original content it should be subject to copyright in the same way as other original content.
23	What are the advantages and disadvantages of not being able to renounce copyright? What changes (if any) should be considered?
	In our experience there are no issues with not being able to renounce copyright. We do have experience with authors who do not wish to accept remuneration for the copying of their work, but this is very different from renouncing copyright.
24	Do you have any other concerns with the scope of the exclusive rights and how they can be infringed? Please describe.
	We comment further on infringement in Part 7

Rights: Moral rights, performers' rights and technological protection measures

25	What are the problems (or benefits) with the way the moral rights are formulated under the Copyright Act? What changes to the rights (if any) should be considered?
	We support the submission of the New Zealand Society of Authors in relation to this question. We are aware of concerns regarding the adaptation and use of copyright works in another person's political messaging or where the work is used, particularly digitally, in a way that is objectionable to the author. It is possible that legislation other than the Copyright Act could apply in these circumstances; however there is limited meaningful recompense for infringement of an author's moral rights in the digital world and it is important that MBIE's current review of the Act takes account of an author's moral rights as they are impacted by technological developments.
28	What are the problems (or benefits) with the TPMs protections? What changes (if any) should be considered?
	We support the submission of the Publisher's Association of New Zealand in relation to this question.
29	Is it clear what the TPMs regime allows and what it does not allow? Why/why not?
	We support the submission of the Publisher's Association of New Zealand in relation to this question.

Exceptions and Limitations: Exceptions that facilitate particular desirable uses

It is interesting to consider what a "desirable use" might be and how the provider of the content for such a use is acknowledged and/or rewarded for that use. We refer to our comments at the beginning of this submission regarding the objectives for the Act review and that the interests of the creator must be those that are prioritised.

Part 3 of the current Act deals with permitted uses. While each permitted act is to be construed independently (s40) we submit that, in undertaking this review, MBIE need to consider the collective impact proposed exceptions will have on authors and publishers. The existing exceptions listed below provide unremunerated access to literary (published) works, reducing the return on investment to the author and publisher who created the work:

- *Research and Private study (s43)*
- *Education (s44-49)*
- *Libraries and archives (s50-57A)*
- *Public Administration (s58-66)*
- *Works for the print disabled (s69 – subject to the implementation of the WIPO Marrakesh Treaty as currently in progress)*
- *ISP liability (s92A -92E)*

The Berne Convention's three step test is cumulative. The TRIPS Agreement also requires that signatories "confine limitations or exceptions to exclusive rights" to uses that comply with Berne. It is difficult to see how the cumulative impact of the exceptions listed above could do anything other than "conflict with normal exploitation" and "unreasonably prejudice the

legitimate interests of the author". Consideration of this in light of the market reality of a country of New Zealand's small size is critical.

The Issues Paper does not seek comment on the matter of fair use. In order to provide clarity on CLNZ's position, we record that we support the basis of New Zealand's current approach to exceptions where due consideration is undertaken at a policy level in the development of exceptions, rather than relying on litigation. We closely follow international developments in copyright which makes it easy to identify the groups or organisations who lobby governments for fair use. We submit that the basis of claims for expanded uses of others' copyright works has little to do with anything that's "fair" and everything to do with "free". And the "free" comes on the back of the work of content creators.

There are numerous references in the Issues Paper to technology and its effect on copyright and creation. A 2019 review of exceptions and limitations must consider the impact that technology has had on providing both authorised and unauthorised access to copyright works. In the publishing industry, technology and its positive, productive use by authors and publishers has led to the development of ebooks markets and online distribution models that meet the needs of readers. It has also led to large scale unauthorised use of publishers' and authors' work. The UK IPO reports that 17% of ebooks are consumed illegally[10] and there are few, if any, remedies currently available to reasonably address this level of unauthorised use.

New Zealand's existing exceptions provide generous access to published works. CLNZ submits that exceptions should only be considered alongside licensing solutions and other remuneration processes that can be efficiently provisioned utilising current and future technologies. Licensing schemes and other forms of remuneration for exceptions that have been determined to be desirable and fair (in compliance with the three-step test) for New Zealand, are the best mechanism to support the creators of the content made accessible via an exception.

The Public Lending Right (PLR) in New Zealand is not linked to the Copyright Act. PLR was introduced to Aotearoa in 2008 and "provides for authors to receive annual payments in recognition of the fact that their books are available for use in New Zealand libraries." The dollar value allocated to PLR has not changed in the 11 years since it was introduced. In 2016-2017 Public Libraries in New Zealand reported lending of 43,458,251 items[11]. A breakdown of these items is not provided however LIANZA records that, in 2014, Public Libraries issued 48 million items and 805,000 of these were ebooks[12] Ebook lending and the lending of either physical or digital books by school libraries, special libraries in some government departments, special libraries in a science or technology body, and private libraries, is excluded from PLR. Libraries have a very important role to play in the provision of equitable access for New Zealanders. We submit that this should not come at a cost to authors and publishers, but should be appropriately funded through mechanisms that take into account both physical and digital access.

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10 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/628704/OCI_-tracker-7th-wave.pdf

11 http://www.publiclibraries.org.nz/LibrariesToday/PublicLibraryStatistics.aspx

12 https://lianza.org.nz/profession/facts-figures

30	Do you have examples of activities or uses that have been impeded by the current framing and interpretation of the exceptions for criticism, review, news reporting and research or study? Is it because of a lack of certainty? How do you assess any risk relating to the use? Have you ever been threatened with, or involved in, legal action? Are there any other barriers?
	There is little transparency or visibility for copyright owners into the operation of exceptions. It is important to keep this in mind when considering the responses to this section. In the exceptions listed above, CLNZs licensing activity brings it closest to the operation of the research and study exception. CLNZ's education licenses enable an institution that is delivering courses to copy source materials and provide these to students. The volume of material legally able to be copied is more than that provided by education exception in the Act and the licensing revenue provides a valuable return to the copyright owners whose works were copied under licence. *In addition to being provided with materials by their lecturer or teacher, students can rely on the research and study exception to copy copyright materials for themselves. It is accepted academic practice that a student would reference any copyright work that they relied on to inform an assessment. The assessment of risk relating to copyright is likely to be low in the researcher's or student's mind – their motivation for copying is their research or study. This is where the guidance and influence of the environment in which the research or study is being done comes into play. Much research and study activity is likely to take place in libraries and education institutions. The guidance these institutions provide to researchers and students is where any certainty or risk will be framed. The extent of the volume of copying that currently takes place under this exception, or the financial impact of this on authors and publishers is, we submit, unable to be calculated with any certainty.* *There is an impact for copyright owners on any subsequent dealings/uses of copies of materials made under this exception and, while it can be said that the Act deals with this, in the digital world the ability for copyright owners to have visibility into this kind of infringement or secure any kind of meaningful redress is negligible.*
31	What are the problems (or benefits) with how any of the criticism, review, news reporting and research or study exceptions operate in practice? Under what circumstances, if any, should someone be able to use these exceptions for a commercial outcome? What changes (if any) should be considered?
	We provide comment on the use of exceptions for commercial outcomes. It is important, in any consideration of copyright exceptions, to remember that they are provided only in the context of Berne. If the use of a copyright work is going to lead to a commercial return for anyone, it should be the copyright owner, not the user of an exception. *The UK has taken the correct approach in limiting its research exception to non-commercial uses.*
33	What other problems (or benefits), if any, have you experienced with the exception for reporting current events? What changes (if any) should be considered?
	We are not aware of any issues with this exception.
34	What are the problems (or benefits) with the exception for incidental copying of copyright works? What changes (if any) should be considered?
	We agree with the assessment at para 283. This exception should exclude literary works.
38	What problems (or benefits) are there with copying of works for non-expressive uses like data-mining. What changes, if any, should be considered?

	We are aware of overseas publishers who licence data-mining for non-commercial uses and refer to the submission of the International Publishers Association that details this clearly.
39	What do problems (or benefits) arising from the Copyright Act not having an express exception for parody and satire? What about the absence of an exception for caricature and pastiche?
	We have not seen any problems with the Act not having a parody or satire exception
40	What problems (or benefit) are there with the use of quotations or extracts taken from copyright works? What changes, if any, should be considered?
	We support the submission of the Publisher's Association of New Zealand in relation to this question.

Exceptions and Limitations: Exceptions for libraries and archives

The exceptions for libraries are not exclusively covered by the Copyright Act itself. Pursuant to section 234 of the Copyright Act 1994 the Copyright (General Matters) Regulations 1995 s 4[13] introduces two new classes of libraries to the earlier definition of prescribed libraries, including libraries that are members of the interloan scheme and libraries of Crown Entities. Section 2 of the regulations provides an interpretation of what constitutes an interloan scheme, stating that it is administered by the National Library of New Zealand and the organisation now known as LIANZA. LIANZA has a published a guide[14] on the Interloan Scheme that includes a stated purpose of :

"Interloan is a national resource sharing cooperative for libraries wishing to share their collection resources in order to enhance access to information for the benefit of their customers/clients and the people of New Zealand."

In 2010 LIANZA changed the interloan scheme so that overseas libraries could become prescribed libraries for the purposes of interloan. It is possible that some of these libraries, and other New Zealand libraries accessing the scheme, operate on a for-profit basis or within commercial organisations.

Interloan may "enhance access to information" but the fact that copies of authors' works are being shared among organisations – some of which are not in New Zealand - via a mechanism that is not open to scrutiny by due process is of concern to authors and publishers. It should also be noted here that libraries charge for interloan copies. The LIANZA Interloan Handbook referenced above, lists the recommended charge at $14.00 per loan. This charge may comply with the requirements of the current Copyright Act, however it is an example of a transaction relating to an author's work that derives no value for the author. Libraries also make charges for other aspects of their services, for example, borrowing fees[15]. While this may be beneficial for the operating budgets of libraries, there is no return to an author or publisher. In the example referenced, the borrowing fee for a single book is $6.00. The sales royalty that, say, a literary non- fiction writer receives for that same book is likely to be around $3.00.

[13] http://www.legislation.govt.nz/regulation/public/1995/0146/25.0/DLM201692.html
[14] https://lianza.org.nz/sites/default/files/NL_CIMS-%23557798-v1-Interloan_Handbook_pdf.PDF (accessed 28 March 2019)
[15] https://www.aucklandlibraries.govt.nz/Pages/fees-and-charges.aspx

41	Do you have any specific examples of where the uncertainty about the exceptions for libraries and archives has resulted in undesirable outcomes? Please be specific about the situation, why this caused a problem and who it caused a problem for.
	For staff in education settings the intersection of the libraries exceptions and the education exceptions raise questions as to which exceptions apply and when. In CLNZ's experience this is not an issue with the way the exceptions are written but with a lack of information to support staff to know how to use materials in a way that complies with the Act. CLNZ has recently invested in a new online Knowledge Base[16] to provide information on how CLNZ's licenses, alongside the exceptions, can be used in licensed education institutions to provide access to published materials for staff and students. We submit that, if there is an issue in relation to the exceptions for libraries, it is a due to an absence of information, rather than an issue with the legislation. Easy-to-read guides, such as those published by the UK IPO[17], provide authoritative guidance to assist users of exceptions to understand the legislation and conduct their activities in line with it.
42	Does the Copyright Act provide enough flexibility for libraries and archives to copy, archive and make available to the public digital content published over the internet? What are the problems with (or benefits arising from) this flexibility or lack of flexibility? What changes (if any) should be considered?
	We support the submission of the Publishers Association of New Zealand in relation to this question
43	Does the Copyright Act provide enough flexibility for libraries and archives to facilitate mass digitisation projects and make copies of physical works in digital format more widely available to the public? What are the problems with (or benefits arising from) this flexibility or lack of flexibility? What changes (if any) should be considered?
	We support the submission of the Publishers Association of New Zealand in relation to this question
44	Does the Copyright Act provide enough flexibility for libraries and archives to make copies of copyright works within their collections for collection management and administration without the copyright holder's permission? What are the problems with (or benefits arising from) this flexibility or lack of flexibility? What changes (if any) should be considered?
	We support the submission of the Publishers Association of New Zealand in relation to this question
45	What are the problems with (or benefits arising from) the flexibility given to libraries and archives to copy and make available content published online? What changes (if any) should be considered?
	We support the submission of the Publishers Association of New Zealand in relation to this question
46	What are the problems with (or benefits arising from) excluding museums and galleries from the libraries and archives exceptions? What changes (if any) should be considered?
	We support the submission of the Publishers Association of New Zealand in relation to this question

[16] ***https://knowledgebase.copyright.co.nz/hc/en-us/***

[17] ***https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/375956/Libraries_Archives_and_Museums.pdf***

Exceptions and Limitations: Exceptions for education

It is important to understand New Zealand's education sector prior to considering copyright exceptions. Our education system mandates that students experience a curriculum[18] which affirms New Zealand's unique identity. This requires teachers to have access to high quality local materials which value local knowledge to give learning relevance and meaning for students. NCEA, our national assessment system for senior secondary school students, is a standards based assessment system closely aligned to the New Zealand Curriculum. It is unique to the New Zealand context and requires the same care in resourcing as the New Zealand Curriculum. To support a democratic society, a healthy educational publishing industry is a vital asset and an essential element of a competitive, knowledge-based economy.

"It's the quality of our writing and publishing that means we can compete very successfully with quality educational products against the giants of the world." – Dame Wendy Pye, educational publisher and exporter

There are 2,531 schools in New Zealand[19] with an average of only 62,000 students at each year level. If you are publishing an NCEA resource for, say, Level One English, 100% of the primary market for that publication in 2018 was just 3,600 copies. It is not difficult to see how copyright exceptions that provide free access to publications produced for the New Zealand schools market, impact the investment of authors and publishers in those materials.

Our tertiary education sector also needs access to locally produced publications, in addition to internationally published resources that are required to advance teaching, learning and research. Collective buying, such as that undertaken by CONZUL[20] and the Universities New Zealand Copyright Expert Group[21], creates efficiencies in acquiring the teaching materials that are an essential input to the core business of tertiary education institutions.

47	Does the Copyright Act provide enough flexibility to enable teachers, pupils and educational institutions to benefit from new technologies? What are the problems with (or benefits arising from) this flexibility or lack of flexibility? What changes (if any) should be considered?
	Since 1994, the provisions of s44(3) have functioned well in providing both access to educators and a return for authors and publishers whose work is copied in education institutions. *CLNZ licences build on s44(3). The licence is made available to schools through the New Zealand School Trustees Association, sold directly by CLNZ to PTE's, and licensing schemes are negotiated periodically with the New Zealand universities, ITP's and wānanga. The licenses provide legal access beyond the provisions in the Act, for an annual fee per student in schools and per EFTS (equivalent fulltime student) in tertiary institutions. This licensed*

[18] http://nzcurriculum.tki.org.nz/The-New-Zealand-Curriculum
[19] https://www.educationcounts.govt.nz/statistics/schooling/number-of-schools
[20] https://www.universitiesnz.ac.nz/about-universities-new-zealand/unz-committees-and-working-groups/council-new-zealand-university
[21] https://www.universitiesnz.ac.nz/about-universities-new-zealand/expert-and-working-groups/copyright-expert-group-ceg

access to content supports teaching and learning practice in New Zealand, while generating a valuable revenue source for the copyright owners whose content is copied by education institutions. Access to other forms of content is similarly provided by OneMusic and Screenrights. For New Zealand schools, the 3 licensing schemes are offered by the New Zealand School Trustees Association.

In 2018 the CLNZ licence charge was $1.65 per primary student and $3.30 per secondary school student. There is no limit to the volume of works that may be copied from each year under this licence and the copied material can be provided to students as either physical or digital copies. This means the copied materials can be handed out in class and digitised and made available via institutions' learning management systems (eg Moodle, Blackboard) for that institution's students. 70% of New Zealand schools held CLNZ licenses in 2018, meaning 30% did not and were meant, by correlation, to only be copying within the provisions of the Act.

When the Ministry of Education launched Communities of Learning (CoLs) in 2016, CLNZ approached the Ministry to offer centralised licensing for the legal sharing of copyright materials by CoL schools. This offer was declined and CLNZ developed a new, free, licence for CoLs in order to provide an accessible, legal process for the sharing of copyright materials between schools in each CoL. The CoL licence requires that each school in the CoL is licensed. Working with CoLs has provided further insight into the inequity of the licensing situation with New Zealand schools. The problem of unequal legal access to copyright content in New Zealand schools could be readily solved by the Ministry of Education licensing New Zealand schools' copying of copyright materials in the same way that the Ministry licenses Microsoft Software[22]

During discussions on the changes to the UK exception for education in 2012-2014, the UK Department of Education and Copyright Licensing Agency (CLNZ's UK equivalent) announced a deal for the centralised licensing of schools in the UK.[23] *The licenses offer wide access to education materials which was further supported by an exception in the UK legislation that permits copying of copyright works for which a licence is not available.*[24]

"These licensing schemes are underpinned by copyright exceptions which mean that, where a particular work is not covered by a licence, an educational establishment is still able to copy it."

In 2015, 2016 and again in 2018, CLNZ contracted Horizon Research to survey New Zealand teachers to gain understanding of the use of education materials in classrooms. The 2018 survey[25] *showed that paper handouts are used by 87% of teachers. Electronic whiteboards were the second most preferred method of content delivery at 68%, followed by material scanned in school at 49%. The survey also asked about the sources of materials that New Zealand teachers like to use. The strong preference for online New Zealand resources has been consistent across all 3 years that this survey has been conducted (2015:78% / 2016:72% / 2018 :77%). This is further evidenced by the survey data CLNZ captures in schools. In 2017 (the most recent complete dataset available), 66% of primary school copying and 59.3% of secondary school copying, was of New Zealand resources.*

The data that CLNZ captures relating to the copying of published content in tertiary

[22] https://education.govt.nz/school/running-a-school/technology-in-schools/software/microsoft/

[23] https://www.gov.uk/government/news/copyright-licence-deal-to-save-schools-time-and-money

[24] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/375951/Education_and_Teaching.pdf

[25] http://www.copyright.co.nz/Downloads/Assets/5008/1/Horizon%20Research%20Teachers%20Survey%20Report%202018.pdf

	education settings shows the wide variety of materials that are used in the education of tertiary students. In 2017, 76.4% of copied materials in wānanga was New Zealand produced content. This contrasts to 63.2% in ITPs and 30.1% in universities. *Licensed access that generates a valuable revenue stream for the authors and publishers of education content, backed by an exception, provides comprehensive legal copying of published materials in education settings.* *The example given at para 353 relating to sheet music should be considered carefully. The production and sale of sheet music differs markedly from that of other published works and purported issues regarding sheet music should not be conflated with consideration of the copying in education of other materials.* *We refer to our comments above regarding the inter-play of the research and private study exception with the exceptions for education. Some of the examples provided in the Issues Paper appear not to have considered this.*
48	Are the education exceptions too wide? What are the problems with (or benefits arising from) this? What changes (if any) should be considered?
	CLNZ has made a number of submissions historically on the breadth of the education exceptions and how these impact on the rights of authors and publishers, particularly the authors and publishers of works that are designed to align with the New Zealand curriculum or on New Zealand-specific issues (eg publications on tax law). We believe that the ability to copy an entire work (by any means) should be removed from the Act. It is obvious that the copying of an entire work will impact the market for that work and with licensing solutions for education institutions access available at fair remuneration and there is no need for this exception. We submit that the inclusion of an exception for the copying of an entire work is a breach of Berne. *CLNZ's licensing business in education is built on the firm footing of the High Court decision in 2002 (as referenced in the Issues Paper). The certainty provided a numerated exception in the Act, confirmed by a High Court ruling, has provided clarity in the practice of licensing in education. We submit, however, that the application of the education exceptions should only apply if a licence isn't available for the required copying. S48 operates in this way for communication works and, we submit, s44 should operate in the same way.* *The provisions of the exceptions that enable distribution of resources via LMS are, as noted at para 347, valuable for distance learning, students who miss lectures etc. However, there is no visibility for authors and publishers in relation to content being distributed this way. We are aware that computer systems other than those provided by education institutions are used to share content with students and, while this may be in breach of the Act, there is no meaningful way for authors and publishers to access information regarding this activity to ensure that copyright law is being complied with.* *We note that "educational purposes" is not defined in the Act and submit that the inclusion of a definition would assist with providing clarity and certainty for copyright owners and for education institutions and educators.* *We support the comments in para 359. S49 provides an exception for purposes of examination. Examination is not defined in the Act. This exception was written prior to the commencement of NCEA which, in addition to examining students, is a process of assessment. We submit that clarity is needed as to when the exception applies and to any subsequent uses of assessment or examination materials. Use of this exception should be*

	limited to non-commercial educational establishments. We note the clarity that NZQA provides[26] relating to the commercial use of the examination materials it publishes that may rely on the existing exception.
49	Are the education exceptions too narrow? What are the problems with (or benefits arising from) this? What changes (if any) should be considered?
	We agree with para 360 and suggest that the UK approach is a fair solution to the "14 day" issue raised at para 361: *"However, where works are not available under licence, a teacher may photocopy extracts from works without worrying about copyright infringement, as long as they copy no more than 5% of the work per annum."[27]* *S44a (as outlined in para 362) provides for the storing of copies for educational purposes. We submit that this section should explicitly prohibit the on-going storage of digital copies that enable the creation of a digital library. A digital copy should only be able to be stored if it is for a current course of instruction. Copying of an entire work should, of course, not be permitted unless the institution holds a current licence for that use.*
50	Is copyright well understood in the education sector? What problems does this create (if any)?
	It is not reasonable to expect teachers, tutors or lecturers to be copyright experts; however the institutions that employ educators should have to take responsibility for compliance with copyright law in the same way that they have to comply with any other form of legislation. *CLNZ conducts surveys of copying under our licenses in schools, ITPs, PTEs and wānanga each year. The surveys provide us with the data we need to distribute net licensing revenue to the authors and publishers whose work has been copied under licence. Surveys in schools provide a rare opportunity to discuss copyright in an education setting. Our Surveys Manager observes the copying practices that take place and making copies from a copy (not an original) occurs frequently. While an obvious breach of copyright, there is also a component of funding limitation that leads to substantiating this type of copying practice.* *Footnote 15 of this submission references the UK Intellectual Property Office's guidance on exceptions for education and teaching. This easy-to-follow information is provided by the UK government agency responsible for IP and is an authoritative starting point for educators needing to understand copyright as it relates to their professional teaching practice. We submit that similar documents published by IPONZ could provide better guidance on the law in New Zealand. In the absence of such guidance from government, CLNZ and the other CMOs provide information on both the law and our respective licenses via our websites and other collateral[28] in addition to responding to email and phone requests for information and advice.* *The Education Review Office has been approached previously in regard to including compliance with copyright law in conjunction with other legislative compliance the Office reviews in schools. The request was declined.*

[26] https://www.nzqa.govt.nz/about-this-site/commercial-use-of-nzqa-material/

[27] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/375951/Education_and_Teaching.pdf

[28] http://copyright.co.nz/licences-and-permission/resources

Exceptions and Limitations: Contracting out of exceptions

58	What problems (or benefits) are there in allowing copyright owners to limit or modify a person's ability to use the existing exceptions through contract? What changes (if any) should be considered?
	We support the submission of the Publisher's Association of New Zealand on this question

Exceptions and Limitations: Internet service provider liability

59	What are problems (or benefits) with the ISP definition? What changes, if any should be considered?
	We support the submission of the Publisher's Association of New Zealand on this question and refer to Principle One of the submission of WeCreate Inc.
60	Are there any problems (or benefit) with the absence of an explicit exception for linking to copyright material and not having a safe harbour for providers of search tools (eg search engines)? What changes (if any) should be considered?
	We support the submission of the Publisher's Association of New Zealand on this question
61	Do the safe harbour provisions in the Copyright Act affect the commercial relationship between online platforms and copyright owners? Please be specific about who is, and how they are, affected.
	We support the submission of the Publisher's Association of New Zealand on this question
62	What other problems (or benefits) are there with the safe harbour regime for internet service providers? What changes, if any, should be considered?
	We support the submission of the Publisher's Association of New Zealand on this question

Transactions

63	Is there a sufficient number and variety of CMOs in New Zealand? If not, which type copyright works do you think would benefit from the formation of CMOs in New Zealand?
	The number and variety of CMOs operating in New Zealand should reflect the size of the market and maximise the efficiencies that CMOs are able to offer to both copyright owners and potential licensees.
64	If you are a member of a CMO, have you experienced problems with the way they operate in New Zealand? Please give examples of any problems experienced.
	CLNZ's operational practices follow the guidance issued by WIPO on collective management. CLNZs financial statements and procedures are externally audited each year. Copies of annual accounts and other performance measures are published in a comprehensive annual report[29]*. Our*

[29] http://copyright.co.nz/Downloads/Assets/3633/1/2017-annual-report.pdf

	Distribution Policy[30], which regulates the basis on which licensing funds are on-paid to copyright owners, is subject to review at each Annual General Meeting. We comply with the Code of Conduct of our international body, IFRRO.[31] Our membership of IFRRO means CLNZ is part of a network of CMOs that provide access to published works via licensing. CLNZ has reciprocal agreements with 33 members of IFRRO that provide access for New Zealand licensees to a vast repertoire of content, including that of the countries with whom New Zealand has trade agreements. *In 2014 CLNZ amended its governance structure to include 2 independent directors. In addition to these independent directors, the Board currently comprises 2 directors representing the author shareholder (NZ Society of Authors) and 2 directors representing the publisher shareholder (Publishers Association of NZ).* *CLNZ provides both a complaints process and alternative dispute resolution. Neither of these has been utilised by copyright owners or licensees in the past decade. We take our role as an agency that represents the rights of New Zealand authors and publishers seriously. Authors and publishers trust in CLNZ is a critical aspect of the mandate we have to operate.*
70	Do the transactions provisions of the Copyright Act support the development of new technologies like blockchain technology and other technologies that could provide new ways to disseminate and monetise copyright works? If not, in what way do the provisions hinder the development and use of new technologies?
	We are not aware of any issues with the current provisions in the Act that would inhibit copyright owners from using new technologies such as blockchain to manage their rights in their work or to disseminate and monetise their works.
71	Have you ever been impeded using, preserving or making available copies of old works because you could not identify or contact the copyright? Please provide as much detail as you can about what the problem was and its impact.
	CLNZ holds a considerable amount of information regarding the rightsholders in New Zealand works. Our ability to efficiently share this information with individuals or organisations seeking to contact copyright owners is limited by the Privacy Act, not by copyright. During the process of reviewing our compliance with the EU's GDPR regulations we were also alerted to a potential problem with the sharing of bibliographic details regarding published works which may be deemed to be private information for the purposes of GDPR. It would be helpful to have clarification on this in New Zealand so that the useful information that CLNZ holds can be made available to others to facilitate access to published works.
72	How do you or your organisation deal with orphan works (general approaches, specific policies etc.)? And can you describe the time and resources you routinely spend on identifying and contacting the copyright owners of orphan works?
	We refer to our response to #71 regarding the service CLNZ could provide for contacting New Zealand copyright owners with a supportive regulatory environment. *CLNZ licensees have access to a provision in the licence that enables the copying of out-of-print works. This can include the entire work in some circumstances. This licensed use respects the copyright in the work as well as providing access works that may be deemed "orphan".*
73	Has a copyright owner of an orphan work ever come forward to claim copyright after it had been used without authorisation? If so, what was the outcome?

[30] http://copyright.co.nz/Downloads/Assets/3100/1/Distribution-Policy-May-2017.pdf
[31] https://www.ifrro.org/content/ifrro-code-conduct-reproduction-rights-organisations

	We are not aware of this situation occurring in New Zealand in relation to book or journal publications
74	What were the problems or benefits of the system of using an overseas regime for orphan works?
	As stated earlier in this submission, the context of New Zealand's situation needs to be considered in this Review. This is particularly important in relation to access to cultural works

Enforcement of Copyright

76	How difficult is it for copyright owners to establish before the courts that copyright exists in a work and they are the copyright owners? What changes (if any) should be considered to help copyright owners take legal action to enforce their copyright?
	We have not directly experienced issues with establishing copyright or ownership before the courts. In the publishing industry, the National Library's legal deposit records provide one source of publication information that may be useful in evidencing copyright ownership.
77	What are the problems (or advantages) with reserving legal action to copyright owners and their exclusive licensees? What changes (if any) should be considered?
	See combined response to Questions 77 and 78 below
78	Should CMOs be able to take legal action to enforce copyright? If so, under what circumstances?
	CLNZ's role[32] *includes:* • *Providing licenses for the reproduction of extracts from books, journals and periodicals* • *Distribute licensing fees collected to copyright owners* • *Encourage respect for copyright* • *Take action against copyright infringement* *CLNZ's mandates from copyright owners outline the legal basis for the services we provide. In order to comply with the provisions of the Commerce Act, these mandates are non-exclusive. Authors and publishers give CLNZ the right to licence their work for uses where the licensing is most efficiently managed collectively, rather than individually. The efficiency gains benefit authors and publishers, as well as licensees who require the rights to copy from multiple published works.* *Our non-exclusive mandates mean that CLNZ has no standing to be able to take action on behalf of an individual or a group of copyright owners under s123. This is a serious issue for New Zealand authors and publishers who look to CLNZ to both educate content users about respecting copyright and enforce copyright when it is breached.* *CLNZ was involved in a legal case in 2016 that included the infringement of multiple copyright owners' works. As CLNZ was unable to take action on their collective behalf, one of the publishers of some of the infringed works took the case in their own name, limiting the scope of the infringement. This is a particularly difficult situation for an individual publisher, and their authors, to face. Importantly, the limiting of the scope of the case meant that the infringement of the works of other authors and publishers did not come to the attention of the Court.* *For New Zealand authors and publishers, having a trusted agency to provide support and*

[32] http://copyright.co.nz/about/about-copyright-licensing

	information on copyright infringement matters is a vital service, particularly in the digital world and in the absence of any comprehensive materials from government on the workings of the Copyright Act. In addition to the services we provide for copyright owners, we also provide education materials on copyright for our licensees and in response to general (online and phone call) enquiries. *In the current scenario under s123 and s124, CLNZ is responsible for managing rights that it is unable to enforce. During the implementation of the Infringing File Sharing legislation, CLNZ submitted on the need for CMO's to be able to issue notices relating to illegal downloads. The enacted provisions extend the definition of "rights owner" to mean not just the copyright owner but also "a person acting as agent for 1 or more copyright owners". In circumstances where the infringement of multiple copyright owners works are at issue, the ability of the CMO to take action results in the spreading of costs across all copyright owners the CMO represents. CLNZ holds funds specifically for this purpose.* *The issue of standing for non-exclusive licensees was considered in the UK in the early 2000's. We submit that the solution enacted in s101A of the UK Copyright Designs & Patents Act*[33] *may be an appropriate solution to the issues raised here.*
79	Does the cost of enforcement have an impact on copyright owners' enforcement decisions? Please be specific about how decisions are affected and the impact of those decisions. What changes (if any) should be considered?
	The case referred to in #77 cost over $50,000 to bring to court. We do not believe that any New Zealand authors or publishers would be in a financial position to be able to enforce copyright given the financial cost and the opportunity cost to an individual or small business caused by the time and knowledge needed to run a legal case at this level. *We submit that a small claims or disputes process for IP is needed in New Zealand as an accessible and appropriate mechanism for copyright enforcement. We note that the UK has had a process (the SCT) in place since 2012 and the US is implementing a similar process, based on the success in the UK. Academics at the Saint Clara University School of Law studied the impact of the UK system in 2018*[34] *and concluded that:* *"the SCT serves the needs of especially small plaintiffs who sue to enforce rights in their own creations against defendants who have engaged in infringing acts that are particularly easy to prove, and in return seek modest recoveries that before would not have been rational to pursue in court".*
80	Are groundless threats of legal action for infringing copyright being made in New Zealand by copyright owners? If so, how wide spread do you think the practice is and what impact is the practice having on recipients of such threats?
	We are not aware of any circumstances in which groundless threats of legal have been made by or to New Zealand authors and publishers.
83	Why do you think the infringing filing sharing regime is not being used to address copyright infringements that occur over peer-to peer file sharing technologies?

[33] ***https://www.legislation.gov.uk/ukpga/1988/48/section/101A***
[34] ***https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3104940***

	At the commencement of the infringing file sharing regime, CLNZ explored the costs and benefits of using the scheme on behalf of New Zealand authors and publishers. The investment required to capture the information needed to bring an action was totally disproportionate to any likely award that may have been made by the Copyright Tribunal. Further, the experience of Recorded Music New Zealand in using the Copyright Tribunal and the delays in the delivery of decisions undermined any educational benefit that the regime may have offered.
85	What are the problems (or advantages) with the existing measures copyright owners have to address online infringements? What changes (if any) should be considered?
	There is no effective mechanism currently available to copyright owners when their work is infringed online. As noted above, the cost of taking action in New Zealand against a New Zealand infringer is cost-prohibitive and taking action against an overseas-based website that is hosting infringing content owned by a New Zealand author or publisher is not always possible and is also cost-prohibitive.
86	Should ISPs be required to assist copyright owners enforce their rights? Why / why not?
	We support the submission of the Publishers Association of New Zealand in relation to this question
87	Who should be required to pay ISPs' costs if they assist copyright owners to take action to prevent online infringements?
	We support the submission of the Publishers Association of New Zealand in relation to this question
88	Are there any problems with the types of criminal offences or the size of the penalties under the Copyright Act? What changes (if any) should be considered?
	We support the submission of the Publishers Association of New Zealand in relation to this question

Other issues: Copyright and the Wai 262 inquiry

93	Have we accurately characterised the Waitangi Tribunal's analysis of the problems with the current protections provided for taonga works and mātauranga Māori? If not, please explain the inaccuracies.
	We support the submission of the Publishers Association of New Zealand in relation to this question
94	Do you agree with the Waitangi Tribunal's use of the concepts 'taonga works' and 'taonga-derived works'? If not, why not?
	We support the submission of the Publishers Association of New Zealand in relation to this question
95	The Waitangi Tribunal did not recommend any changes to the copyright regime, and instead recommended a new legal regime for taonga works and mātauranga Māori. Are there ways in which the copyright regime might conflict with any new protection of taonga works and mātauranga Māori?
	We support the submission of the Publishers Association of New Zealand in relation to this question

96	Do you agree with our proposed process to launch a new work stream on taonga works alongside the Copyright Act review? Are there any other Treaty of Waitangi considerations we should be aware of in the Copyright Act review?
	We support the submission of the Publishers Association of New Zealand in relation to this question
97	How should MBIE engage with Treaty partners and the broader community on the proposed work stream on taonga works?
	We support the submission of the Publishers Association of New Zealand in relation to this question