

19 September 2011

Thomas Beagle  
Tech Liberty  
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Dear Mr Beagle

## **REQUEST FOR INFORMATION ON THE IMPLEMENTATION OF THE COPYRIGHT (INFRINGEMENT FILE SHARING) AMENDMENT ACT**

Thank you for your email of 18 September 2011 in which you requested a range of information regarding the possibility of a centralised process for implementing the Copyright (Infringing File Sharing) Amendment Act (the Act). Our response is as follows:

*1. Has the Ministry been discussing either an automated or centralised system for handling infringement notices?*

The Ministry is not in the process of considering such a system. Our view is that specific arrangements for the implementation of the Act are a matter for Internet Service Providers (ISPs) and rights owners to agree on between themselves. While we have not considered the matter of our own accord or as part of a specific work programme, we have discussed the matter on three occasions:

- During the Commerce Select Committee's consideration of the Act, the Telecommunications Carriers Forum (TCF) made a submission to the committee suggesting a central Government agency would be best placed to send notices under the Act for all file sharing infringements. The TCF submission and our advice to the Committee on the matter are attached to this document.
- On two separate occasions in June and July of 2011, Ministry officials talked with private organisations who wished to discuss the possibility of a centralised platform. Our advice to both organisations was that the Ministry was not involved in (or responsible for) implementing the Act and that they should approach both ISPs and rights owners to discuss the matter. We also suggested seeking legal advice to ensure that any centralised process was consistent with the Act and any other applicable law such as the Privacy Act.

*2. With which parties has the Ministry been discussing an automated or centralised system for handling infringement notices?*

As mentioned above, Ministry officials provided briefing to members of the Commerce Select Committee on the matter. Ministry officials also discussed the issue with representatives from IPSafe ([www.ipsafe.co.nz](http://www.ipsafe.co.nz)) and Datacom ([www.datacom.co.nz](http://www.datacom.co.nz)).

*3. Please send me copies of any discussion papers, emails, letters or other documents concerning such an automated or centralised system for handling infringement notices.*

These documents are attached. I am withholding one document (provided to the Ministry by the IPSafe) under section 9(2)(b)(ii) of the Official Information Act 1982 as the release of the information would be likely to unreasonably prejudice the commercial position of the person who supplied the information.

*4. Under what authority or law is the Ministry involved in these discussions?*

The Ministry is responsible for administering intellectual property legislation in New Zealand. In satisfying this responsibility we are obliged to consider policy suggestions from all affected stakeholders, whether they fall under current legislation or not. While we cannot provide legal advice, we are of the opinion that the Act would not prevent a centralised system of implementation, should ISPs and rights owners choose to take this option.

*5. How much has the Ministry spent on these discussions and how much is budgeted or allocated for that purpose?*

No funds are allocated for this purpose.

You are welcome to email my colleague Peter Bartlett ([peter.bartlett@med.govt.nz](mailto:peter.bartlett@med.govt.nz)) for more information. You have the right, by way of complaint to an Ombudsman under section 28(3) of the Official Information Act 1982, to seek an investigation and review of my refusal to release the information referred to above.

Yours sincerely



Silke Radde  
Manager, Intellectual Property  
Competition, Trade & Investment