

Telecommunications Review Team Communications Policy
Ministry of Business, Innovation & Employment
15 Stout Street
Wellington 6011
By email

24 August, 2016

Submission of the New Zealand Screen Association

The New Zealand Screen Association (NZSA) represents the film and television content and distribution industry in New Zealand. Our core mission is to advance the business and art of filmmaking, increasing its enjoyment around the world. Our members include:

- Walt Disney Studios Motion Pictures
- Paramount Pictures Corporation
- Sony Pictures Entertainment Inc.
- Twenty-First Century Fox Film Corporations
- Universal City Studios LLC
- Warner Bros. Entertainment Inc.
- Motion Picture Association
- Village Roadshow United

These companies are content providers of filmed entertainment and television programming lawfully distributed in more than one hundred different markets around the world. Each of these companies or their affiliates is engaged in the distribution of film product in a range of formats for consumers in New Zealand.

The New Zealand screen industry directly contributed \$1.3 billion to New Zealand's GDP in 2013, with a total impact of \$2.8 billion. The NZ film and TV industries directly employed more than 14,000 people, with a total employment impact of over 31,000 employees. Further, the film and television industries have assisted in promoting tourism in New Zealand.

The NZSA appreciates the opportunity to provide these comments. Taking note of the necessarily wide scope and purview of issues raised within the Options Paper, several of them are not directly related to our represented studios' core business interests, and our comments herein are limited accordingly to question 73:

Do you agree that the current regulatory framework has sufficient safeguards in place to manage any net neutrality issues that may arise, in light of recent market developments?

As observed in the Options Paper, net neutrality has been the subject of discussion amongst a number of governments around the world. Although the NZSA and its represented studios have neither supported nor objected to those governments' consideration, they have consistently emphasized the general principles that if such rules are adopted: (1) that they apply only to lawful content and services and do not prevent broadband providers from working cooperatively with content owners to combat piracy; and (2) that they should also apply only to broadband providers and not compel content owners to make content available on the internet in violation of New Zealand's Copyright Act.

Without offering a view on whether there are in fact net neutrality issues in New Zealand, we opine that New Zealand's regulators should bear these two principles in mind within the context of their ongoing consideration. We note, for example, that in the United States the Federal Communications Commission's Open Internet Rules that went into effect on June 12, 2015, reaffirmed its earlier determination that the rules do "not prohibit broadband providers from making reasonable efforts to address transfers of unlawful content and unlawful transfers of content" within the context of the no-blocking provisions by precluding broadband providers from blocking access to **legal content** (emphasis added), applications, services, or non-harmful devices.

Similarly, the European Union's proposed net neutrality rules currently under consideration are careful not to compromise providers' ability to act in response to illegal content.

We observe further that the principle underlying net neutrality is one of fair competition in the online marketplace. That principle would be disserved to the extent any regulatory or legal framework tolerates those who free ride upon or outright steal others' intellectual property. Even worse would be a framework that, in the name of fairness, mandates the availability of content even when doing so infringes the rights provided under New Zealand's Copyright Act.

NZSA appreciates this opportunity to provide these views in response to the Options Paper. We remain available for any questions arising from our comments and look forward to our continued participation, as feasible, in connection with this initiative.

Sincerely,



Matthew Cheetham
NZSA