

## IMPORTANCE OF THIS REVIEW- WITH PRINCIPLES.

- a. I have spent time studying and thinking about this upcoming review of the Copyright Act. It really started in the 1990s when I completed a Political Science, History and Sociology Degree. I have never voted for a political party and never felt compelled to enter the Political process, until now. I studied the Copyright Act's formation in 1994. I followed with interest the implementation of WIPO obligations that took effect in 2002. I was active with corporate and citizen discussion groups about the impact of technology reviews between 2004-2008. I then became involved with implementing the changes required from the [Unsolicited Electronic Messages Act 2007](#) from a legal and process standpoint to large multinational Corporations/ Conglomerates e.g. GE and a host of Telecoms Providers.
- b. The opportunity before us is of critical importance - for many reasons. The intent of the revision of the Act must involve due consideration of its Common Law history along with the established statutory framework, all while meeting our current treaty and potential new treaty obligations (the treaties specifically relating to Copyright and the ones that may be forgotten but must be considered namely the (ICESCR)). To ensure this review of the Copyright Act is 'Fit for Purpose', affording protection of Property Rights that are easily understood and enforceable.
- c. This submission is to assist with key criteria with the intention to help inform the development of options for reforming the Act. I wish to add a strong warning against using the Copyright Act to enforce wider policy goals i.e. as occurred with the recent EU review. This revision of EU Laws was badly written legislation which created a vast scope for the overreach of the rights of Copyright holders. This will certainly be abused with the net end result of severely disrupting the flow of ideas and innovation. It has the side effect of causing long term disharmony between innovators and creators and wider society.
- d. It is important to highlight a sociological imperative that must be addressed by this generation and specifically by this House of Representatives. This is the rise of the millennial generation. Here is a positive review of this generation: <https://www.bushcenter.org/catalyst/next-generation/taylor-its-a-millennial-world.html> . This study by the Pew Institute shows that millennials are subject to radicalisation and are outside the political process. To be blunt, their idealism and trust issues with the current generation's political and non-political but powerful institutions puts them on a collision course if their needs are not recognised and accommodated. They have very little respect for any previous generation's achievements and are prepared to radically alter or discard these past achievements in pursuit of an ideal that is social and global in nature. They also believe, unlike previous generations, that the Social Marketplace (ability to connect) is a primary attribute for success. Financial Institutions and systems are subservient to this notion. This review of the Copyright Act is the ideal and best chance to ensure NZ is able to do so. They are generally very optimistic which needs to be encouraged but an abnormally high level of optimism is a warning to the very real possibility of reaching abnormally high levels of discontent. New Zealand is also experiencing a dramatic rise in youth suicides which indicates that there is a rising level of dissatisfaction and isolation within this generation. This is highlighted in the recent Mental Health review. It must be noted that Professor Gluckman did not attribute any role of Society's framework and institutions playing a role in the outcome of youth suicides. This is a link to his Paper: <https://www.pmcsa.org.nz/wp-content/uploads/17-07-26-Youth-suicide-in-New-Zealand-a-Discussion-Paper.pdf> The inference that is made here is that this generation is primarily focused on social connectivity. This will be drastically altered by badly written legislation that impinges on this ability to connect. Any restrictions imposed on the Groupthink of this generation, which copyright directly influences, could lead to a series of negative unintended consequences. Any perversion to

the efficiency of easily establishing facts, and therefore the truth, will exacerbate rising and new moral panics. By not making provisions in this review, specifically on this phenomenon, would be a grave error in judgment.

- e. All sociological and economic markers are showing rising indications that society and the economy are struggling to fulfil a framework that creates Peace, Harmony, and Endeavour (or as the American's would say Life, Liberty and the Pursuit of Happiness). Meaningful imperatives in terms of crafting laws are found in the NZ Bill of Rights Act 1990 and treaty obligations. These rights, along with their guiding principles, need to be respected. They are a centuries-old legacy. We have been here before. The Global War on Terror and the Global Financial Crisis of 2008 are incidents that are still affecting global interactions and outcomes. This is not to say we cannot once again create technological advances that can directly mitigate the negative forces of these events. In the 1990s the advent of the Internet pulled us away from the precipice of a similar breakdown of society by giving individuals a voice. Using Block Chain technology strangely is not referenced once in the Discussion Paper. Yet this technology has the ability to make this Act truly "fit for purpose" for the foreseeable future. This will resolve the majority of concerns identified in the Discussion Paper. It must be implemented with adherence to liberal use of copyright material and must follow the principles of the Statue of Monopolies 1624. Edward Coke's achievements should be the reassurance all one needs to ensure that this is the correct path to take. Please also consider that each time copyright has not followed these principles the very concept of Copyright and Patents has come under attack. Amendments have had to be made each time to realign copyright for liberal use. This is a historical fact. Let's not repeat this mistake.
  - f. If Copyright is to be transformative and fit for purpose as is declared to be the case in the Official Documents and knowing how Copyright can do this, I am surprised that more Ministries are not involved. It is my understanding that other legislation is affected by this 'transformative review'. This was a requirement of the initial Cabinet Paper.
  - g. If this review is an attempt to require registration of users to the internet and regulate content with the new provision of a moderator (yet to be defined or scoped) it has the potential to seriously undermine the rights of Copyright holders. This will not address the inherent issues currently within copyright and fail to provide an appropriate income stream to them. The goals of user registration and content regulation can be gained by better codifying the provisions under the section of licences within the Copyright Act.
  - h. There are two additional objectives that should be addressed:
    1. Ensure that international organisations are required to comply with NZ law and standards and to ensure New Zealanders rights are not impeded negatively.
    2. The ability to have a financial return to New Zealanders who own Copyright material (which is in need of further codification within the Copyright Act).
  - i. Copyright represents the innovative material outcomes of thinking. A society that cannot think will quickly die.
2. I have 3 examples of how the current act does not function properly. These issues are not covered in the Review Document. I believe these issues to be critical. Understanding these matters is necessary to enable a solution that will solve the majority of issues raised within the Review Document.

- a. Wikipedia's Sir Michael Joseph Savage Photo.  
Prior to 2016 the photo that was on the Michael Joseph Savage Wikipedia page was of another person. This is because the NZ government held the Copyright of his images. Any 'authors' attempting to rectify this found the task too difficult and time-consuming and ultimately futile. They could not locate or reach the right's holder for permission. This is another process that could benefit from a carefully considered approach to outcomes from this review.
- b. My Facebook Page.  
My Page is a private one and therefore I have forgone any ability to unlock the platform's monetisation framework. Ninety-eight per cent of my content is only made available to Friends and their friends. This has been a conscious decision (as per the Copyright Council's guidelines) to respect copyright material contained on this page. I use the fair use, education and evaluation rights established by the NZ Copyright Act 1994 to do so. Recently I shared a 5% snippet of the critically acclaimed documentary titled the 'Defiant Ones' that was created and produced by a school friend Zane Lowe. Facebook refused to publish or allow me to upload this content. I appealed three times. Twice the response was definitely made by AI. After my third appeal where I was able to cite verbatim the NZ Copyright Council's guidelines, my upload was deleted 24 hours later. I was also issued with a strike notice against my continued use of FB. This perhaps can be seen as reasonable i.e. FB protecting the integrity of their Platform. In isolation there are number of uploads that could be considered in violation of me using Copyright material. However, when the entire page is considered in full, I have used this content under the afforded fair use, safe harbour policy rights within the Act. The only remaining course of action in that instance would be to pursue a remedy by initiating court action, citing the fact that I had had the account since 2006. My ability to seek redress through the NZ court system has been severely restricted by Facebook deleting any copy of correspondence I had concerning this matter.

The requirement identified in section h 1 above will rectify this very real situation. This is an actual example of how Copyright has been weaponised, to not only restrict or nullify my rights afforded to me under the Copyright Act, but also those rights afforded to me under the NZ Bill of Rights Act 1990.

3. The YouTube Creator and Twitch Gamer <https://socialblade.com/> is a comprehensive site to establish facts on Social Networking platforms.
  - a. YouTube is a primary source of revenue for Google with over \$100 billion in revenue in 2017. 1.3 billion users use YouTube each month. 300 hours of content are uploaded every minute. The YouTube Creator content is a primary driver of these figures. The Creator has been faced with the uncertainty of their future participation with a continued worsening of their ability to monetise their content. The primary reason for this has seen a new word entering the lexicon- 'Adpocalypse'. Since 2016 there have been two distinct events of 'Adpocalypse'. <https://www.polygon.com/2018/5/10/17268102/youtube-demonetization-pewdiepie-logan-paul-casey-neistat-philip-defranco> in 2016 and 2017. Both of these events have been driven by a concerted campaign from some very large, influential and established Main Stream Media (MSM) outlets. The same ones coincidentally that have been behind and driven the largest and potentially world-ending modern day 'conspiracy theory' that is 'Russian Collusion'. No other conspiracy has been so devastatingly wrong and with such world-changing implications. However, it is erroneous to focus only on the messenger, as the details and subsequent Moral Panic is in no way diminished as a fact of reality by doing so. This Moral Panic originates from advertisers having their Brand and Image being tarnished when seen alongside content that can derive negative public reactions. Philipp Schindler, Google's Chief Business Officer, addressed advertisers' complaints in a [blog post on March 21 2017](#), announcing YouTube's commitment to "put in place changes that would give brands more control over where their ads appear. Recently, we had a number of cases where brands' ads appeared on content that was not aligned with their values. For this, we

deeply apologize," Schindler said. "We know that this is unacceptable to the advertisers and agencies who put their trust in us."

- b. These are only the main issues facing users and creators. There are many more that are being withheld for the interests of making this submission brief and easily understood. The policies and systems (changing of algorithms) have been reactionary and to the serious detriment on the livelihoods of creators. From a creator's standpoint these are most notably to do with remuneration, types of content 'allowed', where entire topics and words are aggressively used as grounds to halt and even delete channels. If not serious and 'game-changing' enough, this is only the beginning of a Creator's woes. With the advent of the new policies and reporting functionality within the platform, Copyright is being used from seemingly unconnected groups. This threatens the immediate ability to 'broadcast' and forces parties into a lengthy and time-consuming review process. This weaponisation of copyright has to be addressed. Specifically, it's been used to diminish or even extinguish the rights of New Zealanders that are contained in the Bill of Rights Act along with its ICESCR Treaty Obligations. These events have seen entire channels vanish. often leaving 500,000 to 1.5million subscribers (including New Zealanders) disenfranchised. These people have actively declared that they want such content. This disconnect fuels a rapidly diminishing tolerance for accepting further legislation that is seen as designed for protecting an already privileged section of society. Rising civil disobedience will be entrenched with radical actions becoming the new norm. The YouTube Creator, especially with the recent EU passage into law of its Copyright Laws is needing a viable rationale to stay in existence against such developments. Google/YouTube are also in need of assistance with a framework that meets their policies and inherent understanding of the social requirements they must accommodate. They also must meet the requirements within the EU laws, specifically Article 13 which makes the Platform liable for their creator's actions.

Note also <https://www.youtube.com/watch?v=JwG0bQ7WC3c> to understand weaponisation of copyright and the scale of abuse.

The fastest and unquestionably easiest way for an individual to you use the internet for financial gain is via the Amazon-Twitch platform where multiple \$10,000s of revenue per month is not only achievable but is probably likely for a majority of the serious Twitch family of Creators. There are 7.4million active streamers per month. An individual captures their activity, then live streams it across the Twitch Platform. They have four distinct revenue streams. The use of Copyright music is a valuable and proven method to 'connect' with viewers and thus can be used to unlock the potential of these four revenue streams. This challenge is being addressed by the Executive of Twitch but they openly declare they need help to do so. Article 13 of the recent EU has become an issue that threatens the platforms' very existence. See <https://blog.twitch.tv/from-our-ceo-a-letter-to-twitch-creators-about-article-13-16ae8ec41c70>

**Both YouTube and Twitch and many other such platforms to the Digital Economy are in dire need of a jurisdiction which is connected and a party to established Conventions, Treaties, Common Law Histories, that have been crafted and established over the centuries, in particular, the last 70 years. This can assist with the requirements of these platforms to achieve and fulfil the rights and imperatives placed upon them. This opportunity exists for the first jurisdiction that can codify and align its copyright laws to do so.**

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["MPAA Banned From Using Piracy and Theft Terms in Hotfile Trial](#)

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**Paul Davids** <https://www.youtube.com/watch?v=JwG0bQ7WC3c> video: How this CRAZY copyright policy impacts me

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**The Works of Jeremy Rifkin.** The third Industrial Revolution. The Empathic Civilisation, The Vice Documentary, Google and CeBIT keynote speeches along with Ted talks with Mr Rifkin as the key feature of these works.