

Submission on Convergence

To the Ministry for Culture and Heritage

1. This submission is from Universities New Zealand.
2. Universities NZ is the operating name of the New Zealand Vice-Chancellors' Committee, a statutory body established under Part 19 of the Education Act 1989. It has statutory responsibilities for university quality assurance, the approval and accreditation of university academic programmes, entrance to universities, and scholarships. It also represents the interests of New Zealand's eight universities on a wide range of other matters.
3. The Vice-Chancellors of New Zealand's eight universities were all consulted in the development of this submission.
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Submission

5. We support public debate on the implication of convergence in the telecommunications, information technology, media and entertainment sectors, but are concerned that the importance of tertiary education and research, the impact of convergence on the sector and the flow on impact on the New Zealand economy may not have been sufficiently taken into account.
6. The paper raises a number of issues for universities in New Zealand as innovation in the way research is now undertaken and the way teaching and learning is delivered is opening up exciting possibilities for New Zealand education. Convergence plays an increasingly important role in these changes. It is vital

that any changes to legislation do not hinder the critical role that universities play in New Zealand's economy as the "engine of knowledge creation".¹

7. We are concerned that the proposed work programme raises important issues for universities which we submit must be considered:

A study of the creative sector use of copyright and designs regimes

8. In its paper *Exploring Digital Convergence—Issues for Policy and Legislation*, the Ministry of Business, Innovation and Employment includes a section (p20) on undertaking a study of the creative sector's use of copyright and designs regimes. The paper observes that the digital economy provides new opportunities for New Zealand firms to increase their weightless exports, and our intellectual property settings need to facilitate this. The paper recognizes that technological developments have "lowered the entry barriers for people trying to provide their creative works to end users", but that it "has also posed new challenges for people seeking to protect the works they disseminate digitally". The paper indicates that convergence and the digital economy will be only part of the study, and that it is intended to provide an evidence base to inform any future legislative reform. The paper then indicates that the primary focus will be on those creating and commercializing intellectual property. To quote, "The study will focus on the role of copyright and designs in the creation, production, distribution and consumption of content and other creative works".
9. Universities New Zealand sees it as essential that we are able to participate in this study as well. The universities are already a very significant part of New Zealand's weightless economy. They form a sector that employs nearly 20,000 FTE staff, has a combined total annual income of \$3.5 billion and accounts for one third of the research and development produced in New Zealand. In their teaching and their research roles the universities and their staff are both significant creators and users of intellectual property. Engagement with the work of others is an integral part of the creativity that occurs in the university environment. For this reason, Universities New Zealand endorses the statement in the paper (p12) that "The Government has a role to ensure that our legislation and policy frameworks remain optimised to support innovation and competition, while protecting the rights of New Zealanders". A very important part of this process involves ensuring that New Zealand's law and policy settings in these areas take account of those of our major competitors.

Developing the infrastructure needed to support convergence

10. Universities are at the forefront of research and teaching and learning and rely on convergence to ensure accessibility, as stated in the Convergence Paper, "The fact that different products and services are no longer bound to specific networks increases the accessibility of those products and services." Universities have leveraged off these changes and now offer students authenticated electronic access to teaching and learning materials including recorded lectures and Library

¹ Tertiary Education Strategy 2014-2019, p 3 accessed 15 October 2016 from:
<http://www.nbr.co.nz/sites/default/files/Tertiary%20Education%20Strategy.pdf>

resources 24 hours a day from any location through a variety of platforms. The importance of resilient, secure and well provisioned bandwidth capacity is critical to the continued development of innovative teaching and learning and the marketing of our universities in the international environment.

A review of the regulatory framework for content classification

11. Universities make extensive use of films in their teaching and research. Extending the regulation of content across all platforms is likely to impact on universities by imposing additional compliance costs and delays if we are required to have the films that we hold in our collections and use classified. The current fee is \$1124.40 to have a film classified and there is often considerable delay in obtaining the classification. It takes approximately 2 hours of administrative time to prepare and complete the application. It can take up to 6 weeks for an application to be processed. Universities are currently exempt if the films they hold are not made available to the public.
12. The preference of universities is to subscribe to specialised online video collections or streaming services if the content is suitable. These are often made available through overseas subscription services. If content providers are required to have the content they offer classified, because of the small size of the New Zealand market and the cost of classification, it may well result in those providers withdrawing from the New Zealand market.

A refresh of the Cyber Security Strategy and Action Plan

13. The scope and intent of CyberSecurity Strategy and Action Plan is of interest to the University community. It is critical that any policies that are developed are pragmatic and take the open nature of University networks and the innovation across them into account.

A review of the applicability of GST to cross border services and intangibles

14. While universities are not subject to GST on their transactions, the proposed new rules suggest that services and intangibles supplied remotely by an offshore supplier to New Zealand resident consumers will be treated as performed in New Zealand and therefore subject to GST. Further, it is proposed that these offshore suppliers will be required to register for GST if they reach the threshold limit yet to be determined.
15. This would have an enormous impact on libraries and is out of step with international practice. While it would increase costs, it could well result in a number of other very negative consequences, and add new costs to many other non-commercial organisations. This has further implications for copyright changes and region-coding. Any changes to regulations which could increase the impact of geographic market segmentation could mean a loss of access to valuable content and increased costs to the sector.
16. It is submitted that Universities New Zealand be invited to take an active role in contributing to and developing terms of reference for any review of legislation that has the potential to impact on universities.