

11 September 2020

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Re: Public consultation on a proposal for New Zealand to join the Budapest Convention on Cybercrime

1. Thank you for taking the time to meet with our Policy Team earlier in the year, to discuss the consultation on the Budapest Convention.
2. InternetNZ is an independent not-for-profit which operates .nz and helps New Zealanders to harness the power of the Internet for Good. Our policy team works to understand key issues for the Internet, to think about the best options for addressing them, and to share our understanding with people, including people who make important decisions.

InternetNZ welcomes the approach to joining the Budapest Convention

3. We welcome the proposal for New Zealand to join the Budapest Convention on Cybercrime.
4. The convention will enable information sharing that is important to enforce the law against people committing cybercrimes, in a way that is based in legal due process. The impacts of these issues are increasingly visible and important to people in New Zealand.
5. We welcome the approach to data preservation, where data preservation orders would relate to specific evidence and require judicial approval. We would oppose a more general legal requirement for data retention by organisations, due to the negative impacts this would have on privacy, security, and trust, which we think would be out of step with community expectations in New Zealand.

The New Zealand government should be joining international conversations, and continuing work to include civil society in these conversations

6. Beyond the benefits for enforcing the law, by joining the Convention New Zealand will become part of international conversations addressing cybercrime. We see a valuable role for New Zealand in these conversations as a voice for a rules-based international order.
7. Through the Christchurch Call, New Zealand's government has taken a leading role in working with civil society organisations and including civil society voices at the table to discuss collisions of technology, society, and policy. InternetNZ would strongly support this approach

continuing as a part of joining the Budapest Convention. For better and for worse, the Internet and the impacts of cybercrime increasingly affect ordinary people, and it is important that they have effective voices in these conversations. We also think that the most robust and responsive approach to these issues is to include a plurality of voices and perspectives, including voices that focus on human rights and community interests. We look forward to hearing your plans for achieving this if New Zealand joins the Convention.

More consultation would be needed before adopting Additional Protocols to the Convention

8. The Budapest Convention is long established, and the prospect of New Zealand joining has been on the radar for a number of years.
9. We think that more consultation would be necessary before taking moves to adopt the current Additional Protocol to the Convention,¹ which addresses racist or xenophobic propaganda, or the proposed Second Additional Protocol, to streamline information sharing across state boundaries.² International Civil Society organisations have raised a range of concerns which we would welcome the chance to consider and discuss in more detail, before any steps are taken to adopt either of these Additional Protocols.^{3,4}

Over time, it may be important to think about links between international coordination and potential domestic policy goals

10. As the Internet becomes more important to more areas of life, we think it is useful to consider how to share thinking across policy areas, and across domestic and international processes. Developing domestic policy work, for example under the media review led by DIA, may lead to frameworks which would benefit from an international perspective, and from participation in arrangements such as the Budapest Convention.

¹ Council of Europe, <<https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/189>>

² Council of Europe, <<https://www.coe.int/en/web/cybercrime/protocol-consultations>>

³

<https://www.crossborderdataforum.org/budapest-convention-what-is-it-and-how-is-it-being-updated/#_edn2>

⁴ Electronic Frontier Foundation, Civil society response to the Second Additional Protocol, <https://www.eff.org/files/2018/07/31/globalcoalition-civilsociety-t-cy_201816-final1.pdf>

Next steps

11. We would welcome the chance to discuss these issues.
12. Please feel free to contact us on **policy@internetnz.net.nz**

Ngā Mihi Nui,



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