

Response to Feedback Request on New Zealand's draft principles and objectives for negotiating a new UN convention on cybercrime.

internetnz

Kia ora koutou

This letter is a response to the request from DPMC, MFAT and Justice to respond to New Zealand's "Draft Principles and Objectives for Negotiating a new UN Convention on Cybercrime". Thank you for providing us with the opportunity to submit comments.

ABOUT INTERNETNZ

InternetNZ is an independent, not-for-profit organization which operates the .nz domain name and helps New Zealanders to harness the power of the Internet for good. We provide the infrastructure, services and support that ensure New Zealand continues to enjoy an Internet that is open, global and interoperable.

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.

ABOUT THIS SUBMISSION

In going about our policy work, we prefer to take an approach that engages our community and tests our suggestions before sharing these with government. The resources available to do this are limited and we have not taken this approach for this stage of this process, and so this is an in-house submission without that community outreach having been done. We wanted readers to be aware of this.

We are currently commissioning work to review and ground the nature of the Internet we seek to shape - an "Internet for Good". That work will, among other things, engage New Zealanders in the things they wish to see the Internet deliver for them, and the values they want to see it uphold. We will apply what we learn to our stance on a range of issues, and we anticipate this will include our views on Internet Governance matters. We share this to give readers knowledge that our views shared in this response may change in the next 6-18 months, and we cannot foresee now what such changes may be.

COMMENTS REGARDING THE PROPOSED CONVENTION

First of all, we would like to say at the outset that InternetNZ questions the need for any cybercrime-related Treaty at this particular point.

As the government mentions in its consultation, “Binding international treaties like the Council of Europe Convention on Cybercrime (the Budapest Convention) have laid the foundations for countries to align their laws and foster information sharing on current threats and best practice.”

We agree. The Budapest Convention, though imperfect, has provided a consistent and predictable framework and we believe that it is important that this framework continues to be both supported and strengthened. We have previously submitted in support of New Zealand’s accession to the Convention.

Ideally, any international discussions on cybercrime would complement the Budapest Convention, as you suggest; however, we are not convinced that this process seeks to do this. On the contrary, we are seeing the possibility where cybercrime is used for a more expansive Internet governance agenda.

On this point, in particular, InternetNZ would like to express our concern about the possibility of this process being used for an “Internet Treaty”.

Over the past few years, we have followed closely the shift in geopolitical power and dynamics and we are aware of the intention of certain countries to see a more top-down, centralized approach to Internet governance. We have grown concerned about the increasing role the United Nations is having in discussions about the future of the Internet.

Of course, we appreciate and support the need for governments to be involved; we have consistently supported the New Zealand government in all its processes. However, we do not necessarily believe that the United Nations is the appropriate venue to discuss such issues due to its non-inclusive structure, which prevents the participation of non-governmental actors. Similarly, we do not believe that a Treaty is necessarily the right choice to address the fast-paced and demanding evolution of the Internet.

This should not be read as endorsing the current Internet Governance framework, which faces a range of challenges and needs reform in several areas. Our current view though is that a United Nations Treaty-led process is not likely to prove the right durable approach to how to manage Internet governance matters.

SPECIFIC REFLECTIONS

Having said all the above, we appreciate that this process is now in motion and that it is important for New Zealand to participate. Below are our reflections on “New Zealand’s Draft Principles and Objectives for Negotiating a new UN Convention on Cybercrime”.

- We are encouraged to see the continuous commitment of the New Zealand government towards “a cyberspace that is safe, secure, stable, multi-stakeholder-governed, free, open and interoperable”. We would like to add to this list the need for an Internet that is globally-connected and has global reach. The global nature of the Internet is a feature not a bug and we need to ensure that it is maintained to the extent possible.
- We also agree with the government’s point that, should this process proceed, it should focus on identifying ways for harmonising some internationally-recognized forms of crime and that it seeks to “address and improve international responses to emergent forms of cybercrime and

cyber-enabled crime”.

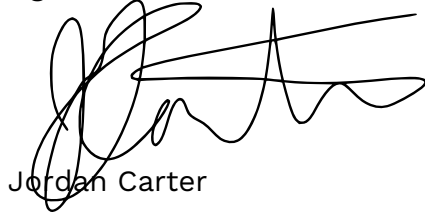
- We would like to reiterate the need for this convention to have a narrow and well-scoped purpose. Given the reality and fragile state of the Internet, we would like to suggest that New Zealand works with key stakeholders, partners and allies – both nationally and internationally – towards this purpose.
- We would also like to support your objective towards “multi-stakeholder participation in the negotiations.” For InternetNZ, it is important that Internet governance conversations become ever-more inclusive and broadly based, so that the perspectives of those using the Internet can be part of the process of shaping its development. We appreciate that there might be instances where the government will need to make decisions, but we also believe that these decisions are better informed if the views of other stakeholders are taken on board.
- Finally, we would like to express our full support in your effort “to consider the interests of, and potential impact on Māori and indigenous peoples internationally”.

InternetNZ stands ready to support, assist and collaborate with the New Zealand government throughout these negotiations. Internally, we will also be following these conversations and do whatever we can from our end to ensure that the process is inclusive and transparent.

If you would like to discuss these issues further with us, please contact me in the first instance to organise this (jordan@internetnz.net.nz).

In closing, I thank you again for this public consultation and for the opportunity to submit our comments.

Ngā mihi nui,



Jordan Carter

Chief Executive