



# KIWI CREATIVITY DOESN'T JUST HAPPEN

New Zealand's screen, music and interactive media creators join in a position paper on the review of the Copyright Act.

APRIL 2019



# RT HON JACINDA ARDERN



Our culture is an inseparable and integral expression of our humanity, and creativity is what separates us from algorithms and machines.

Our arts and culture are valuable and positive enhancers of our physical, mental and social well-being.

Our fast-growing and high exporting creative industries make a significant contribution to our economy – they drive employment and help us to share ‘Brand NZ’ – Aotearoa’s unique perspective with the world.<sup>1</sup>



<sup>1</sup> Prime Minister’s address to the WeCreate Creative Economy Conversation. 17 September 2018.









# KIWI REATIVITY MATTERS TO OUR INDUSTRY AND TO NEW ZEALAND.

In creating this position paper, numerous creators, representatives and industry participants collaborated, sharing views, case studies, and support.





## THIS PAPER IS SUPPORTED BY:



### THE WETA GROUP OF COMPANIES



Many of the signatories to this paper are proud Members or Friends of WeCreate, the creative sector alliance seeking an industry-led partnership with government to grow our creative industries' contribution to Aotearoa New Zealand's wellbeing.





# CREATING OURSELVES – SECURING OUR FUTURE

**New Zealand is a creative nation. We're a country of storytellers, sharing our unique narratives through film, television, music, and games.**

From humble beginnings, New Zealand has come of age as a filmmaking nation. Iconic films such as *The Piano* and *The World's Fastest Indian* have helped to cement our identity as filmmakers on the international stage, a process that continues with films like *Hunt for the Wilderpeople*. From *Once Were Warriors* to *Whale Rider* and *Boy*, films written, acted or directed by Māori celebrate our indigenous voices and storytelling.

New Zealand is now a favoured destination for international productions, with feature films from the *Lord of the Rings* trilogy to *Avatar*, and from *The Meg* to *Mulan* providing career opportunities for our skilled people and high tech production and post-production, showcasing our unique landscapes, and supporting the wellbeing of the local industry and the people who work in it.

New Zealand music is thriving both at home and on the world stage. Our talent is diverse, ranging from Lorde, a global superstar, to SIX60 attracting huge audiences within New Zealand, and Alien Weaponry conquering the world in te reo Māori. While we

love new music, Kiwis also hold a special place in our hearts for the iconic anthems that have soundtracked our lives from artists including Herbs, Crowded House, Dave Dobbyn, and Bic Runga.

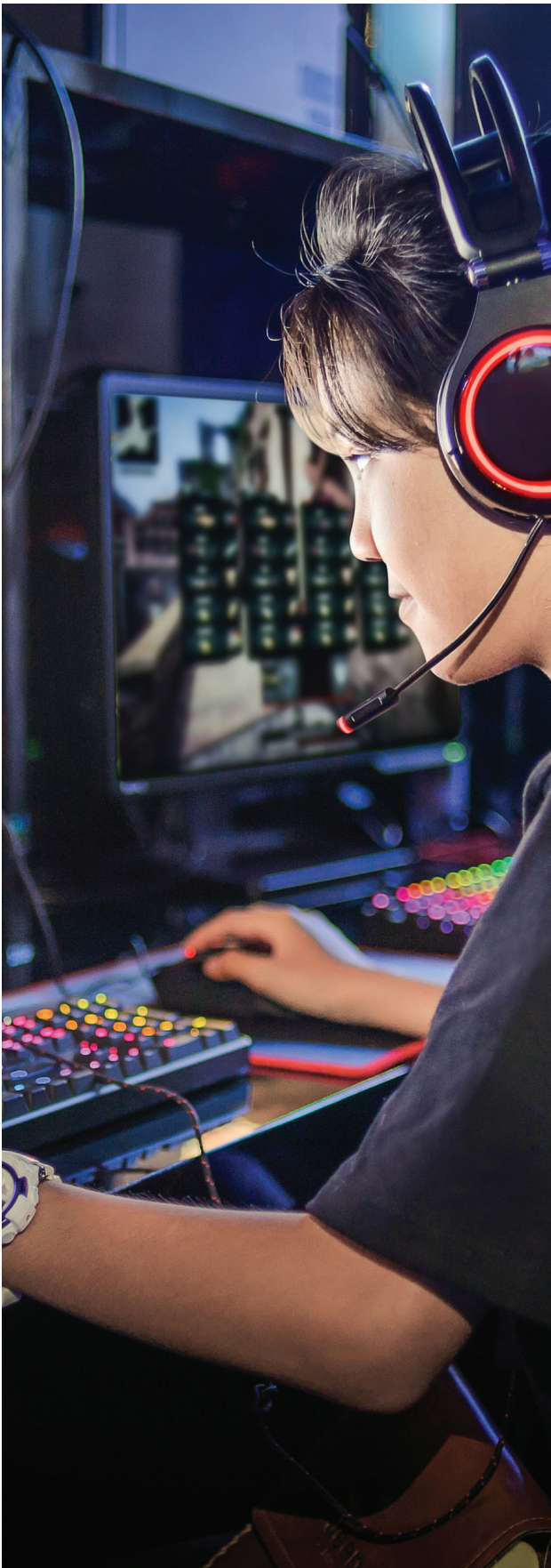
Local television productions have remained well-loved as New Zealanders enjoy seeing themselves reflected on screen. *Shortland Street* is entering its 28th season, more than a quarter of a century after Dr Ropata famously learnt that he was no longer in a Central American country.

New Zealand writers and productions reflect our unique Kiwi sense of humour – from *Flight of the Conchords* to *Wellington Paranormal*; and who would have thought that a documentary about a whānau of Onehunga funeral directors would go global as *The Casketeers* has done on Netflix?

Sport is in our national DNA, and watching televised sport remains a favourite pastime for many Kiwis, as well as providing valuable income to our sports bodies and players. New Zealand sports broadcast production is considered amongst the best in the world.

New Zealand's interactive media and games industry is also breaking down international barriers with locally made apps and games generating record numbers of downloads across digital platforms worldwide.





Film, television, music, and games are now available to New Zealanders in more ways than ever before, including online and mobile, with a range of different payment options. While Kiwis have embraced Netflix and Spotify, there has also been considerable investment in local distribution platforms such as Lightbox, Stuff Pix, TVNZ OnDemand and SKY's Neon service. These services provide quality content on-demand to New Zealand consumers with flexible pricing options.

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## **BUT THE SUCCESS OF OUR SCREEN, MUSIC AND INTERACTIVE MEDIA DOESN'T JUST HAPPEN.**

It takes an incredible amount of investment and work behind the scenes to write, produce, televise and bring our screen, music and interactive media content to market.

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The process employs many thousands of Kiwis (you probably know some of them), ranging from our world-class talent to producers and directors, musicians, camera operators, screen writers and composers, game developers, sound engineers, designers, programming and digital development experts, to name a few.

For this investment to continue, and for our creators to enjoy sustainable future careers, it is critical that New Zealand has the right copyright framework to support them.

We welcome the Government's review of the Copyright Act, updating it for the realities of today's markets, and we look forward to working with government and other stakeholders to help secure the future of our creators, and an abundance of local screen and music content for all New Zealanders.



# OUR ECONOMIC AND CULTURAL CONTRIBUTION

## IT'S ABOUT THE NZ ECONOMY

In 2017:

Screen production made a

**\$3.5  
BILLION**

gross revenue contribution to New Zealand's economy for a value-add to GDP of \$1.1 billion



The music industry contributed

**\$639m**

to GDP



The games industry contributed

**\$592m**

to GDP

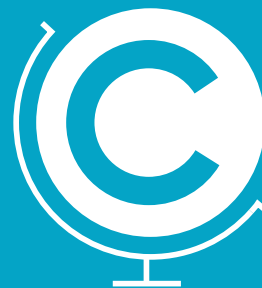
## IT'S ABOUT OUR PLACE IN THE WORLD

More than ever, the market for music, film and television is global.

Although we are a small country by population



are making an impact all over the world.



It's essential that our copyright laws support our creators to be successful exporters.



## IT'S ABOUT JOBS AND SUSTAINABLE CAREERS FOR NEW ZEALANDERS



In 2016, the **screen sector** provides employment for

**13,900** people who cumulatively worked in

**26,600** jobs or contracts<sup>2</sup>.

**Screen and Music companies are major employers in New Zealand.**



The **NZ music industry**

employed over

**2,500**

full time equivalent personnel and indirectly supported over

**4,700**

full time equivalent jobs.



The **NZ games industry** provided over

**550** full-time equivalent creative jobs and many more in retail and distribution.

Screen and music projects involve many talented New Zealanders and the sustainability of this value chain depends on them being able to make a living from their creative endeavours.

## MOST OF ALL, IT'S ABOUT US

Whether it's through film, television, music, or games, our creative people tell our unique and diverse stories at home and abroad. Their rich contribution to our country's culture and national identity is at risk if we don't achieve copyright law that is fit for the realities of the digital world.

**A copyright environment that is fit for purpose is essential to give our screen and music creators and companies a fair go.**



<sup>2</sup> Statistics New Zealand. Screen Industry 2016/2017



# BEHIND THE SCENES



## WETA WORKSHOP'S GIANT KILLER ROBOTS

World-famous for its creativity and innovation, Weta Workshop has empowered its designers to create original intellectual property.

The result: *Giant Killer Robots: Heavy Hitters*, a tactical table-top game that showcases Weta Workshop's talents. To get the game from concept stage to commercial manufacture, Weta Workshop sought crowd-funding through Kickstarter. With a goal of \$100,000 to get the project off the ground, the team received more than \$935,000 in funding, making it New Zealand's most successful Kickstarter project.

Game components have been created with the same attention to detail as the Workshop's renowned film props and collectables, and the storyline is truly original. Launched in 2018, the game has sold extensively internationally further showcasing the talents and creative, original IP of Weta Workshop.







## DAFFODILS

### Kiwi music, theatre & film collide

The New Zealand feature film musical, *Daffodils* has a quintessentially Kiwi backstory and highlights the symbiotic relationship between our local film, music, and theatre industries. Written by Hamilton-based playwright Rochelle Bright in 2014, *Daffodils* attracted critical acclaim and awards at the Edinburgh Fringe Festival and piqued the interest of Kiwi film director David Stubbs who saw the play in Wellington. Released in March 2019 the feature film adaptation celebrates New Zealand's music, drama, writing, and film production talent. The Libertine Pictures & KHF Media film features an all local cast including Rose McIver, George Mason and musician Kimbra, and a soundtrack including Th' Dudes, Bic Runga, and The Dance Exponents (reinterpreted by Silver Scroll winners LIPS).

## THE MEG

### A mega-legacy lives on in Kumeu

In the ultimate Hollywood makeover, landlocked Kumeu outside Auckland became the Mariana Trench in the Warner Bros. Pictures/Gravity Pictures production, *The Meg*.

While the subject matter from the fun-filled action/sci-fi thriller was from prehistoric times, the production itself has created future benefits for multiple industries and regions including Auckland (Kumeu Film Studios' facilities have doubled Auckland's screen studio infrastructure); Bay of Plenty (a Tauranga marine firm created the props); and New Zealand as a whole (63% of the cast were New Zealanders; 670 people were recruited as crew, and 500+ Kiwi vendors were contracted for the production).





## SPORT

### By the numbers

For nearly 30 years, SKY has helped its sport partners to grow their sports and businesses, and employed hundreds of talented Kiwis.

In 2018, SKY Sport produced 400 onsite broadcasts up and down New Zealand and aired 5,623 live sports events. SKY Sport and the Rugby Channel broadcast an enormous 17,178 hours of live sport in the year. That's an average 330 hours of live sport per week with an average of 47 hours of live sport per day.

## SPORT FLIES THE FEMALE FLAG

SKY Sport continues to lead the way with women in front of the camera as well as behind the scenes.

You might know Ruby Tui as a Black Ferns Sevens player but when she's not on the field, she's also entertaining Kiwi sport fans with her sideline commentary and expert opinions on SKY Sport.

Ruby is one of more than 30 women who feature on SKY's shows and live sport coverage.





# WELLINGTON PARANORMAL

## A top-rating hit

Produced by The New Zealand Documentary Board for TVNZ, *Wellington Paranormal* is a top-rating hit both on air and online.

From the genius minds of Jemaine Clement and Taika Waititi, and featuring some of New Zealand's brightest comedy talent, the series creative output spans further than its six-week filming period in Wellington and the Hutt Valley. Emerging and established creators have all contributed to its success.

Well-known faces Mike Minogue, Karen O'Leary and Maaka Pohatu brought their considerable acting skills to the project, alongside new talent – like Demon Girl, Erica Camacho who worked at Auckland amusement site Spookers and was so freaky that Jemaine had to cast her!

Young writers, including Billy T nominated comedian Melanie Bracewell, rapper Coco Solid and Sam Smith sat alongside veteran scribes like Nick Ward to produce the show's hilarious and unique style.

Directors Jemaine Clement and Jackie Van Beek gave cast and crew alike the ability to improvise and bring moments of magic to the screen.

Over 100 people were on the cast and crew of *Wellington Paranormal* season one. Together, they created something 'Kiwi As', loved by audiences here and with massive appeal to viewers around the world. Adequate copyright protection gives *Wellington Paranormal* the chance to be renewed locally, and the possibility to make its mark internationally. It guarantees continued work for talented individuals on this project and other projects for years to come.







## THE BROKENWOOD MYSTERIES

Breaking records internationally

*The Brokenwood Mysteries* has brought a fresh and wholly Kiwi approach to the murder-mystery genre and has proved a hit with local and international audiences. Over the course of five series, the South Pacific Pictures production employed hundreds of cast and crew.

The production is currently on air in 16 territories internationally, showcasing New Zealand to an audience of millions worldwide. In France, series one as a whole, averaged 3.6 million viewers; in the UK, 560,000 viewers tuned in to each episode, while in Finland, series one averaged 609,000 viewers per episode.

## PIKPOK

BAFTA-nominated

Mobile games publisher PikPok has gone from strength to strength throughout its 22-year history. The studio began life contracting for international entertainment companies such as Warner Bros., Disney, MTV, Electronic Arts and Activision before becoming an early adopter of digital platforms like the Apple and Google app stores. PikPok's apps have been downloaded more than 350 million times across 200 countries in 24 languages, including original zombie action games *Into the Dead* and *Into the Dead 2* (with 100 million+ downloads since the series launch in 2012). The studio has also received 12 Apple Editor's Choice Awards and been nominated for a BAFTA for the game *Super Monsters Ate My Condo*.





## SONGHUBS

### A shining example of copyright in practice

Since 2015 APRA AMCOS, in partnership with NZ on Air, Auckland Council, the New Zealand Music Commission, and Recorded Music New Zealand, has brought award winning international songwriters to New Zealand to collaborate and share knowledge with our local artists, writers and producers. LA-based singer-songwriter Chelsea Jade describes SongHubs as “the optimal writing camp”: “When you collaborate you all have the same goal, which is to serve the song – but finding ways to navigate your way towards the song can be a challenge. The thing that I’ve taken away from SongHubs is a sense of kinship with people that I hadn’t had an opportunity to form a kinship with before.”



## FRESH EGGS

### Cracking good fun

TVNZ 2’s latest black comedy is a master class showing off the talent in New Zealand’s screen industry. Produced by Warner Bros. International Television Production New Zealand, the six-part TV series was written by New Zealanders, crewed by 230 New Zealanders, stars New Zealand actors, funded in part by NZ On Air and as co-creator Nick Ward explains is “a love letter to rural New Zealand” (albeit a slightly off-beat love letter with dark humour). The style and content of *Fresh Eggs* differs to what has previously appeared on free-to-air television in New Zealand and it is this edge that is allowing the production to compete with international dramas available on global platforms.





# KEY COPYRIGHT ISSUES





# Film, television, music, and games are created within a fragile and multi-layered eco-system, which relies heavily on copyright law.

Copyright is the mechanism which ensures that creative people get paid for their work. It is also the basis on which screen and music companies invest in creative talent, produce, market and licence content and make it available to consumers through both online and traditional means.

While we have a variety of business models and interests, we are united in our support for an Act that provides clarity and certainty, and robust regulation that responds to the opportunities and challenges of the digital environment. We all support the following principles.

# 1

## SAFEGUARDING CREATIVITY

Business models have adapted to meet consumer demand, yet online piracy remains a substantial barrier to the sector reaching its full potential. In today's world illegal copies can be made and distributed with the click of a button, and unauthorised content can be live streamed from multiple offshore locations.

### RESEARCH<sup>3</sup> SHOWS THAT

**25%**

of internet users in New Zealand are using pirate sites to obtain music.

**25%**

of New Zealanders regularly pirate television content.

**1 in 10**

Kiwis say it's the way they 'normally' watch screen content.

The pirate sites are usually based outside New Zealand and do not pay a cent back to creators, investors, or the New Zealand economy through tax.

Our copyright law needs updating so that the enforcement provisions enable creators to take effective action against online piracy. In particular, we need a clear and streamlined process to enable courts to order internet service providers to block their users' access to illegal websites offering unlicensed screen, music and games content to New Zealanders.

"No fault" website blocking is a reasonable and proportionate remedy that is already available in at least 30 countries and has been used widely in the UK, Australia and the EU. Studies show that website blocking has been effective in reducing online piracy<sup>4</sup>.

<sup>3</sup> The Navigators/SKY. Digital Piracy in New Zealand: Summary of Research Report. 11 September 2018. | Horizon Research. Music Consumer Study November 2018.

<sup>4</sup> The latest study from Incopro shows a more than 50% reduction of piracy traffic to blocked sites in Australia, for example, and a 25% overall reduction in piracy traffic to all sites, whether blocked or unblocked.

# 2

## FAIR RESPONSIBILITY FOR ONLINE PLATFORMS

Since New Zealand copyright law was reviewed in 2007, there has been a massive shift in how content is consumed online. Global platforms such as Google, Facebook and YouTube have become key gatekeepers for New Zealanders accessing content.

Although these platforms take the bulk of online advertising revenue for the New Zealand market, they are not regulated in the same way as New Zealand content producers, they are not subject to broadcasting standards, they pay minimal tax in New Zealand, and they make content available without clearances, relying on “safe harbour” privileges under copyright law.

The issue of platform accountability is being considered by a number of governments including in the UK, EU and Australia.

When it comes to copyright, we are calling on the New Zealand Government to review the Copyright Act in light of this new market reality. This should include a review of the safe harbour privileges that were enacted in 2008.

# 3

## FAIR GO ON EXCEPTIONS AND LIMITATIONS

Exceptions under New Zealand law are defined by way of statutory conditions crafted ahead of time for specific scenarios, for example use of copyright works for libraries and archives. We all have experience working within this system of exceptions, both as content creators and users.

Some have argued that changing technology means that our law should change to a system of “flexible exceptions”, with US-style fair use as a possible model.

We do not support a flexible exceptions approach. There is no convincing evidence to show that such an approach promotes innovation or creativity, it would cast uncertainty over existing business arrangements, and tends to favour large offshore companies that can afford litigation to defend their uses. It is also doubtful that this approach would comply with New Zealand’s existing international obligations.

Licensing fuels innovation, not exceptions; and licensing generates revenue for creators and investors. Since 2007 when New Zealand copyright law was last reviewed, on-demand services such as Netflix, Spotify, Lightbox, Stuff Pix, TVNZ OnDemand, and SKY’s Neon service have developed to meet customer demands for content in flexible digital formats and at a range of prices. With the right copyright framework in place, this innovation can continue.

**LICENSING FUELS  
INNOVATION,  
NOT EXCEPTIONS;  
AND LICENSING  
GENERATES  
REVENUE FOR  
CREATORS AND  
INVESTORS.**



A photograph of a DJ performing at a club. The DJ's hands are visible on a wooden DJ console, with various cables and equipment connected. The background is blurred, showing a dimly lit club environment with other people and lights. A large blue rectangular overlay is positioned on the right side of the image, containing white text.

**WE LOOK FORWARD  
TO WORKING WITH  
GOVERNMENT AND  
OTHER STAKEHOLDERS  
TO ENSURE  
COPYRIGHT LAW  
WORKS TO SECURE  
THE FUTURE OF LOCAL  
SCREEN AND MUSIC  
CONTENT FOR ALL  
NEW ZEALANDERS.**

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