

I wish to comment on section 107 of the draft. Currently this states

“Work underway and proposed (in the Plan and elsewhere) that will support access to government-held and -generated information in user friendly ways are relevant to the ideas that were focussed on innovation. There were other ideas that related to possible barriers to public access such as copyright rules and the government’s approach to managing the intellectual property it owns or generates. While these ideas are not included in this Plan the State Services Commission has drawn these concerns to the attention of the Ministry of Business, Innovation and Employment (the responsible Ministry).”

From these comments it seems to me that those drafting this plan are taking a narrow view of the term “access”. At present this comment in the report appears to read as if “access” is defined as the ability to “see” the content held and generated by government. I regard this as a limited definition of the term.

In my opinion it is vital to the aims of this action plan that the public not just be able to access information but also have the ability reuse content held and generated by the government. Nor should this ability to reuse content be restricted to the narrow purpose of innovation.

The ability of the public to have access to and reuse content will assist with the National Action Plan’s aims of encouraging public participation in policy development and the ability of the public to engage with official information. In this case I’m defining “official information” very broadly, as defined in the Official Information Act.

At present, as a result of the inability of government departments themselves to work out the rights of the public when it comes to reusing content, the public are being hindered in engaging with official information and are being restricted in their ability to participate in policy development. Even if the Copyright Act were to remain unreviewed and unchanged, this structural failure in implementation by the government will, in my opinion, hinder the aims of the Action Plan for Open Government.

I have had several instances where I have had difficulty obtaining access to and reusing content held or created by government departments and government funded institutions such as the Department of Conservation, the National Library, the National Museum of New Zealand Te Papa Tongarewa, NIWA etc. This difficulty came about as a result of either the inability, or the policies, of those institutions to facilitate public access to and reuse of content created or held by them. I believe there are currently structural or resourcing failures within some of these institutions which result in the public being unable to engage with information held or created by the government.

It is not purely that the current Copyright Act may need to be amended or changed, nor is it that the current act hinders innovation. It is that the implementing of policies and resourcing within government departments that deal with the day to day application of the current Copyright Act are hindering the public’s access and ability reuse to information and content held and generated by the Government. I recognise that “GOAL” - the New Zealand Government Open Access and Licensing framework - has gone some way in encouraging departments to facilitate access and reuse. But I don’t regard this framework as going far enough.

To give you examples about what I am talking about. Last year I wrote to the CEO of the New Zealand National Museum Te Papa Tongarewa and their Minister requesting that the licensing on their natural science specimen images be changed. At present these images are licensed under the Creative Commons CC BY NC SA license. This license is quite restrictive and meant that I couldn’t reuse those

images in Wikipedia. The reason I wanted access to those images was to illustrate articles I was writing on endangered endemic New Zealand species. My intention behind writing those articles was to raise the general awareness of New Zealanders to endangered species in their area and by doing so hoped to ensure more New Zealanders take an interest in those species, including engaging with DOC to ensure the protection of them. That is encouraging public participation in policy development. I was informed that the licenses of these images would be changed to the more open CC BY 4.0 license which of course I was very happy about. However I was also informed that as a result of technical and resourcing issues this change in license would take some time to implement. In the meantime I would have to wait until this work was complete before I could make legal use of the images.

To give another example. I was wanting again to use images held at the National Library of New Zealand. The images I was wanting to use are in the public domain according to the present New Zealand Copyright Act. The images are digitised and the National Library allows access to these images via their website. The National Library is giving the general public the ability to reuse these images. However at present there are conflicting reuse statements on content held by the National Library despite content being in the public domain. These conflicting reuse statements ensure I am unable to use the images for the purpose to which I wish to put them, despite them being in the public domain. I understand the National Library is in the process of attempting to clarify its reuse statements. However I have been informed that this situation is unable to be fully addressed at present as a result of resourcing constraints and, it appears to me, the lack of priority given to this work.

To give a third example, the Department of Conservation has an image repository of the many photographs taken by current and previous Department of Conservation staff. As far as I am aware the majority these images are inaccessible to the public as they have not been digitised. I also understand that there is also frequent confusion within the department concerning the copyright status of the more historic images, that is who actually owns the copyright of those images. With the Department of Conservation being unable to make a judgement on this, the ability of the public to access and reuse of those images is non-existent.

I recognise that the examples I'm giving only deal with images. However I'm of the opinion that the structural challenges would be similar for other forms of official information. These concerns and issues are not going to be rectified by bring them to the attention of the Ministry of Business, Innovation and Employment.

It is all very well to have a plan for Open Government but if practical steps are not laid out in the plan and resources are not prioritised to enable this work to be undertaken, then Open Government will not come to fruition. I am of the opinion that this issue of hinderance to gaining access and the ability to reuse information exactly the sort of issue that should be addressed by the Open Government plan. Work should be done to prioritise the practical steps needed to be undertaken to ensure that the aims of Open Government are met.

Best regards

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