

NZFACT Refutes Ministry's Assertion on Position Regarding Costs of Notices

Copyright (Infringing File Sharing) Amendment Bill

Auckland, 28 July, 2011 - NZFACT has today clarified that it never agreed or recommended a preferred fee of \$2 per notice as was incorrectly stated in Annex A of the published regulations under the Copyright (Infringing File Sharing) Amendment Act; and has therefore requested the document be corrected and republished immediately by the Ministry of Economic Development.

Annex A provided the range of fee estimates submitted to Government during the two stage consultation process leading to the development of the Act's regulations.

Tony Eaton, executive director of NZFACT said: "Our submission to Government clearly stated under the new legislation, ISPs must use the same method of communication for issuance of notices to their customers, as used for billing purposes. Given the vast majority of ISPs use either bulk-rate commercial postage (or in some cases email) for billing purposes, the per-notice communication costs should be just a matter of cents."

"As the Government has committed to a six month trial period at a \$25 cost per notice, we are now reviewing our options in relation to the legislation" he concluded.

*** ENDS ***

About NZFACT

The New Zealand Federation Against Copyright Theft was established in 2005 by the Motion Picture Association to protect the film industry in New Zealand from the adverse impact of copyright theft. NZFACT works closely with its members, government and enforcement authorities to protect the New Zealand film and television industry, retailers and movie fans. NZFACT members include: Walt Disney Studios Motion Pictures, New Zealand; Paramount Pictures Corporation; Sony Pictures Releasing International Corporation; Twentieth Century Fox International Corporation; Universal International Films, Inc.; and Warner Bros. Pictures International, a division of Warner Bros. Pictures Inc.

The total value added to the New Zealand economy as a consequence of film and television industry activity is approximately \$2.54 billion. The total employment created in New Zealand as a result is estimated to be 22,000 full time equivalent positions. The total labour income in New Zealand generated as a result of film and television activity is approximately \$1.2 billion.

NZFACT works in association with the Motion Picture Association, which represents the interests of the film industry across the world. NZFACT also has an alliance with the Recording Industry Association of New Zealand to share information regarding copyright infringement, and is a

member of the recently-formed Anti Counterfeiting Group, which represents the interests of New Zealand's major intellectual property stakeholders, such as the music industry, computer software and publishing. NZFACT has a nationwide hotline that enables the reporting of film copyright theft 24 hours a day, 7 days a week: 0800 267 9744.

Annex A: Table of notice fee estimates provided by IPAPs

Two sets of notice fee estimates have been provided by IPAPs during the development of this regime. During the consultation process on the Regulations, IPAPs were asked to provide estimates based on 5000 notices per month for consistency.

Estimates given during the Select Committee process for the Act

IPAP	Estimated Notice Fee based on full cost recovery	Number of Notices Per month estimate is based on	Level of automation
Vodafone*	\$31.56	10,000	None
Vodafone*	\$19	10,000	Full
Call Plus*	\$36-\$42	2000	Partial
Woosh	\$13.90	2000	Majority

Current estimates given during consultation on options for the regulations

IPAP	Estimated Notice Fee based on full cost recovery	Number of Notices Per month estimate is based on	Level of automation
Telstra Clear	\$32	5000	Partial
Telecom	\$29	5000	Partial
Telecommunications Carriers Forum (surveyed across its members)	\$40	5000	Partial
Orcon	\$77	5000 (Orcon accounted for an extra 4 allegations matched to each customer between each notice. They noted that if this number was built into the 5000 total, their fee estimate would be 38).	None

Preferred fee amount submitted by rights owners

Recording Industry Association of New Zealand (RIANZ)	2	5000	(n/a)
New Zealand Federation against Copyright Theft (NZFACT)	2	5000	(n/a)
NZ Society of Authors	2	5000	(n/a)

IPAP assumptions for the current estimates

Total number of notices per month 5000

Number of detection notices – 3300

Number of Warning Notices, assuming a 70% drop off in infringement – 990

Number of Enforcement Notices, assuming a 70% drop off in infringement – 297

Number of challenges, based on the assumption that 50% of detection notices will be challenged, 20% of warning notices challenged, and 10% of enforcement notices challenged - 1878

It is assumed that one contact to the IPAP will be made per customer, on the basis that some account holders will make several contacts and some will make none. IPAPs state that their experience of rolling out new products has found that this is a reasonable expectation.

Number of times the IPAP is required to interact with the Copyright Tribunal, based on the assumption that this will occur for 5% of enforcement notices issued – 15.