



Submission

Of the

New Zealand Retailers Association

To the

Commerce Select Committee

In respect of the

**Copyright (Infringing File Sharing)
Amendment Bill**

June 2010

Barry Hellberg
Government & Advisory Group Manager
P O Box 12 086
Wellington

Ph: 04 472 3733
Fax: 04 472 1071

Introduction

These submissions are presented by the New Zealand Retailers Association

The Association is the largest Association representing the retail industry in New Zealand.

Our members include the major supermarket and general merchandise chains, specialised chains, traditional department stores and thousands of owner operators spread throughout the country.

Our membership also includes a number of specialised trade groups representing manufacturers, distributors and retailers in the plumbing materials, metal fastener, pet, equestrian, jewellery, bicycle and sporting goods sectors.

Retail sales currently total some \$65b per annum and the industry employs approximately 325,000 people (20% of the workforce) in over 49,000 outlets spread throughout the country.

General Submissions

The Association is supportive of the Bill and, in particular, its objective of providing new enforcement measures against the unauthorised sharing of copyright material via the Internet. Our members have for some years had increasing concerns about the growth in the availability of counterfeit merchandise and we are accordingly in favour of legislative measures, such as this Bill, which is directed towards establishing a legal framework to protect the creative industries against infringers of copyright through stronger sanctions and compensation.

By way of background we have in the past year made submissions to the Foreign Affairs and Defence Committee on the Trade Marks (International Treaties and Enforcement) Amendment Bill supporting specific proposals to provide the Ministry of Economic Development and Customs with greater resources to address the counterfeit issue. We have also made representations to the Minister of Customs recommending that the \$400 exemption be removed on private imports and charging both GST and duty where applicable on all goods entering New Zealand.

Whilst these issues are outside the scope of the current Bill we recognise the phenomenal growth in the use of the Internet to download for instance illegal films and music and we accordingly see the proposed legislative amendments will be a useful addition towards a package of measures that are designed to prevent the availability, use or sale of unauthorised goods or services

Specific Submissions

We are supportive of the five major objectives of the Bill which are to:

- deter file sharing that infringes copyright;
- educate the public about the problem;
- compensate copyright owners for damage sustained from copyright infringement by file sharing
- provide sanctions for serious copyright infringers and
- limit ISP liability that may result from account holders infringing file sharing.

We accept that infringements often occur where copyright works such as films or music is transferred without the authorisation of the copyright holder and accept that current civil enforcement measures are considered to be ineffective in remedying infringing file sharing. We also accept that the current procedures of seeking appropriate remedies under the current law through the Court system is both costly and time consuming and recognise that it is often impractical and uneconomic for rights holders to take all pro forma breaches to court.

We accordingly consider that the proposed amendment that will provide for a notice regime warning account holders about a possible copyright infringement and allowing the Copyright Tribunal to award a penalty after three or more infringements are reasonable. We are also supportive of the proposal that the civil remedies should be extended so that an Internet account can be suspended for six months for serious offences.

We believe however that the ultimate success of this legislation will lie in educating both the trade and consumers of the new legal requirements once the Bill is passed into law. We accordingly recommend that a specific appropriation should be made available within Vote: Economic Development for educational programmes. We also recommend that the Ministry of Economic Development as the regulator should work with business groups, such as this Association, on this issue.

Conclusion

We are as stated supportive of the Bill.

New Zealand Retailers Association
June 2010