

7 October 2021

Department of Prime Minister and Cabinet
Parliament Buildings
Wellington

Emailed to: consultation@dpmc.govt.nz

Dear Madam/Sir,

ICNZ submission on the new United Nations convention on cybercrime

Thank you for the opportunity to submit on the new United Nations convention on cybercrime (**the Convention**).

The Insurance Council of New Zealand/Te Kāhui Inihua o Aotearoa (**ICNZ**) represents general insurers and reinsurers that insure about 95 percent of the Aotearoa New Zealand general insurance market, including about a trillion dollars' worth of Aotearoa New Zealand property and liabilities. ICNZ members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, cyber insurance, commercial property, and directors and officers insurance).

Please contact Jane Brown (jane@icnz.org.nz or 04 495 8008) if you have any questions on our submission or require further information.

Response to questions

Do you have any overall views about New Zealand's engagement in negotiations on the cybercrime convention?

ICNZ supports New Zealand's engagement in negotiations on the cybercrime convention. Unlike traditional crimes, cybercrime operates across borders and can affect many different jurisdictions at one time. It is therefore important for there to be greater understanding of risk and coordination of efforts between countries to improve cyber resilience and minimise the opportunity for cybercrime to take place.

We believe that it is particularly important for a country like New Zealand to take part in the negotiations, as based on engagement with our equivalent organisations in other countries such as Australia, the United Kingdom, France and the United States, New Zealand is still relatively immature in its approach to cyber resilience. It is therefore imperative that we are part of any

discussions about cybercrime and can use it is an opportunity to adopt best practice and learn from other countries where the laws and processes relating to cybercrime are more advanced.

What do you think about the draft principles for New Zealand's engagement in negotiations?

ICNZ believes that the draft principles for New Zealand's engagement in negotiations are appropriate as they align with the values and priorities in the Cyber Security Strategy 2019.

When negotiating, New Zealand should also be mindful of the issues presented by vulnerability. It is possible that there are communities with lower levels of digital literacy and awareness of cybercrime and cyber risk. It is essential that consideration is given to how best to protect these people, and that focus is not solely on businesses and those who are already confident in their use and understanding of devices and internet-based services.

Do you have any amendments or additions you'd like to make to the suggested principles for New Zealand's engagement?

No further suggestions.

What do you think about the draft New Zealand objectives for negotiations?

ICNZ believes that draft objectives for negotiations are largely appropriate, and we particularly support the goal of a harmonised and modern global framework. However, we question whether more of the Cyber Security Strategy priority areas and values could be incorporated into the objectives. For example, resiliency and responsiveness and the protection of national security should also be key considerations when addressing cybercrime.

We also suggest that when referring to "not conflict[ing] with" or "eroding existing instruments", reference is specifically made to the Privacy Act, as our international obligations should be careful not to infringe on the right to protection of personal information.

Do you have any amendments or additions you'd like to suggest for the draft objectives?

We believe that there should also be an objective for greater information sharing between countries in order to facilitate the identification and mitigation of cybercrime risks. Ideally, the Convention will provide for effective and efficient communication about known risks between participants which will raise awareness and allow for mitigation measures to be put in place by those not yet affected.

From an insurance perspective, it is important that as much information about cybercrime as possible is made available. If an insured individual or business were the victim of a cybercrime, it is possible that there would be cover available under a cyber insurance or fidelity and crime policy. To accurately price the risk and to provide resiliency and risk mitigation services, which is now a common part of cyber insurance policies in particular, insurers need to know about size and frequency of incidents occurring in other jurisdictions. Having greater awareness of the risk presented by cybercrime may also allow for improvements to be made to insurance policies or for more cover to be made available.

Are there any particular issues you think are missing from this document?

We do not believe that there is anything missing.

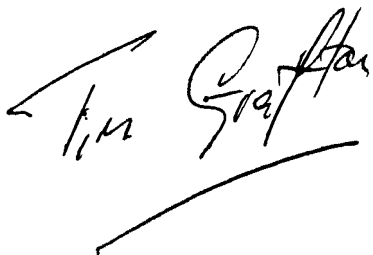
Is there anything else you would like us to consider?

While engaging in negotiations on the Convention, ICNZ believes that it will be critical to consider the differences between state-sponsored and non-state actors, particularly as the risk presented by one group may not reflect that of the other. Both groups will have different motivations as well as varying modus operandi, and for the Convention to be as effective as it can in reducing cybercrime, it will need to consider how to address both state-sponsored and non-state sponsored crime.

Conclusion

Thank you again for the opportunity to submit on the Convention. If you have any questions, please contact our Legal Counsel on (04) 475 8008 or by emailing jane@icnz.org.nz.

Yours sincerely,



Tim Grafton
Chief Executive



Jane Brown
Legal Counsel