



**Google Submission to the State Services Commission on the
Draft New Zealand Government Open Access
and Licensing Framework (NZGOAL)**

INTRODUCTION AND SUMMARY

Thank you for the opportunity to provide feedback on the Draft New Zealand Government Open Access and Licensing Framework (**NZGOAL**) released by the State Services Commission (**SSC**). We are encouraged by SSC's open and consultative approach (set out in paragraphs 4 and 5 of NZGOAL), and we value the opportunity to provide feedback. We welcome the publication of NZGOAL under a Creative Commons Licence and the SSC blog enabling open discussion and debate on NZGOAL.

NZGOAL is a very useful framework, consistent with international trends to encourage open government. Google is broadly supportive of the licences and tools described in the NZGOAL. We support the NZGOAL's proposal to adopt existing Creative Commons New Zealand law licences, rather than attempting to draft a new set of licences. The Creative Commons licences are well-designed, well-established, and internationally recognised.

At Google we are strong believers that information is more powerful when it is set free. Our view is that government-held information should be released quickly, in full, in multiple (open) formats and leveraging available technology solutions (e.g. [Sitemaps](#)), under permissive and transparent licence terms (such as a [Creative Commons](#) licence), and generally for free. Google supports the use of Creative Commons licenses as a practical system to enable the release and licensing of information across government bodies in a uniform manner.

Opening up government-held data and information for wider use has the potential to release a wave of innovation and creativity, with significant benefits for the public, in terms of better

access to public services, and for government, through cost savings and better public engagement and input to policy formulation.

It is encouraging to see the gathering momentum of initiatives in New Zealand to free up government-held information, and leverage the benefits of the Internet as a platform to widely distribute content at no cost, or a minimal cost, to the government.

In our experience in other jurisdictions, a change in culture within government is fundamental to opening up access to government-held information and is more important than any individual regulatory change. A commitment at a senior level within government is vital to drive such culture changes and to ensure momentum is built across all of government. Google would urge that active consideration be given to developing a strong over-arching policy commitment to NZGOAL, and the broader review of the Policy Framework for Government-Held Information (1997) (**1997 Framework**).

NZGOAL should apply to all government data and information, unless a specified exception is provided. We also consider that NZGOAL should apply to local authorities in addition to State Services agencies (**Agencies**).¹

To add weight to the recommendatory status of NZGOAL we suggest a monitoring role by Parliament or an Information Body/Commission, to monitor compliance with NZGOAL, progress of agencies using it, and to provide guidance on implementation issues.

Not all government-held information is appropriate for release. In our view, the key grounds which would justify a government organisation withholding information are protection of national security, protection of personal information, ensuring efficient processes for formulation of policy within government are not impeded, and to preserve commercial sensitivity and confidentiality. The Official Information Act 1982 (**OIA**) already contains clear and very broad grounds for withholding information at section 6 and section 9. For reasons of consistency and simplicity, we question whether there should be restrictions within NZGOAL in addition to those in the OIA.

Google considers that data should be provided by government primarily in 'raw' form, and government should see its role more as a 'wholesaler' of information, leaving it to industry or individuals to add value or create 'retail' consumer experiences with data sets and information. Google considers this approach is likely to be cheaper, quicker and more effective for government.

In terms of how government should release data, there is no need to define standards or formats, and there is no specific format in which public sector information should be made available. Agencies should instead endeavour to make data and information available in multiple formats, including open standards.

¹ This includes all public service departments, departments which are not part of the public service (i.e., Defence Force, Police), all crown entities except tertiary institutions, entities listed in the fourth schedule to the Public Finance Act, and the Reserve Bank of New Zealand

INTRODUCTION

Google welcomes the Open Government and Data Re-Use Project (**Project**), launched by the SSC in December 2008, of which NZGOAL represents an important element. We understand that the 1997 Framework, and the New Zealand Government Web Standards are also being reviewed and the NZGOAL is one part of a broader review being undertaken by the SSC and the Information and Communications Technologies Group of the Department of Internal Affairs, to provide a licensing framework for Agencies to work with. We understand that NZGOAL (along with other relevant documents part of the wider review) will eventually be approved by the Ministerial group, the ICT Committee of Members, before going to Cabinet, and ultimately may result in a directive from Cabinet Ministers to Chief Executives to use NZGOAL.

We have provided broader comments and feedback, and then addressed specific issues in NZGOAL. We address the following issues

- The need for cultural change
- Scope and Status of NZGOAL;
- Government should focus on the “wholesaling” of data
- Specific issues in the Submission:

About us

Google’s mission is to organise the world’s information and make it universally accessible and useful. This means giving our users around the world access to the information they want, from the widest variety of sources, wherever they are. We believe this brings people greater choices, new freedoms, and ultimately more power.

Search is at the heart of what we do – we help people find things. From a finding a licensed electrical contractor, to a blog for fellow young mums, to an up to the minute share price, to a map of a new town you are visiting - the subject matter ranges from the entertaining to the educational and potentially life-changing.

Google’s mission is to organise – not create – information. We are one of the few Internet companies in the world that actually want to see people move off our site as fast as possible – because that means we’ve put them in contact with what they’re looking for.

The web is an especially vital and exciting platform for New Zealanders connecting with each other and with information, customers, audiences, colleagues and other people around the world. Kiwis are technologically savvy, and have strong interest in connecting with the world borne out of relative geographic isolation, meaning they have embraced online tools in large numbers. New Zealanders are using Google tools to protect and promote the Maori language (via the Google in your Language initiative); broadcast themselves, attract global audiences,

and progress the democratic process via YouTube; and organise and make sense of geographic information via the open Google Maps platform that allows data to be overlaid on Google Maps via APIs (application programming interfaces).

Some of New Zealand's most successful and enterprising businesses and organisations, like Tourism New Zealand and TradeMe, have used the potential and power of open information platforms, especially via Google Maps, Google Earth and YouTube, to connect with their customers and create positive online experiences, as have smaller organisations and individuals the length and breadth of New Zealand. We're excited to see both the entrepreneurial and non-profit applications of government-held data overlaid onto powerful open platforms that will inevitably develop in New Zealand's future.

CULTURAL CHANGE IS AN IMPERATIVE

The SSC has noted at paragraph 11 that there will need to be a cultural shift within government agencies to give effect to NZGOAL. The importance of this shift should not be underestimated. We consider that a change of culture within government to stimulate provision of access to a much broader range of information and data must occur for the NZGOAL to be effective and actually implemented and that such a change of culture is best led by senior people within government, including Ministers. To change culture, government officials need to embrace it. However, clear commitment from government at the highest level is required to *drive* the overall process.

The UK Cabinet Office Digital Engagement Blog

The UK Cabinet Office has established a Digital Engagement Team to champion implementation of the recommendations of the Power of Information Taskforce Report. The Team states as "key themes" for its work are:

- **open information** - To have an effective voice, people need to be able to understand what is going on in their public services; government will publish information about public services in ways that are easy to find, use, and re-use.
- **open feedback** - The public should have a fair say about their services. We need more services like NHS Choices or www.publicexperience.com to provide direct feedback to the Innovation Council.
- **open conversation** - We will promote greater engagement through more interactive online consultation and collaboration. We will also empower professionals to be active on online peer-support networks in their area of work.
- **open innovation** - We will promote innovation in online public services to respond to changing expectations – bringing the concepts behind Show Us A Better Way into mainstream government practice.

The Digital Engagement Blog <http://blogs.cabinetoffice.gov.uk/digitalengagement/> also hosts guest posts by web 2.0 champions within Government. For example, a 21 July 2009 guest post by Neil Williams, head of corporate digital channels at the UK Department for Business, Innovation and Skills (BIS). provides suggested guidelines for use of Twitter by Ministers and departments and links a generic [template Twitter strategy for Departments \(PDF file\)](#) [Scribd [version](#)] which he adapted from BIS's Twitter strategy [Scribd [version](#)]. He states in the post “For the next version of this document I'd like to set down how and when civil servants should support, encourage and manage Ministers' use of Twitter for Departmental business (and navigate the minefield of propriety this might imply), and add a light touch policy for officials who tweet about their work in a personal capacity.”

Google considers that there would be significant value in considering ways NZGOAL could be “led from the top” particularly with greater Ministerial-level involvement. We were particularly encouraged that Minister Bill English recently referred to open access in his speech to the Institute of Public Administration New Zealand:²

I see no reason why we can't turn government inside out, so to speak, and make the same data and information available to those outside of government. Government can tap wider resources in the community to analyse and use government data to help solve problems and produce insights. A ministerial committee is exploring this concept. Inside out government also requires government to be open to good ideas from business.

However, unless such change continues to be driven in a co-ordinated and consistent manner from a senior level, Google is concerned about the extent to which Agencies will actually change an embedded culture, and use the NZGOAL on a day to day basis.

Recent international examples of Governments using a top down approach in the area of open government

In June this year, the Australian Minister for Finance and Deregulation, Lindsay Tanner launched the Gov 2.0 Taskforce (**Taskforce**). This Taskforce is made up of technical experts, policy experts, and entrepreneurs. It is charged with driving open access to publicly funded information, making government information more accessible and useable, to make government more consultative, participatory and transparent, to build a culture of online innovation, and to promote collaboration across Agencies in online and information initiatives.

The Taskforce is ambitious in its scope but the fact that the Australian initiative is spearheaded by a Ministerial Taskforce adds weight to the project and requires government departments and

² Hon Bill English *Public Policy Challenges Facing New Zealand* 23 September 2009
<http://www.beehive.govt.nz/speech/public+policy+challenges+facing+new+Zealand>

agencies to take the initiative seriously. The New Zealand Government's ambitions could also be better realised with greater Ministerial involvement and leadership.

There are other international examples, where senior political leaders are driving open access initiatives:

- in the US, President Obama has issued a memorandum to the heads of executive departments and Agencies, in regard to Transparency and Open Government;³
- in the United Kingdom, the "Power of Information Taskforce" was established by MP Tom Watson in March 2008 under the Brown government, and published a report in March 2009.⁴ The government published a document outlining its vision for public sector reform, welcoming the key messages of the report. and
- on 18 November 2009, Ministers from member states of the EU responsible for e-government will be meeting prior to the official conference, to agree on a Ministerial Declaration that will set out the path for the field of e-Government up until 2015. There is an initiative to co-create an open declaration on public services 2.0 from the 'bottom up', to complement, or inform the Ministerial Declaration.⁵ This includes the principle that all information created by public institutions, must be public and easily accessible by citizenship and all information released by public sector organisations should be released in machine readable and searchable ways to ensure maximum public value is gained from it.

British Columbia experiments with social media

In May the City of Vancouver passed a motion to [open its data to the public](#). Inspired by [Washington D.C.'s open data project](#), the city hopes to promote civic engagement, improve decision-making, and deepen accountability. The British Columbia provincial government has an office whose primary mandate is to improve citizen engagement and public deliberation using the collaborative tools on the Web. While other provincial governments have [banned Facebook at work](#), B.C. has recognized the power of social media. See the presentation of David Hume, Executive Director for Citizen Engagement at the B.C. Ministry of Citizen Services, available through <http://googlepublicpolicy.blogspot.com/2009/06/british-columbia-leading-on-open-data.html>.

³ http://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment/

⁴ <http://powerofinformation.wordpress.com/>

⁵ Co-Creating an open declaration on Public Services 2.0 <http://eups20.wordpress.com/>

Summary and proposal for senior governmental involvement

In our view, NZGOAL, and the wider Project and review of the 1997 Framework would be considerably more effective in achieving cultural change across the Agencies, if it were driven by a Ministerial taskforce or similar initiative to ensure that it will be taken seriously and greater efforts are made to change culture.

The New Zealand government has been active in convening Taskforce Reviews since it has come into office (Resource Management Act Technical Advisory Group, the Electricity Markets Review, Film Commission Review, Auckland Governance Review, and Capital Markets Development Taskforce and Overseas Investment Advisory Group). Such reviews are generally led by senior teams and experts in the area reporting directly to Ministers, who then are obliged to act on the recommendations made. We consider that this model could equally be applied to a policy review such as the NZGOAL and the wider Project.

The government is also currently reviewing the public sector, including ways to make cost savings in the public sector. Google believes this project is closely aligned with such cost saving and culture-changing initiatives. Releasing raw data and moving the public sector away from creating 'retail' consumer experiences from the data and leaving that to individuals and the private sector will free up a substantial amount of public sector time, and will save taxpayers money.

SCOPE AND STATUS OF NZGOAL

Scope

NZGOAL should apply to all data

Paragraph 6 provides that NZGOAL applies to both non-copyright information and data and copyright works held by Agencies, appropriate for release to the public or section of the public. We are not sure the restriction "appropriate for release to the public" is required. NZGOAL should apply to all data held by Agencies, unless the information is exempted under specific restrictions, such as the Official Information Act 1982 (**OIA**).

The default should be publication of all government held data and information unless any of the grounds in the OIA for non-disclosure are given in relation to specified information by an Agency. This is consistent with the policy of moving the culture and default position to one of openness unless there is a good reason for access to be restricted.

NZGOAL should apply to local authorities

NZGOAL applies to Agencies. This includes all public service departments, departments which are not part of the public service (i.e., Defence Force, Police), all crown entities except tertiary institutions, entities listed in the fourth schedule to the Public Finance Act, and the Reserve Bank of New Zealand. We agree that NZGOAL is not appropriate for state owned enterprises, but we consider that NZGOAL should also apply to regional councils and territorial authorities (**local authorities**), constituted under the Local Government Act 2002.

The Local Government Official Information and Meetings Act 1987 (**LGOIMA**), is the equivalent to the OIA in respect to local authorities. Further, the Public Records Act 2005 (**PRA**) applies to local authorities. It would follow that local authorities should be subject to the NZGOAL, in the same way they are subject to requirements of the LGOIMA and the PRA, also concerning the treatment of information by the public sector.

Development and Building Applications before Local Councils

There is no doubting the power of the Internet to further disseminate general available publications, such as Government records databases, Court judgements and local council files of council deliberations, including development and building applications. This facilitates active citizenship and empowers the infirm and the elderly to participate in their communities.

Some local government areas in Australia have made developing and building applications and associated approval documents available online. A search by a particular street address on www.google.com.au in relation to a street address within these local government areas will enable a user to view the status of development and building applications in relation to that address. This provides ready availability of information that has always been 'generally available' but usually in a form that is inconvenient to access (for example, by viewing a paper record at Council's Building Department, often open only for limited hours and requiring significant time to access. This service is of great value to members of a community who previously would only have been able to view such records by making a visit to the council – and then only making that visit "on the off-chance" that some step had occurred in the progress of a development application that might be of interest to them.

OIA Framework could provide a ready made framework

The principle of availability in section 5 of the OIA that information shall be made available unless there is good reason for withholding (in accordance with the OIA), is an established framework, enshrined in legislation, which the government could look to as a framework for the release of government information and data.

As we note in more detail in our discussion of the restrictions listed at paragraph 37 of NZGOAL below, we suggest that the principles in the OIA (section 6 and section 9) should be the only grounds for withholding information: the same grounds for withholding requested information should apply to Agencies releasing the information.

How will NZGOAL work with the PRA classification system?

The SSC Discussion Paper provides that a legal review has revealed no inconsistency between the use of Creative Commons licences and New Zealand legislation applying to Agencies, notably in the PRA and OIA.⁶ However, we query how release of information under NZGOAL will sit with the PRA.

The PRA provides a system for archiving for public and local authority records, which may be classified as restricted access or open access records. The administrative head of the controlling public office/local authority must consider whether:

- there are good reasons to restrict public access to the public record, having regard to any relevant standard or advice issued by the Chief Archivist; or
- another enactment requires the public record to be withheld from public access (section 44(1)(a) and (b) and section 46(1)(a) and (b), PRA).

It would follow then, that where records that have been classified as restricted access records under the PRA, those records will be excluded from release under NZGOAL. Is it possible that there may be an inconsistency between NZGOAL and PRA, if the relevant standard or advice issued by the Chief Archivist which governs whether records are classified as restricted access, differs from the restrictions listed in NZGOAL? SSC may wish to consider this issue in more detail.

Status

Paragraph 9 provides that NZGOAL is recommendatory in nature and Agencies are strongly encouraged, but not obliged, to comply with it. Google is concerned at this 'soft' status to be accorded to NZGOAL particularly when the potential benefits to the public and to government alike, are significant. Given the lack of publicity on the ICT Committee of Members (referred to in Hon Bill English's speech), and the absence of leadership at a Ministerial level we are concerned that NZGOAL will not be properly used by Agencies, without a higher status accorded to it.

Monitoring Agencies is important

At a minimum, monitoring Agencies' progress in implementing NZGOAL would add some weight to its recommendatory status. Reporting could be incorporated into the annual reporting

⁶ State Services Commission, *Open Government Information and Data Re-use Project – Suggested all of government approach to licensing of Public Sector copyright works: Discussion Paper for Public Service and Non Public Service Departments* 25 March 2009, page 5, paragraph 10.

currently required of departments by the Public Finance Act 1989, and required of Crown Entities by the Crown Entities Act 2004. Agencies could be required to report on their progress in releasing data under NZGOAL to Parliament.

In addition, or as an alternative to reporting to Parliament, Google also considers that NZGOAL would benefit from having an oversight body to monitor implementation, provide a level of accountability, and to assist public servants with respect to:

- whether restrictions can or should apply to the release of categories of information;
- whether an Agency should be charging for particular data or information being released;
- the appropriate Creative Commons licence to be used in respect of information;
- issuing guidelines and updated policy on how to apply NZGOAL;
- Agencies reporting to this body on progress on the use of NZGOAL; and
- Publication of annual reports detailing the progress of Agencies, with a list Agencies which remain outside ambit of the openness and access requirement, and detailing progress in bringing Agencies within those requirements, and identification of information that has been withheld due to restrictions..

An oversight body, such as an Information Access Commission, may provide an increased level of monitoring and greater compliance. We have included this concept throughout our submission, and refer to this body as the “Information Access Commission”. We are not sure whether this body would best sit within SSC, the Department of Internal Affairs, or would operate better as an independent body. We do not have a fixed view of the form such a monitoring body/officer should take, we are simply tabling the concept as one worthy of consideration by the SSC.

The government or proposed Information Access Commission should also consider appropriate awards, publicity and incentives for Agencies that implement best practice initiatives that deliver openness and access in action and for effective working with third parties that result in transformative or other value added users of government information.

GOVERNMENT SHOULD FOCUS ON THE “WHOLESALE” OF DATA

Google supports NZGOAL’s emphasis on the ‘wholesale’ release of the government data as it is cheaper, quicker and more effective. In a wholesale model, Agencies are relieved of the cost and any obligation to add value or create ‘retail’ consumer experiences with data sets.

In this section, Google provides comments on how information can best be provided and draws on Google’s recent submission on the Gov 2.0 Issues Paper in Australia which addressed the

same issue.⁷ We acknowledge that NZGOAL does not indicate a preference for how information more generally ought to be disseminated.

Industry is often better able to provide solutions responsive to the format in which information is provided, providing the information is discoverable and searchable, both technically and legally. To support this, information should be made available via open standards and ideally in open source formats. Where public sector information is already online and the objective is to make it more visible in search engines, again this can be done easily, for example, through implementing the Site Maps open protocol.⁸

Google submits that Agencies should not see their role as needing to develop consumer interfaces or presentation formats that provide a 'retail' experience where the commercial (non-government) sector can reasonably be expected to quickly develop a variety of innovative modes of access to and presentation of raw government data (all at no cost to government).

Open content – Google API's ensuring open news for Google maps

Google has created AJAX APIs that allow users to take data and services that Google has provided and transform them for further use. The main goal of our AJAX APIs is to provide developers with the tools needed to create the next generation of innovative web applications. Google Maps API is a leading example of AJAX APIs. We make sure that the terms of the provision of data for Google Maps allows end users to transform the data and use it in new ways.

There are many applications that exemplify what is possible with all of these free building blocks. These include:

- Faneuil Media: Google Maps mash ups are their entire business. They have built high profile maps for NYTimes.com: for examples, see www.faneuilmedia.com.
- Yelp: A popular 'yellow pages' site that uses Google Maps API. Yelp and Google have a symbiotic relationship: they get a lot of their traffic by giving Google Maps an XML feed of their reviews, which we display in our search results next to listings (along with other reviews that we have). See www.yelp.com.
- GMap – Pedometer: This application lets users draw jogging routes, including elevation changes, using Google maps. see www.gmap-pedometer.com.
- New South Wales government Stimulus Snapshots – this map shows infrastructure investments across the State. See <http://more.nsw.gov.au/>

⁷ Google Australia, *Towards Government 2.0: An Issues Paper*, 28 August 2009 at <http://gov2.net.au/files/2009/09/Google-Submission.pdf>

⁸ Please see our comments below, in respect to formats in which data is released, related to this issue.

- Many other applications become possible as government agencies release raw data on appropriate licensing terms.

Geospatial data held by government agencies could be used to support the development of innovative products and tools by third parties by combination with products like Google Earth to provide information tools about population, climate, pollution, urban development and planning data. For examples of such use of geospatial data, see <http://earth.google.com/gallery/index.html>.

There are also several other key reasons why Google would encourage Agencies to remain simply a wholesaler of information:

- data and information loses value during time between collection and dissemination. Early availability in a raw, but useable form enables third parties to process information and make it available on a timely basis. This maximises its value to citizens;
- Government's mandate ought to be one that seeks to place information before as many eyes as possible (taking into account situations when government information should not be released). To get the most eyes on data, data should be put in the hands of multiple parties that can present the data to their constituencies. This is the application of the Web 2.0 paradigm to government information;
- Government has a monopoly on government information. This information is collected in government's role as steward for the public and as a monopoly resource, generally should be subject to open access consistent with government competition policy; and
- Granting access to raw data saves taxpayers' money. If government does rely upon outside organisations to build engines for access to data and engagement around data, government can save millions of dollars and ensure that Agencies are not second guessing industry about likely developments in web searching and presentation analytics or trying to 'pick winners'.

Timely release of information

There is no clear reference to timeframes for release of information in NZGOAL. We suggest it should be made clear the information should be made available as early as possible. Agencies should have an obligation to release data in a timely fashion, as and when it becomes available.

The SCC may consider that this obligation may sit better in the wider review of the 1997 Framework.

CENTRAL REPOSITORY OF DATA

While the SSC does not appear to be advocating that there be a central point of entry for accessing data, the idea is often considered and implemented by governments, and here we offer some views on the issue. The SSC's outlook accords with our preference, to allow data to be released by each Agency as and when that Agency can do so, and thereby best ensure a timely release of that information.

We consider that the first objective of government in this field ought to be the creation of open access to further categories of government information, including navigability to that information, rather than a slower, broader and more expensive standardised and centralised data repository.

Creation of a central point of entry for accessing data (e.g., the data.gov model), is sometimes referred to as the "cathedral" model and which can involve a huge, ambitious, centralised undertaking. By contrast, a more decentralised "bazaar" of Agency sites presents a flexible and economical model that can support a more timely release and greater evolutionary change. The bazaar enables different Agencies to move at different speeds to open up public sector information, one set at a time.⁹

The <http://theyworkforyou.co.nz/> site is a good example of a non-government attempt to make *Hansard* and Bills more navigable and therefore useful. Navigation might be based principally or solely on search, third party data mash-ups or other third party vendor solutions if the market was considered likely to develop user experiences that are intuitive;

We consider the 'bazaar' model to be a useful, cost-effective and realistic approach for New Zealand to adopt. We note that Open NZ provides useful sets of data and is developing ideas for how Government information may be made more accessible and available to New Zealand citizens – for example, recently at the *NZ Open Government Data Barcamp and Hackfest* on 29 August 2009. The SSC has itself begun collating a similar useful list of datasets provided by various Agencies. Either of these initiatives may evolve into a more centralised approach, but in general, Agencies should be releasing data as soon as possible in open format, while recognising that a more centralised approach may develop over time.

⁹ See Alan Noble's comments (a member of the Australian Gov 2.0 Taskforce and Google's head of engineering in Australia), for more discussion the cathedral vs bazaar concept in his post "data.gov and lessons from the open source world" at <http://gov2.net.au>

SPECIFIC ISSUES RAISED IN SUBMISSION

Specific comments in respect to particular areas of NZGOAL are set out below.

Restrictions (paragraph 37)

In our view, the key grounds which would justify an organisation withholding information are as follows:

- Protection of national security;
- Protection of personal information;
- Ensuring efficient processes for formulation of policy within government are not impeded; and
- In order to preserve commercial sensitivity and confidentiality, both in relation to government created trade secret information and of others that it is entrusted in confidence to government and its Agencies.

The restrictions set out in paragraph 37 seem to be unduly wide and complex. We would like to suggest an alternative approach to restriction of data, suggesting that instead the restrictions in NZGOAL should simply mirror the restrictions in section 6 and section 9 of the OIA

We consider that the grounds for withholding information set out in sections 6 and 9 of the OIA capture the above four grounds more than adequately. We question whether there should be any restrictions in addition to those set out in the OIA.

If, however SSC does retain the list at paragraph 37, we have the following specific comments and suggested edits:

- The words “or might” in paragraph (a), (b), (g) and (h) should be removed;
- We believe the (c) criteria should be removed as we cannot think of an example of where an agency has a legitimate commercial interest:
- Delete (e): the rationale for NZGOAL is that it is in the public interest that this information is freely available, and we cannot conceive of a situation where it would be in the public interest not to release data;
- Delete (f): we consider that this can be dealt with appropriately by including disclaimers on release of information, and limit of liability clauses for public sector. See the discussion below regarding disclaimers and risk mitigation.
- Reconsider and rework (g) and (h): the way these sub-paragraphs are currently drafted are too wide, and could potentially capture a wide range of information. Should there

instead be requirement to simply consult with Te Puni Kokiri on the release of information that may fall within this category, with the presumption of release retained? Alternatively, the Information Access Commission may publish guidelines on how this restriction would apply in practice.

Disclaimers to enable the release of incomplete or lower quality information or data

We understand that Agencies may cite concerns about the integrity of their information as a reason for their reluctance to release it, and paragraph 37(f) is an attempt to address this issue. Google submits that except in unusual cases the release of information with appropriate disclaimers as to quality will be better than not releasing it at all. The disclaimers may be as to the level of vetting or verification of the information or as to sampling techniques or other relevant factors that affect the reliability of the information.

Where appropriate multiple data sets could be made available with differing levels of marking as to quality and vetting and different disclaimers as to reliability.

NZGOAL contains a 'no known rights' statement at paragraph 76 however this is only in respect to non-copyright information and data (which we discuss in more detail below), but we expect Agencies will wish to also tailor disclaimers in respect to the completeness, or quality of data, and other issues, applicable to both non copyright and copyright data and information.

One option for government is adopt a practice similar to that commonly used in the ICT industry where new products (generally software) are issued in stages according to their stage of development:

- Alpha - The alpha build of software is provided to people beyond the core developers of the software - sometimes issued to the public, but more usually it is provided to a wider set of internal users who test the software's functionality
- Beta – is the prototype of the software that is released to the public. Beta testing allows the software to undergo usability testing with users who provide feedback

Risk mitigation and statutory protections

Google's preliminary view is that a general statutory exculpation of Agencies from responsibility or liability in relation to publicly available government information is not necessary or desirable, given government's ability to address and mitigate risks through use of appropriate and relatively standardised disclosure and disclaimers. The use of disclaimers and non-reliance statements should ideally be relatively uniform across Agencies in relation to comparable data sets and other information. Google's proposed Information Access Commission could perform a useful role in setting guidelines and provided standardised disclaimers.

However, to give Agencies sufficient comfort to release information, the government may consider changes to regulatory settings to confer appropriate statutory protections upon

Agencies in relation to disclosure of information, use by service providers of that information and reliance by data and information service-users upon government information.

Transparency

We suggest that after the introduction phase, information can only be withheld from access where the categories of information are identified and reasons for application of particular exceptions are published by the Agency in a central access point, or reported to the proposed Information Commission to publish in its' annual report.

Formats (paragraphs 45 – 46)

Google considers that there is no need to define standards or formats, and there is no specific format in which public sector information should be made available. Rather, Agencies should endeavour to make data and information available in multiple formats, including open standards which are essential for interoperability and freedom of choice based on the merits of different software applications. Use of open standards provides freedom from data lock-in and the subsequent vendor lock-in.

Data and information should be indexable and searchable

We agree to the general principle in paragraph 45, but consider that the words “to the extent practicable” should be removed from paragraph 45(a) and 45(b).

We suggest that paragraph 45(b) has the following words added “and are searchable and indexable by search engines”.

Where public sector data/information is already online, the objective generally should be to make it more visible in search engines. We believe that a significant proportion of Internet users reach public sector websites through Google and other search engines. However many government websites are structured in a format that is inaccessible to crawling meaning that the information is invisible to users of search engines.

Google has developed the Sitemap Protocol (see <http://www.sitemaps.org/>), which provides Agencies with an avenue for making non-confidential information more available to search engines. This in turn makes Agency websites and non-confidential information easier for the public to find. The Sitemap Protocol works by allowing information stored on a website, including in a database application, to be indexed by a search engine. It is an open technical standard developed by Google and widely supported in the search engine industry. It provides a mechanism for producing a list or map of all the webpages on a website and automatically communicating this 'sitemap' to search engines. These Sitemaps provide a comprehensive list of pages on a website for search engine crawlers, not simply a directory to help a user navigate a website.

Desert Flowers

The State of Arizona's Government Information Technology Agency (GITA) made hundreds of thousands of public records and other web pages 'crawlable' to search engines and visible in Google search results. Research has shown that as many as 4 in 5 internet users reach government and other public sector websites by using Google and other search engines.

Early in 2007, GITA undertook a partnership with Google to make it easier for citizens using search engines to access the information and services that Arizona provides. At the heart of the partnership was implementing the Sitemap Protocol, an open technical standard that is widely supported in the search engine industry. The technology provides a mechanism that allows website owners to systematically communicate a list, or 'map', of all the pages in a website to search engines. This ensures that search engines can "crawl" parts of a website that would otherwise be invisible, including records in databases. These Site Maps provide a comprehensive list of pages on a website for search engine callers, not simply a directory to help use and navigate for site: see further www.google.com/publicsector. For example, a building contractor's licence status can be determined by a simple Internet search on the name of the contractor. According to Lisa Meyerson, Strategic Initiatives Unit Chief for GITA and coordinator of the Arizona-Google partnership, it took less than 50 hours of staff time to implement Sitemaps in eight major databases. Plans for phase two of the partnership include implementing the protocol for many other agency websites and databases.

See further <http://www.google.com/publicsector/arizona.html> and the FAQs as to the Sitemap Protocol at <http://www.google.com/publicsector/faq.html>.

Open Document Standards

We suggest that the words in paragraph 46 "to greatest extent practicable" should be removed. We do not consider it necessary or useful to refer to specific proprietary formats, and we consider NZGOAL should expressly be requiring that the data is released in open non-proprietary formats. As such, a clear obligation on Agencies needs to exist on Agencies to release data in open formats.

We agree that governments should mandate that information be only kept and stored in open and publicly documented standards. Open document standards are well established and widely available and could provide a greater flexibility to government and users, with the potential to reduce costs.

A prominent example is the Open Document Format (ODF), which is an XML-based file format for representing electronic documents such as spreadsheets, charts,

presentations and word processing documents. The OpenDocument format is used in free software and in proprietary software and is supported by many prominent software vendors including Adobe, IBM and Google. In many cases versions of the Open Document Format are available for free download and use. For further information on ODF see <http://www.odfalliance.org/>

Charging (paragraphs 48 – 50)

Google agrees with the general principle that charging for use and re-use of information and data should be discouraged. We agree in particular with paragraph 48(b), that if it is low cost to disseminate information, and economically inefficient to administer a charging structure, there should not be a charge. Charges should generally not be incurred, and if it is absolutely necessary, cost based pricing to recover the cost of dissemination should only be where it is feasible and cost effective to levy a charge.

Where (in very limited circumstances) information has been produced for the commercial purpose of sale at a profit, the agency should also ensure that the raw data that has been used to produce that information is made available to enable others to process and analyse that data, unless a good reason for not doing so has been published by the government data ‘owner’ (under the oversight of an ‘independent eye’ within Government, such as the Information Access Commission).

We note that paragraphs 48 and 49 are subject to any statutory, policy or commercial imperatives to the contrary. General qualifiers like this reduce the overall value of the NZGOAL, and we suggest it be removed.

Updating released information, data and copyright works (paragraph 51)

We agree that Agencies should update information already released, or inform the public of errors or inaccuracies. Provided that this step is taken by Agencies, we consider information should be released as early as possible.

Explanation of NZGOAL Licences and Tools (paragraphs 58 – 82)

Google is broadly supportive of the licences and tools described in the NZGOAL. The seven copyright licences are likely to give Agencies a range of options for licensing under the Creative Commons New Zealand framework, even where the most liberal licence (Creative Commons Attribution (BY)) is not appropriate.

We support the NZGOAL’s proposal to adopt existing Creative Commons New Zealand law licences, rather than attempting to draft a new set of licences. The Creative Commons licences are well-designed, well-established, and internationally recognised.

However, we encourage the NZGOAL to remain mindful of the potential for Agencies to feel overwhelmed by the range of licensing options available to them. There is a risk that, if Agencies do not feel comfortable using discretion to distinguish between the nuances of the various licences, they may opt for a more restrictive Creative Commons licence as a “safer”

option. This would run contrary to the purpose of the NZGOAL, the Open Access Principle as set out in paragraph 34 of the NZGOAL.

Google supports the NZGOAL's proposal to treat the Creative Commons Attribution (BY) licence as the default option. As discussed above, the key to establishing this licence as the default approach is to create a cultural shift, led at the Ministerial level.

Creative Commons Public Domain Certification Tool (paragraph 75 – 79)

Google acknowledges that the statement contained in paragraph 76 is intended as a temporary measure pending the release of Creative Commons' public domain certification tool. With this in mind, we support the NZGOAL's intention to provide a standard statement that can be used across Agencies for non copyright information and data.

We encourage the NZGOAL to suggest that where information and data (either non copyright, or copyright) is incomplete and potentially of uneven quality, it is preferable for Agencies to release the material with appropriate disclaimers (i.e. being clear and specific about the existence, location and importance of the missing material), as opposed to not releasing the information at all.

We note that the last paragraph in square brackets in paragraph 76 is described as optional. We believe there is a risk that, in practice, the use of the last paragraph will be seen as a default, risk-minimising, choice. In deciding whether to include the last paragraph, the releasing agency should not focus solely on risk to the Agency. The agency should also consider the potential benefits of release, and the likelihood of potential users of the material being deterred for fear of exposure to legal liability.

Creative Commons Plus Protocol (paragraphs 81 and 81)

Google supports the use of the Creative Commons Plus protocol in appropriate situations. Where commercial use of material is envisaged, Agencies should endeavour to also provide a licence for non-commercial use wherever possible.

NZGOAL Review and Release Process (paragraphs 83 – 134)

The most important consideration in designing a review and release process to ensure an appropriate balance between completeness and usability. The process should be thorough enough to give Agencies confidence that they are complying with the law and the NZGOAL Policy Principles, while still being user-friendly.

Google agrees with the process proposed.

Once an appropriate process has been developed, the next step should be to educate Agencies, and ensure they have the skills and knowledge required to accurately determine licences. Potential avenues could include educational workshops and one or two pamphlets summarising the flow diagram in an easy to follow manner.

Google is concerned that the process does not appear to cover any help that may be available to Agencies when face with difficult or nuanced decisions. Google encourages the SSC to establish a dedicated office (such as “Information Access Commission” suggested in this submission), to advise Agencies on the implementation and use of the process, among other things.

ENDS