

02 October 2009

Mr Thomas Beagle
P O Box 5641
Lambton Quay
WELLINGTON 6145

Dear Mr Beagle

Request for Information

I refer to your letter dated 22 September 2009 requesting information relating to the importation into New Zealand of objectionable material or material breaching copyright on laptop computers and other digital storage devices, and the powers of search available to the Customs Service in this respect.

You have asked a number of questions which I have endeavoured to answer below:

- 1 Section 151 of the Customs and Excise Act 1996.
- 2 Any goods that may be in breach of New Zealand law.
- 3 Yes.
- 4 Section 3 of the Films, Videos, and Publications Classification Act 1993 outlines the meaning of objectionable. The New Zealand Customs Service will consider an item in terms of section 3 of this Act and may seize it if it is considered to be objectionable. If any clarification on this assessment is needed, Customs will refer goods suspected of breaching the Films, Videos, and Publications Classification Act 1993 to the Office of Film and Literature Classification (OFLC). The OFLC is then responsible for ruling whether goods are objectionable or not and will advise the Customs Service accordingly.
- 5 Assuming that this question refers to the importation of commercial digital data, the Customs Service will undertake a comparison of the imported item with the copyright work. The Service will then seek input from both the importer and rights owner, and then make a determination under the Copyright Act 1994.
- 6 The Customs Service can detain computers and digital storage devices for a reasonable length of time to allow for examination. This time can vary depending on the circumstances.
- 7 Yes, in order to examine a device the contents may be copied. The length of time that this data is retained will vary depending on the circumstances.
- 8 I am unable to provide an answer to this question due to operational security.

Likewise, I am unable to provide an answer to question nine of your letter as I am unsure whether "*this topic*" refers to Customs officers' powers under the Customs and Excise Act 1996, objectionable material, or goods in breach of copyright. Please provide clarification of the subject matter of the reports and policy documents you wish to have released.

Please be aware that the release of documents will be treated as an official information request pursuant to section 12 of the Official Information Act 1982 and that section 15 of the Customs and Excise Act 1996 provides for charges to be levied in respect of information supplied. Current charges are \$38.00 per ½ hour, after the first hour. The cost of photocopying is \$0.20c for each page after the first 20 pages.

Once the Customs Service has received clarification for your request, an assessment will be made if there is likely to be any charge and you will be contacted to verify whether you wish to proceed.

Yours sincerely

A handwritten signature in black ink, appearing to be 'M. Blades', enclosed within a large, loopy oval flourish.

Michael Blades
Acting Chief Customs Officer, Procedures and Support
Intelligence, Planning and Coordination