THE DEPARTMENT OF INTERNAL AFFAIRS

Te Tari Taiwhenua

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Joshua Grainger
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Dear Joshua

Thank you for your email of 7 February 2012 requesting, under the Official Information Act 1982 (the Act), information concerning the Digital Child Exploitation Filtering System. I will address each of your questions in turn.

1) *It is stated in the 3rd February 2010 minutes of the Independent Reference Group that "The Group was advised that the issue of Steve O'Brien's membership had been raised in correspondence with the Minister and the Department". I would like to request copies of that correspondence.*

Attachment 1 includes two emails (dated 21 January 2010 and 18 February 2010) to the Minister of Internal Affairs and one email (dated 20 March 2010) to the Department of Internal Affairs (the Department). The identity and addresses of the correspondents have been withheld in terms of section 9(2)(a) of the Act (to protect the privacy of natural persons).

2) *I would also like to request any documentation, correspondence, papers, emails, or other information that explain the reasons why the Independent Reference Group thought that "Steve O'Brien's continued membership makes sense"*

As indicated in the minutes of the meeting of the Independent Reference Group (IRG) of 3 February 2010, the issue of my membership was put to the meeting.

Attachment 2 includes the replies to the correspondence that has raised the question of my membership on the IRG. The identity and addresses of the correspondents have been withheld in terms of section 9(2)(a) of the Act.

3) *The website that the System uses to block requests, dce.net.nz, contains Google Analytics to track visitor information. I would like to request a report of the information that Google Analytics collected from this website, in PDF format, for the 1st November 2011 – 2nd December 2011 period.*

The Department does not generate monthly reports using Google Analytics therefore the report you have requested does not exist. The Act does not require that information be generated in order to meet a request for information.

4) *The IRG 4th Quarter Briefing Document states that there have been four appeals over the classification of sites on the filter. I would like to request copies of these four appeals.*

Attachment 3 provides the officers' reports on the four appeals into which data supplied by appellants has been copied. Information that would identify the sites has been removed in terms of section 6(c) of the Act. Where the appellant has provided a user name, this has been withheld in terms of section 9(2)(a) of the Act. The names of officers involved in the operation of the filter have been withheld in terms of section 9(2)(g)(ii) of the Act (to protect officers from improper pressure or harassment).

5) *I would also like to request all correspondence, reports, emails, or other information related to these appeals.*

See answer to question 4.

6) *Article 5.4 of the Code of Practice for the filter states that "The process for the submission of an appeal shall... ensure the privacy of the requester is maintained by allowing an appeal to be lodged anonymously". I would like to request how, if appeals are anonymous, according to the April 2011 minutes of the Independent Reference Group, the URL which the appellate attempted to access was identified.*

If a user does not submit a URL when appealing, the Department does its best to identify the site that appellant was referring to. This is done by looking at the block logs to identify sites blocked shortly before and after the appeal form was accessed and ISP of the appellant. The sites identified during that period will then be reviewed.

7) *The press release on the 16th of July 2009, "Web filter will focus solely on child sex abuse images", states that the filter filters out "over 7000" websites. According to the IRG 4th Quarter Briefing Document this had fallen to 507 entries. I would like to request the reason for this dramatic fall in number.*

The number quoted in the press release on 16 July 2009 related to the sites on the list during the trial. As there was a 2 year gap between the trial and going live with the filter system, the majority of the sites were taken down or had ceased to operate.

8) *Article 4.3 of the Code of Practice for the operation of the filtering system states that "The list will be reviewed monthly, to ensure that it is up to date and that the possibility of false positives is removed. Inspectors of Publications will examine*

each site to ensure that it continues to meet the criteria for inclusion on the filtering list." I would like to ask whether this has been done fully for each month in the 2011 period.

Yes, it is this strict checking that is currently keeping our list so low.

9) *The minutes of the Independent Reference Group for the 17th of August 2011 mention "written material." I would like to request whether the filter list has ever contained sites that contained solely written material, and if so, the amount of sites.*

No, there are no sites on the list that contain solely written material.

Where I have decided to refuse your request for information, I have taken into consideration whether reasons, that might otherwise render it desirable in the public interest to make the information available, are outweighed by the need to withhold it. Under section 28(3) of the Act you have the right to apply to the Ombudsman for a review or investigation of this decision.

Yours sincerely

Steve O'Brien
Manager, Censorship Compliance Unit

ATTACHMENT 1

From:
Sent: Thursday, 18 February 2010 12:01 pm
To: N Guy (MIN)
Subject: Concerned about lack of independence of IRG at the DIA

Dear Nathan,

I am writing to you about the internet filtering system that the Department of Internal Affairs is about to implement.

I was pleased to note that the Department has responded to criticism of the secrecy of the filter, and has set up an Independent Reference Group to oversee the operation of the filter and the addition of sites to the banned list.

However, I am most concerned that one of the initial appointees to the Independent Reference Group is Steve O'Brien - the Manager of the Censorship Compliance Unit and the person seemingly in charge of implementing the internet filtering system.

This appointment makes a complete mockery of the "Independent" part of the IRG's name and removes any benefit of having an independent group to provide oversight.

My specific question for you is:

Do you think it is appropriate for the DIA's internet filtering Independent Reference Group to include the manager of the unit that will be running the internet filter?

Regards,

-----Original Message-----
From:
Sent: Thursday, 21 January 2010 4:02 pm
To: Hon. Nathan Guy (MIN)
Subject: Independent reference group

I have been made aware that the Independent Reference Group for the internet filter has had a member appointed with a conflict of interest.

Why has the manager of the Censorship Unit been accepted into the Independent Reference Group? This group is not independent with someone with vested interests advising on their own operation.

This is of concern to me as there may be other similar conflicts of interest going on within the DIA.

From:
Sent: Saturday, 20 March 2010 7:38 a.m.
To: Censorship
Subject: Independent Review Committee

Dear DIA,
I've been following the Internet Filter debate and believe it to be a pretty stupid move on the DIA's part.
My main reasons are:
- secret censorship schemes aren't acceptable in a democratic country
- it doesn't stop people producing or trading in offensive material
- it weakens the NZ internet
- future governments will abuse it just as governments have in other countries

I want a response from you explaining why Steve O'Brien the Manager of the Internet Filtering unit is also a member of the Independent (yeah right) Review Committee. It is completely off that a person with his position can be part of something that is meant to be independent. I call for him to either step down as the Manager of the Internet Filtering unit or leave the Independent Review Committee and give it the Independence it actually needs for people to feel that it has any credibility.
Regards,

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Office of Hon Nathan Guy

Minister of Internal Affairs
Associate Minister of Justice

Associate Minister of Transport
Minister Responsible for Archives New Zealand
Minister Responsible for the National Library

ATTACHMENT 2

16 MAR 2010

EMAILED
16 MAR 2010

Dear

Thank you for your email of 18 February 2010 concerning the Independent Reference Group that has been set up to oversee the operation of the Digital Child Exploitation Filtering System.

I am advised that the InternetNZ submission on the Department of Internal Affairs' draft Code of Practice for the filtering system suggested that membership of the Group include a wide range of interests, including law enforcement and government. As Mr O'Brien is highly experienced in the enforcement of censorship law and would be working closely with the Group, his appointment was considered appropriate.

The Department is conscious of the need to maintain public confidence in the filtering system. I understand that, at the first meeting of the Group, the members were asked whether they considered Mr O'Brien's membership of the Group compromised its independence. If members of the Group had indicated that they were unhappy with Mr O'Brien's membership, he would have stepped down and a replacement sought. I understand that the Group had no concerns.

I hope that you find this information helpful.

Yours sincerely

Nathan Guy

Hon Nathan Guy
Minister of Internal Affairs

Private Bag 18041, Parliament Buildings, Wellington 6160, New Zealand. Telephone 64 4 817 6821 Facsimile 64 4 817 6521

Office of Hon Nathan Guy

Minister of Internal Affairs
Associate Minister of Justice

Associate Minister of Transport
Minister Responsible for Archives New Zealand
Minister Responsible for the National Library

25 FEB 2010

EMAILED
25 FEB 2010

Dear

Thank you for your email of 21 January 2010 concerning the Independent Reference Group (IRG) that has been set up to oversee the operation of the Digital Child Exploitation Filtering System.

I am advised that the InternetNZ submission on the Department of Internal Affairs' draft Code of Practice for the filtering system suggested that membership of the IRG include a wide range of interests, including law enforcement and government. As Mr O'Brien is highly experienced in the enforcement of censorship law and would be working closely with the IRG, he was considered an appropriate appointment to the Group.

My department is conscious of the need to maintain public confidence in the filtering system. I understand that, at the first meeting of the IRG, the members will be asked if they consider that Mr O'Brien's membership compromises the Group's independence. If so, Mr O'Brien will step down and a replacement will be sought.

I hope that you find this information of interest.

Yours sincerely

Nathan Guy

Nathan Guy
Minister of Internal Affairs

Private Bag 18041, Parliament Buildings, Wellington 6160, New Zealand. Telephone 64 4 817 6821 Facsimile 64 4 817 6521

8 March 2010

Dear ,

Request for Information under the Official Information Act 1982

Thank you for your letter of 12 February and your subsequent telephone call on 15 February 2010 to Keith Manch, requesting further information on the Digital Child Exploitation Filtering System (DCEFS). I will address each of your questions in turn.

How was the membership of the Independent Reference Group determined? Please include a description of the process as well as the name of the person/people who made the decisions.

The membership of the IRG is made of people that the Department approached because they represent the interests identified in the Code of Practice. The Department was particularly interested to include individuals known to be sceptical about website filtering to ensure a robust debate in the IRG. Keith Manch, Deputy Secretary of Internal Affairs, Regulation and Compliance Group approved the make up of the IRG.

When is the filter system expected to "go live"?

The Department connected Watchdog to the filtering system on 1 February and Maxnet on 26 February 2010 as a further test of the system as the filtering list is rebuilt. The announcement of the commencement of the system was delayed to enable the initial meeting of the IRG to take place. The Department is taking a prudent approach and will be connecting ISPs to the system as they express their willingness to join and as capacity is built up.

Which ISPs have agreed to implement the filter?

The Department will be writing to ISPs shortly to advise that the system is available should they wish to join. The response to those letters should provide the Department with a clear indication of which ISPs intend to join the filtering system. It is the Department's expectation that ISP that join the filter will inform their customers.

The Department is currently in negotiation with a number of ISPs about their possible connection to the DCEFS. I am therefore refusing this part of your request in terms of section 9(2)(j) of the Official Information Act (to enable any Department to carry on, without prejudice or disadvantage, negotiations).

Under section 28(3) of the Official Information Act 1982 you have the right to apply to the Ombudsman to review this decision.

Will the Independent Reference Group see the filtered websites?

The Department will not be subjecting the membership of the IRG to the content of the websites on the filter list. As stated in the Code of Practice, the members of the IRG will be provided with:

- the officers' reports (which identify each website by URL and describe the contents)
- details of all appeal applications and the resulting action taken,
- reports of any technical issues with the filter or connections to any ISP,
- such other information that may lawfully be provided to assist the IRG in fulfilling its function.

Why is Steve O'Brien on the Independent Reference Group?

My inclusion on the IRG was considered appropriate due to my experience in enforcing censorship law and in acknowledgement that, as Manager of the Censorship Compliance Unit, I will be working closely with the IRG. You will note that in its submission to the draft Code of Practice, InternetNZ suggested that the IRG contain, amongst others, representatives from law enforcement and government. At its first meeting the issue of my membership was put to the IRG, which considered that my membership does not compromise the independence of the group.

Were InternetNZ and ISPANZ asked to participate?

InternetNZ and ISPANZ were not asked to participate in the IRG.

Yours sincerely

Steve O'Brien
Manager, Censorship Compliance Unit

CCUFIL2319 – Complaint Review

Procedural Information

Reviewed By:	*****		
Complaint Details			
Time	22.18.18	Date	1/4/2011
Complaint Details			
Date: 4/1/2011 10:18:18 PM - Importance: Normal u should be able too look at this site couse It doesint hurt anyone or bloody make anyone sad or anythink so please unblok it thank u			

Review Information

General Information
No URL Supplied. Checked logs between times of 22:15 to 22:20. Sites blocked *********

Review Process

URL:	*********
Captured:	**Yes**
Decision	Continue to Block

Further Review
Outcome:

Actioned:	
Date: **01/04/2011**	**Signed** *******

CCUFIL2319 – Complaint Review

Procedural Information

Reviewed By:	*****		
Complaint Details			
Time	09:04	Date	15th April 2011
Complaint Details			
Online Form: Date: 4/15/2011 9:03:09 AM - Importance: Normal --- over 21			

Review Information

General Information
No URL supplied. Checked the logs between 15th April 2011 0903 to the 15th April 2011 0905. Sites blocked were ******. ****** Review of the site shows young persons (under age) engaged in sex acts. There is also images personifying the act of engaging in sexual relations with young persons (under 18). This site contains Child Sexual Abuse images

Review Process

URL:	*********
Captured:	**Yes**
Decision	Block

Further Review
Outcome:

Actioned:	
Date: **15/04/2011**	**Signed** *********

CCUFIL2319 – Complaint Review

Procedural Information

Reviewed By:	********		
Complaint Details			
Time	13:19	Date	17/04/2010
Complaint Details			
Date: 4/17/2011 1:19:01 PM - Importance: Normal			

Review Information

General Information
Checked logs for sites blocked between 13:19 and 13:21. Sites in that timeframe identified as *********

Review Process

URL:	********
Captured:	**Yes**
Decision	Continue blocking

Further Review
Outcome:

Actioned:	
Date: 17/04/2011	**Signed: ********

CCUFIL2319 – Complaint Review

Procedural Information

Reviewed By:	******		
Complaint Details			
Time	13:35	Date	15/04/2010
Complaint Details			
Date: 4/15/2011 1:35:06 PM - Importance: Normal			

Review Information

General Information
Checked logs for sites blocked between 13:33 and 13:36. Sites in that timeframe identified as ******

Review Process

URL:	********
Captured:	**Yes**
Site reviewed. 3 images considered CSA material with links to other websites that also contain CSA material.	
Decision	Continue to block

Further Review
Outcome:

Actioned:	
Date:15/04/2011	**Signed:** ******