

**SUBMISSION BY**



to

**THE JUSTICE COMMITTEE**

on

**BUDAPEST CONVENTION AND RELATED MATTERS  
LEGISLATION AMENDMENT BILL**

28 November 2024

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# **NZTECH SUBMISSION ON BUDAPEST CONVENTION AND RELATED MATTERS LEGISLATION AMENDMENT BILL**

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## **INTRODUCTION**

NZTech welcomes the opportunity to submit on the bill and supports the Government's intention to align our legislation with the requirements of the Council of Europe Convention on Cybercrime ("The Budapest Convention").

The threat of cybercrime is ever present and growing. CERT NZ, the agency responsible for tracking reported cyber security incidents, published that \$18.3 million of direct financial losses from cybercrime occurred in 2023, and \$13.4 million in the first half of 2024. This is just the tip of the iceberg. Estimates of the financial impact of online crime on New Zealand range from \$200 million<sup>1</sup> to \$2.3 billion<sup>2</sup> as digital becomes more embedded in our physical world, the risk is growing exponentially. Code and internet connectivity are now commonly embedded in medical devices, autonomous machines, cameras in transport systems, vehicles and across smart cities.

Cyber security is increasingly becoming an issue of human health and safety, and NZTech is committed to helping improve Aotearoa New Zealand's performance in this area.

## **ABOUT NZTECH**

NZTech is a member-funded, not-for-profit, non-governmental organisation that has multiple tech communities, associations and national initiatives that help create connections, promote tech and enhance New Zealand's ability to benefit from technology.

We bring together the NZ Tech Alliance and represent 24 tech associations such as AgriTechNZ, BioTechNZ, EdTechNZ, FinTechNZ, the AI Forum, the NZ Game Developers Association, Digital Health, Digital Identity NZ and more. We have more than 2,500 members who together employ 10 percent of the New Zealand workforce, comprising startups, local tech firms, multinationals, education providers, financial institutions, major corporations, network providers, hi-tech manufacturers and government agencies that work closely with the tech ecosystem.

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<sup>1</sup> <https://www.mbie.govt.nz/about/news/198-million-dollars-lost-to-scams-in-the-last-year>

<sup>2</sup> The State of Scams in New Zealand 2024, Netsafe, November 2024.

<https://cdn.sanity.io/files/8y8wsx0z/production/eb3da5d9a6357af9254e3a76a31451b5b5583aa0.pdf>

## COMMENTS ON THE BILL

NZTech welcomes the protective measures being introduced through the bill to ensure that New Zealanders and their data will receive the protections of New Zealand law, including the Human Rights Act and the Privacy Act. We welcome the intention to put in place effective oversight and independent review mechanisms for decisions taken under the legislation.

In terms of the bill's implementation, an important consideration for the relevant authorities in exercising powers under this legislation will be to distinguish clearly between *data controllers* (who own/control the data and determine the means and purposes of processing), and *data processors*, who process data on behalf of controllers. This important principle is recognised under section 11 of the New Zealand Privacy Act (2020) and in other jurisdictions – for example, the European Union's General Data Protection Regulation (Chapter 4).

Data processors in New Zealand could include, for example, software as a service platform providers or cloud services providers, and particularly those offering business-to-business services. Many such data processors will not have visibility of, or access to, their customers' data that is stored or processed on their behalf. Because data processors typically only implement the decisions of data controllers, it should be those data controllers that typically bear primary responsibility for the security and privacy obligations of the data they own and control.

We believe this is an important factor for authorities to consider in operationalising the legislation and maintains alignment with this important principle recognised in The Privacy Act (2020).

## CONCLUSION

NZTech thanks the Justice Committee for the opportunity to make this submission. We support the Government's efforts to respond to cybercrime and introduce important protective measures for New Zealanders' data. We would be happy to provide further information or discuss any aspect of our submission with the committee.



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