



SOUTH AUSTRALIA POLICE
KEEPING SA SAFE

Your Ref
Our Ref
Enquiries
Telephone
Facsimile

Committee Secretary
Senate Legal and Constitutional Committee
PO Box 6100
Parliament House
Canberra ACT 2600



Dear Ms Dennett,

I refer to your correspondence of 9 February 2010 inviting a submission to the Committee's Inquiry into the *Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2010*.

South Australia Police support the intent of the Bill, but have identified that the Bill will have unintended consequences. The insertion of section 474.40 into the Criminal Code Act will criminalise some humorous, innocent and erroneous transmissions, where the sender may have no unlawful intentions.

The broad nature of the Bill will criminalise the transmission of communications that would otherwise be innocuous and the existing defence provisions will not be applicable to such communications. For example;

- an 18 year old student who claims to be 17 years, in order to meet a 17 year old student at the same school (liable to 3 years imprisonment);
- an employee celebrating a birthday who sends an e-mail to a fellow employee who is under 18, claiming to be far younger than their actual age, as a form of humour (liable to 3 years imprisonment).



1.

Government
of South Australia

South Australia Police consider that other amendments contained in the *Crimes Legislation Amendment (Sexual Offences Against Children) Bill 2010* which further address the transmission of improper communications through the simplification of existing offences, are a better alternative. The amendments in this Bill are unlikely to have the unintended consequences that may arise from the Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill and is the preferred legislative approach.

Yours sincerely,

Malcolm A Hyde
COMMISSIONER OF POLICE

IP February 2010