



21 May 2013

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

Dear Committee Secretary

INQUIRY INTO THE CRIMINAL CODE AMENDMENT (MISREPRESENTATION OF AGE TO A MINOR) BILL 2013

I refer to the abovementioned Bill which seeks to amend the *Criminal Code 1995 Act (Cth) (Code)* to make it a criminal offence for a person over 18 years of age to intentionally misrepresent their age in online communications to a person they reasonably believe to be under 18 years of age, for the purpose of encouraging a physical meeting, or with the intention of committing an offence.

The Law Society of Western Australia acknowledges the tragic circumstances relating to the death of Carly Ryan in Port Adelaide, South Australia and shares Senator Xenophon's concerns about the safety of children online.

However, it is noted by the Society that there are already a number of offences contained in the Code which criminalise online communications with a child where there is evidence of an intention to harm that child.

The proposed subsection 474.40(1) is very broad in its application and may criminalise conduct that was never intended to constitute criminal conduct. The existing offence provisions relating to grooming and procuring adequately cover the field where there are online communications by an adult to a child, with the intention of procuring a child to engage in sexual activity. The Society is therefore of the view that the proposed provision is not necessary.

Notwithstanding this position, the Society shares the view that has been expressed by the Federal Attorney General that it would be more consistent for the proposed offence provisions to be directed at communications with a person under the age of 16 years, rather than under 18 years. This would provide consistency with not only subsections 474.26 and 474.27 of the Act but would be more consistent with the age of consent throughout Australian jurisdictions.

Yours sincerely

Craig Slater
President

Level 4, 160 St Georges Terrace Perth WA 6000, DX 173 Perth

Telephone: (08) 9324 8600 Facsimile: (08) 9324 8699

Email: info@lawsocietywa.asn.au Website: www.lawsocietywa.asn.au