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Committee Secretary
Senate Legal and Constitutional Affairs Committee
Parliament House Canberra ACT 2601

Via email to legcon.sen@aph.gov.au

17th October 2017

Re: *Criminal Code Amendment (Impersonating a Commonwealth Body) Bill 2017*

Dear Committee Secretary,

Electronic Frontiers Australia (EFA) appreciates the opportunity to provide this submission in relation to this consultation. EFA's submission is contained in the following pages. EFA is happy to provide further information, if required.

About EFA

Established in January 1994, EFA is a national, membership-based non-profit organisation representing Internet users concerned with digital freedoms and rights.

EFA is independent of government and commerce, and is funded by membership subscriptions and donations from individuals and organisations with an altruistic interest in promoting civil liberties in the digital context. EFA members and supporters come from all parts of Australia and from diverse backgrounds.

Our major objectives are to protect and promote the civil liberties of users of digital communications systems (such as the Internet) and of those affected by their use and to educate the community at large about the social, political and civil liberties issues involved in the use of digital communications systems.

Yours sincerely,

Jon Lawrence
Executive Officer, on behalf of EFA's Policy Team



Criminal Code Amendment (Impersonating a Commonwealth Body) Bill 2017

EFA has been a long-standing advocate for freedom of expression in Australia.

EFA understands and accepts the justification for this bill, to ensure public trust in the legitimacy and accuracy of statements made by Commonwealth bodies.

EFA is however concerned that the bill, as currently drafted, may not provide sufficient protections for satirical, artistic and educational activities. Satire particularly is an essential element of public discourse and can be a powerful tool for highlighting issues and in holding governments to account.

Any attempt by government to suppress satirical expression is by definition an attack of freedom of expression, and may breach the implied right to political speech, one of the few constitutional civil liberties protections available to Australians.

EFA therefore calls on the Committee to recommend a strong, unambiguous and unqualified exception for satirical works.

EFA recommends that this concern may be alleviated by removing the word "genuine" from the proposed div. 150.1(7) definition of conduct (see: "conduct does not include conduct engaged in solely for genuine satirical, academic or artistic purposes").

EFA makes this recommendation as the term "genuine" is material to this provision and introduces an unnecessary, potentially ambiguous and unhelpful caveat to the definition of satirical, artistic and educational activities.