

The Law  Society®

— OF WESTERN AUSTRALIA —

The voice of the legal profession in Western Australia

27 February 2014

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

By email: legcon.sen@aph.gov.au

Dear Committee Secretary

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

The Law Society of Western Australia thanks you for inviting a submission on the revised version of the *Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2013*.

The Society has considered the differences between the original bill and the revised bill and noted the change to the wording of the "Object" at clause 3 and the addition of proposed subsection 474.41(6). The revised bill has not affected the Society's view as stated in our letter dated 21 May 2013.

The Society continues to share concerns about the safety of children online but remains of the view that there are already a number of offences contained in the *Criminal Code 1995 Act (Commonwealth)* 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.

Notwithstanding this position, the Society is of the view that proposed offence provisions should be directed at communications with a person under the age of 16 years, rather than under 18 years. This would provide consistency with subsections 474.26 and 474.27 of the Act and would be more consistent with the age of consent throughout Australian jurisdictions.

Yours sincerely

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