



QUEENSLAND POLICE SERVICE

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Our Ref: DOC12/43704

Your Ref:

Julie Dennett
Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
PO Box 6100
Parliament House
Canberra ACT 2600



Dear Ms Dennett

I refer to your letter of 7 November 2011 concerning the Senate Inquiry into the Classification (Publications, Films and Computer Games) Amendments (Online Games) Bill 2011.

Thank you for seeking my response to the proposed amendments to the above Bill.

The Queensland Police Service (QPS) has undertaken a review of the proposed amendments, and consider there will be no detriment to the operations of the QPS. The proposed amendments contain sufficient safeguards to ensure appropriate scrutiny of online games.

As the proposed amendments are an interim measure, there is likely to be some capacity to identify and address any unforeseen issues through the Australian Law Reform Commission (ALRC) review of the National Classification Scheme.

I wish to raise a broader issue of concern in relation to the classification of publications, films and computer games. There appears to be an increasing trend in Queensland criminal courts for defence counsel to seek classification of material seized and categorised as child exploitation material (CEM) by QPS investigators, and to subsequently argue that, on the basis of the Australian Communications and Media Authority (ACMA) classification, the material cannot be deemed to be CEM.

An analysis of the Classification (Publications, Films and Computer Games) Act 1995 (Cth) (the Act) highlights this anomaly, and is likely to also impact on criminal statutes in jurisdictions other than Queensland.

It is recommended the issue be contemplated in conjunction with the report on the ALRC review of the National Classification Scheme, to ensure consideration of options to

overcome the anomaly can be addressed. One option for consideration is to amend the Act to effectively close this loophole to defence counsel in all jurisdictions.

Should you have any further inquiries in relation to this matter please contact

Yours sincerely

R ATKINSON
COMMISSIONER