



15 July 2011

Committee Secretary
Joint Select Committee on Cyber-Safety
Department of House of Representatives
PO Box 6021
Parliament House
CANBERRA ACT 2600

By email: jssc@aph.gov.au

Dear Committee Secretary,

Cybercrime Legislation Amendment Bill 2011

The Law Institute of Victoria (LIV) thanks the Committee for the opportunity to provide preliminary comments to the *Cybercrime Legislation Amendment Bill 2011*. Given the short time frame, we have only been able to obtain limited comments from our members.

The LIV recognises that cybercrime transcends jurisdictional borders and agrees that there is a need for standardised Commonwealth and International legislation governing investigative and enforcement powers.

The LIV agrees, in principle, with the purpose of the Bill in amending the *Telecommunications (Interception and Access) Act 1979*, the *Criminal Code Act 1995*, the *Mutual Assistance in Criminal Matters Act 1987*, and the *Telecommunications Act 1997* so that Australian Commonwealth legislation meets all the necessary requirements of the Council of Europe Convention on Cybercrime (the Convention).

The LIV submits that the increasing range of international conventions and laws has also enlarged the scope of the external affairs power under s 52 (xxix) of the Constitution.

The LIV notes that the removal restrictions from Commonwealth computer related offences, under Part 10.7 of the *Criminal Code Act 1995* may give rise to questions of constitutional validity under State offences. Most States and Territories have enacted similar offences, however we recognise that coverage is not comprehensive at State and Territory level.

The LIV also acknowledges that State and Territory laws currently do not meet the jurisdictional obligations in Article 22 of the Convention.

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The LIV therefore agrees that the extension of the jurisdiction in Part 10.7 will enable Australia to meet the obligations under the Convention.

The LIV acknowledges that the growth of technological change requires that federal criminal law must be broader in order to establish a cross-jurisdictional standardised framework for investigation and enforcement purposes.

If you would like to discuss any of the matters raised in this letter, please contact Brigid Foster, Policy lawyer, Criminal Law Section, on (03) 9607 9374 or bfoster@liv.asn.au.

Yours faithfully

Caroline Counsel
President
Law Institute of Victoria