



THE LAW SOCIETY  
OF NEW SOUTH WALES

Our ref: REcm823386

25 February 2014

Mr Martyn Hagan  
Secretary General  
Law Council of Australia  
DX 5719 Canberra

By email: [leonie.campbell@lawcouncil.asn.au](mailto:leonie.campbell@lawcouncil.asn.au)

Dear Mr Hagan,

### **Enhancing online safety for children**

Thank you for the opportunity to provide information in response to the Australian Government's public consultation on enhancing online safety for children. The following comments are made by the Law Society's Injury Compensation Committee.

#### **1. Power of the E-Safety Commissioner**

Whilst an important function, the Government must be cautious not to turn the Commissioner into a quasi-police force with powers that would ignore the burdens of proof required for criminal and civil proceedings in a court of law. It would be crucial however to empower the Commissioner to make referrals to the police for investigation and to ensure the safety of children through the removal of offensive material.

#### **2. Speed requirement**

Bullying and harassment, particularly in circumstances where unauthorised nudity is involved often spreads on a 'viral' basis throughout the internet, not just through social media sites. It is important that the Commissioner's Office be available on a 24 hour basis to provide orders for the removal of such content.

#### **3. Psychological support**

Whilst the scheme is directed at minimising damage to affected people and also to deter people from engaging in cyber bullying, there should be psychological support services to assist those who have been traumatised by cyber bullying.

#### **4. Malicious intent**

It is important not to infringe upon a person's general human right regarding expression. However where that expression is intentionally malicious through cyber bullying or 'revenge porn', an appropriate compensation scheme should be in force in addition to other criminal penalties.

## 5. Explicit images

The proposed legislation should also specifically target the unauthorised distribution of nudity or pornographic images and video footage without consent, again with compensation for the victims in addition to criminal penalties.

If you have any questions in relation to this letter please contact Chelly Milliken, Legal Policy Advisor, on 9926 0218 or [chelly.milliken@lawsociety.com.au](mailto:chelly.milliken@lawsociety.com.au)

Yours sincerely,

A handwritten signature in black ink that reads "Ros Everett". The signature is written in a cursive style with a large initial "R" and a long, sweeping tail.

Ros Everett  
**President**