



Premier of Queensland

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Senator Catryna Bilyk
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Senator,

Thank you for your letter of 7 July 2011 concerning the Cybercrime Legislation Amendment Bill 2011 (the Bill).

Based on the limited examination of the Bill my department has been able to conduct in the short time available, I have no comment to make on the Bill, other than to provide the following information about a current High Court matter that the committee may wish to consider.

I note that the Bill broadens certain Commonwealth computer offences and, in this way, creates substantial areas of overlap with state and territory laws.

Given the recent unanimous full High Court decision of *Dickson v The Queen* [2010] HCA 30 and the pending High Court decision in *Momcilovic v The Queen*, it may well be the case that the changes will have a substantive effect on state offences. *Dickson's* case potentially widens the scope of direct inconsistency more generally than previously held.

It is expected that the effect of *Dickson's* decision will become clearer after the High Court has given its decision in *Momcilovic*. Indications are that the Court is giving serious consideration to the constitutional inconsistency issue. If the High Court expressly confirms or clarifies the test for direct inconsistency, there may be significant implications for the large range of offences where Federal and state criminal law overlap.

The committee may, therefore, wish to consider whether to recommend that provisions in the Bill, relating to computer offences, should be omitted from the Bill and reconsidered after the High Court's decision in *Momcilovic*, unless of course the decision is published before the Bill is debated, in which case further consideration can take place at that time.

Thank you for the opportunity to comment on the Bill.

Yours sincerely

ANNA BLIGH MP
PREMIER OF QUEENSLAND