

Telephone: 07 3900 6000

Reference: [REDACTED]

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Parliament House
Canberra ACT 2600

Via email: [REDACTED]

Dear Committee Secretary,

RE: Criminal Code Amendment (Deepfake Sexual Material) Bill 2024

Thank you for the opportunity to provide input to the *Criminal Code Amendment (Deepfake Sexual Material) Bill 2024* on behalf of the Queensland Family and Child Commission (QFCC). We commend the Bill's inclusion of new offences for the transmission of sexual material (both unaltered material and material created or altered using technology) relating to adults without their consent. The QFCC supports the introduction of new offences proposed in the Bill and the amendments to implement further aggravating circumstances to existing offences in the Criminal Code.

Children and young people are internet natives, with research suggesting that over 81 per cent of Australian pre-schoolers aged 2-5 years,¹ and 95 per cent of children aged 8-17 years² access the internet. With the rapid advancement of technology, it is increasingly challenging for children and young people to stay safe online.

A study of the general population in the United Kingdom, Australia and New Zealand found that one in six respondents had engaged in at least one form of image-based sexual abuse.³ Specifically, it found that 15.8 per cent of participants had taken non-consensual nude or sexual images, 10.6 per cent had shared nude or sexual images, and 8.8 per cent had threatened to disseminate nude or sexual images without the consent of the person depicted.⁴ A similar study of Australian young people found that nearly one in three reported having

¹ Office of the eSafety Commissioner (2021), *Supervising preschoolers online*, [Supervising preschoolers online | eSafety Commissioner](#).

² Australian Communications and Media Authority (2013), *Like, Post, Share: Young Australian's experience of social media*.

³ Powell, A., Scott, A. J., Flynn, A., & McCook, S. (2022). Perpetration of Image-based Sexual Abuse: Extent, Nature and Correlates in a Multi-Country Sample. *Journal of Interpersonal Violence*. <https://doi.org/10.1177/08862605211072266>

⁴ Powell, A., Scott, A. J., Flynn, A., & McCook, S. (2022). Perpetration of Image-based Sexual Abuse: Extent, Nature and Correlates in a Multi-Country Sample. *Journal of Interpersonal Violence*. <https://doi.org/10.1177/08862605211072266>

some experience with sending, asking or being asked for, or sharing or showing nude or sexual images or videos.⁵ Generative artificial intelligence is becoming more functional and accessible as the technology develops and is more widely utilised in many aspects of daily life. Concerningly, exploitative AI-generated images are being created and circulated, often used as a form of cyberbullying, such as was seen at the Bacchus Marsh Grammar School.⁶

The National Children's Commissioner recently raised concerns regarding the age of criminal responsibility, highlighting that children as young as 10 years old could be held criminally responsible for the offences proposed in the Bill.⁷ The QFCC has advocated to raise the minimum age of criminal responsibility to 14 years, acknowledging that children aged 10 to 13 years do not possess the same emotional development or consequential thinking as adolescents and older teenagers.⁸ This position is shared by the Australian and New Zealand Children's Commissioners, Guardians and Advocates, and is reflected in the United Nations Convention on the Rights of the Child.⁹

The QFCC acknowledges the need for meaningful safeguards to promote safety online, and strong deterrence to eliminate the use of AI and deepfakes as a form of image-based abuse. The QFCC welcomes the introduction of new offences to the Criminal Code and highlights the need for consideration of the potential to impact young people as internet-users.

If you have any queries regarding this matter, please do not hesitate to contact me directly on [REDACTED] or via email at [REDACTED]

Yours sincerely

[REDACTED]

Luke Twyford
Principal Commissioner
Queensland Family and Child Commission
19 July 2024

⁵ Netsafe and Office of the eSafety Commissioner, *Young People and Sexting*, SWGFL/UK Safer Internet Centre, University of Plymouth, 14.

⁶ ABC News Australia (2024). *Bacchus Marsh Grammar students' explicit images created by AI from clothed photos, principal says. Police investigate fake nude photos of about 50 Bacchus Marsh Grammar students being circulated online - ABC News*

⁷ Parliament of Australia (2024), *Criminal Code Amendment (Deepfake Sexual Material) Bill 2024- Bills Digest, Bills Digest 81, 2023-24 - Criminal Code Amendment (Deepfake Sexual Material) Bill 2024 (aph.gov.au)*

⁸ Queensland Family and Child Commission (2021), *Changing the Sentence, Changing the Sentence | Queensland Family and Child Commission (qfcc.qld.gov.au)*

⁹ Queensland Family and Child Commission (2022), *Designing a Better Response to Youth Offending in Queensland: Raising the age of criminal responsibility, Designing a better response to youth ~ Raising the age of criminal responsibility Issues paper 0.pdf (qfcc.qld.gov.au)*