



Center for Online Safety and Liberty

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13 May 2026

Secretary
Attorney-General's Department
Robert Garran Offices
3-5 National Circuit
Barton ACT 2600

Dear Secretary,

Please find attached the Center for Online Safety and Liberty's *Drawing the Line Watchlist 2025*, a comparative review of how ten countries distinguish between material depicting or involving the abuse of actual children, and fictional, virtual, or AI-generated sexual content that does not involve identifiable victims.

Australia ranked second-lowest on the Watchlist, behind only Iran. This result was driven not by any perceived lack of commitment to child protection, but rather by the breadth and conceptual structure of Australian law, which in our assessment increasingly conflates crimes involving the abuse of real survivors with offences more closely analogous to obscenity or morality regulation.

This conflation has several concerning consequences.

First, it risks obscuring the central role of victimisation in the concept of child sexual abuse material itself. Survivors of actual abuse suffer unique and ongoing harms from the creation, circulation, and rediscovery of material documenting their abuse. Those harms are qualitatively different from concerns raised by fictional or synthetic material that does not depict identifiable victims.

Second, the current legal framework makes it difficult to assess whether enforcement resources are being appropriately directed toward offences involving real children. Australian reporting and prosecution statistics do not distinguish between cases involving actual abuse material and those involving fictional, altered, or entirely synthetic depictions. As a result, policymakers and the public lack visibility into whether these categories are being treated differently in practice, and whether survivor-centred enforcement priorities are being maintained.

Third, emerging technologies such as generative AI are placing increasing strain on legal categories that were not originally designed to distinguish between documentary evidence of

abuse and entirely synthetic or fictional expression. This creates a risk of incremental expansion of criminal prohibitions without sufficient consideration of proportionality, coherence, evidentiary standards, human rights implications, or unintended impacts on legitimate expression, education, research, and artistic works.

For these reasons, COSL respectfully suggests that the Attorney-General's Department consider recommending a reference to the Australian Law Reform Commission to examine the coherence and proportionality of Australian laws governing fictional, virtual, and synthetic sexual content, including the adequacy of distinctions drawn between material involving identifiable victims and material that does not.

Such a review could also usefully examine:

- whether Australian criminal law and enforcement reporting should more clearly distinguish between offences involving actual abuse material and other categories of prohibited content;
- the implications of synthetic media and generative AI for existing legal definitions;
- the human rights and rule-of-law implications of category expansion;
- and how best to preserve a survivor-centred approach to online child protection.

We believe that Australia has an opportunity to demonstrate international leadership by ensuring that laws targeting child sexual abuse remain firmly anchored to the protection of real children and real survivors, while also maintaining principled limits, legal clarity, and public confidence in the justice system.

I would welcome the opportunity to discuss the report or provide any additional information that may assist.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'J. Malcolm', written in a cursive style.

Jeremy Malcolm
Chair
Center for Online Safety and Liberty