

I thank the Social Policy Scrutiny Committee for its careful consideration and for its report it tabled in this House on 13 March. I am pleased that the committee has recommended that the bill be passed. As the committee noted, the criminal law can be a blunt tool. This is apparently in relation to the non-consensual of intimate images. The committee recognises this in Recommendation 7 of the report which recommends that the introduction of this legislation be combined with a comprehensive public awareness campaign.

It is well understood that criminalising the non-consensual sharing of intimate images is just the tip of the iceberg. Other measures are integral in combatting the societal problem and there is only so much a law can do. Once the bill has passed, the Department of the Attorney-General and Justice will inform key stakeholders of the expected commencement of the legislation and its key features, and will also work with stakeholders to develop education and information packages.

Information will be available on the Northern Territory government website. This will include our fact sheets and a link to the Commonwealth eSafety Commission's portal. At the Commonwealth level in October 2017, the Commonwealth eSafety Commissioner launched an online portal containing information and advice for victims. When this bill is passed, the Department of the Attorney-General and Justice, AGD, will contact the office of the eSafety Commissioner and advise of our new laws so that information can be uploaded onto the online portal.

In addition, the federal government's Enhancing Online Safety (Non-Consensual Sharing of Intimate Images) Bill 2018, which proposes an administrative and civil remedy regime, including take-down powers to be vested in the eSafety Commissioner, is currently making its way through the Australian parliament.

On that last point, Recommendation 4 of the committee's recommendations on this bill is proposed in section 208EAE to provide the NT Police or the person whose image has been posted may make an ex parte application for the image to be taken down and not republished. Such a provision was not included in the bill deliberately on the basis that anything a state or territory port can do to enforce a take-down is extremely limited. This is an issue that needs to be addressed nationally. Right now, it is being addressed through that federal legislation I just mentioned a moment ago.

No other state or territory jurisdiction has included a take-down provision such as that proposed by the committee in the criminal legislation regarding non-consensual sharing of intimate images. The states and territories are dealing with criminal matters and the Commonwealth is dealing with the civil and administrative regime. Accordingly, the government will not be making that amendment as the federal government, we believe, is taking the appropriate action.

The committee has made three other recommendations regarding the bill. Recommendation 2 is to tighten the definition of 'intimate image'. I previously noted this as being an issue identified by the Information Commissioner. The government acknowledges that the definition should be tightened to minimise the risk of capturing behaviour that is not intended to be criminalised under the bill. As I said, a Consideration in Detail amendment has been drafted to address this issue. Members have been provided with a copy.

Recommendation 3 is to amend proposed section 208AB(2) to add further exception to the application of the offence of non-consensual sharing of an intimate image in the proposed section 208AB(1). The amendment proposed by the committee reflects section 91T(1)(d) of the Crime Act 1900 NSW. Consideration was given during the drafting of proposed section 208AB(2) to the inclusion of this provision. The government is of the view, however, this is too

broad and unnecessarily complex. There are sufficient provisions in proposed section 208AB(2). Rather than a proliferation of exceptions, most circumstances in which the offence is proposed, section 208AB(1), does not apply and are better addressed through the definition of 'intimate image' and the requirement of lack of consent to the distribution of that intimate image. Accordingly, we do not support Recommendation 3.

Recommendation 5 is to amend the bill to include a provision for court compensation. This recommendation is also not supported. There is an existing power under section 88 of the Sentencing Act for courts to order compensation or restitution to be paid by an offender. The Sentencing Act provision is of general application—in other words, similar provisions to other Australian jurisdictions applies to all offences, not just one type of offence. To have different criteria for compensation for one specific type of offence is not desirable.

In addition, there is an administrative compensation scheme under the Victims of Crime Assistance Act and there is an option to sue in the civil system. To include in the Criminal Code Act a provision for compensation order based on a different criteria from the Sentencing Act or the Victims of Crime Assistance Act for just one type of offence, I believe, would create uncertainty.

The final recommendation was number six. The committee recommended that the government give prompt consideration to the introduction of an offence 'recording an intimate image without consent'. I take note of that recommendation and will seek further advice from the Department of the Attorney-General and Justice. Recording an intimate image is an issue related to but distinct from the issue of distribution, which is the subject of the bill before us today.