



ATTORNEY-GENERAL
THE HON ROBERT McCLELLAND MP

AG-MC11/09613

Mr Roger Clarke
78 Sidaway Street
Chapman ACT 2611

Dear Mr Clarke

I am writing in response to your letter dated 1 September 2011 regarding the Attorney-General's Department's consultation strategies.

I believe that consultation with the public is an essential element in the development of robust policy initiatives. My Department and I take consultation seriously and we have undertaken considerable work to ensure processes are in place to engage with relevant organisations. These processes include a number of the important elements suggested in your letter.

As noted in your letter, there is already a process in place for consultation on human rights. The annual Australian Government and NGO Forum on Human rights is a comprehensive consultation mechanism for discussion about domestic and international human rights issues. This year's Forum was held on 22 June 2011. The Forum is a means of establishing a frank dialogue between government and civil society. The Forum is attended by myself and the Minister for Foreign Affairs, senior government officials from various departments and peak body organisations and other key organisations with an interest in a range of human rights issues. It provides an opportunity for NGOs to seek clarification from government about existing policies and to bring human rights concerns to the attention of the government, and for the government to address these concerns in its future policies.

There are also a number of other consultation mechanisms in place including the Trusted Information Sharing Network (TISN) for Critical Infrastructure Resilience which provides an environment where business and government can share vital information on security issues relevant to the protection of our critical infrastructure and the continuity of essential services in the face of all hazards.

These are just two examples of how my Department and I undertake consultation with civil society. Of course, as you would appreciate, there are times where matters of urgency and/or national security limit our ability to engage in a full consultation. However, this does not detract from our commitment to the principals of informing, engaging and participating as set out in the Government's Declaration of Open Government.

In relation to the specific matters you raise, Australia's intention to accede to the Council of Europe Convention on Cybercrime (the Convention) was announced on 30 April 2010. On 21 June 2010, after a public consultation period, the House Standing Committee on Communications tabled its report on the inquiry into Cyber Crime entitled *Hackers, Fraudsters and Botnets: Tackling the Problem of Cyber Crime*. That report recommended that the Federal Attorney-General move expeditiously to accede to the Council of Europe Convention on Cybercrime.

On 17 February 2011, the Minister for Home Affairs and Justice and I released a public consultation paper seeking views on Australia's proposed accession to the Convention. That public consultation period was open for approximately four weeks. On 18 February 2011, almost 80 e-mails were sent to stakeholders advertising the public consultation and calling for submissions, including e-mails to a number of signatories to your letter. Twenty-five submissions from a range of groups were received in response.

Further opportunities for comment included separate consultations conducted by the Joint Standing Committee on Treaties (JSCOT) and the Joint Select Committee on Cyber-Safety. Regarding the adequacy of public consultation, JSCOT noted "that a draft of the treaty was initially released in 2000, and well in advance of Australia announcing its intention to sign the Convention in May 2010".

In light of these numerous opportunities for public consultation, I believe that ample opportunity was given for the public to comment regarding Australia's proposed accession to the Council of Europe Convention on Cybercrime.

Your letter also refers to a roundtable on 'piracy'. On 23 September 2011, the Secretary of the Attorney-General's Department chaired a meeting between internet service providers and copyright owner representatives to discuss the progress of the ongoing industry discussions for a possible industry-based solution to address online copyright infringement. It was not a meeting to negotiate laws to combat online piracy as reported in various media articles. I have consistently noted my preference for an industry-based solution to address online copyright infringement and it was clear from this meeting that constructive discussions have taken place to explore an industry agreement and industry has made a lot of progress in their consultations to date. All parties indicated that consumer interests are very important and will be properly protected.

The industry will continue to engage with consumer groups and the Department will ensure that consumer protections are integrated into any agreement. The industry stakeholder representatives have agreed to continue talks and to meet with the Department again in a few months.

I would like to thank you for your letter and reiterate that I am personally committed to engaging with civil society. The action officer for this matter in my Department is Andrew Walter who can be contacted on (02) 6141 3402.

Yours sincerely

Robert McClelland