

## **Communiqué**

### **Standing Committee of Attorneys-General**

**21 & 22 July 2011**

The second meeting of the Standing Committee of Attorneys-General (SCAG) for 2011 was held on 21 & 22 July 2011 in Adelaide, South Australia. The South Australian Attorney-General chaired the meeting. The Commonwealth, State and Territory Attorneys-General, the Commonwealth Minister for Home Affairs and the New Zealand Minister of Justice were in attendance. The Northern Territory Attorney-General was represented by the Chief Executive Officer of the Department of Justice.

### **Summary of Decisions**

#### **R 18+ Classification for Computer Games**

Ministers made a decision in principle, to introduce an R 18+ category for computer games. NSW abstained.

Ministers:

- (a) agreed to take the Guidelines for the Classification of Computer games, as amended at the meeting, to their respective Cabinets
- (b) agreed in principle, with the exception of the NSW Attorney General who abstained, that the Commonwealth introduce the proposed amendments to the National Classification Code to support the introduction of an R 18+ category
- (c) agreed, with the exception of the NSW Attorney General who abstained, to commence drafting amendments to their enforcement legislation to reflect the introduction of an R 18 + category for computer games
- (d) agreed that it would be desirable for classifications of existing games to be reviewed in light of the new classification Guidelines.

## **Microeconomic Reform – Report on SCAG Harmonisation Forum 2011 and Future Priorities**

Ministers:

- (a) noted the outcomes and positive feedback from the SCAG Harmonisation Forum 2011
- (b) noted the proposed new projects for the Standing Council on Law and Justice (SCLJ) to consider in the area of microeconomic reform, under its Priority Issue 3: *Pursuing significant justice microeconomic reform initiatives*, namely:
  - pursuing opportunities for mutual recognition within the justice sector
  - undertaking a cost-benefit analysis of possible reforms to harmonise registration of interests in land, and
  - developing a project plan to harmonise *forum non conveniens*, choice of court and choice of law rules across Australia in line with international standards
- (c) agreed to develop a systematic mechanism for consulting with business, in relation to SCLJ projects with a microeconomic reform aspect, as a result of the SCAG Harmonisation Forum 2011
- (d) noted that the Commonwealth is undertaking preliminary work to examine possible reforms to small business dispute resolution which SCLJ could progress, including writing to Small Business Ministers to seek their views on possible reforms.

## **Australian and NSW Law Reform Commissions' Report on Family Violence**

Ministers agreed to develop a national response to the Australian and NSW Law Reform Commissions' report on family violence.

### **Justice Closing the Gap Target**

Ministers discussed the unacceptable rates of incarceration of Indigenous Australians, including the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs' *Doing Time – Time for Doing* Report and agreed:

- (a) to significantly reduce the gap in Indigenous offending and victimisation and to accurately track and review progress with a view to reviewing the level of effort required to achieve outcomes
- (b) to ask First Ministers to refer to COAG the possible adoption of justice specific Indigenous closing the gap targets, acknowledging that in many instances their relative occurrence are due to variable factors outside the justice system.

### **Ratification of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

Ministers noted:

- (a) progress on steps to ratify the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT)
- (b) that, as envisaged by the OPCAT, it is not necessary for all measures to give effect to the OPCAT to be in place prior to ratification
- (c) the Commonwealth Attorney-General will write to each jurisdiction seeking agreement to the timetable for ratification of the OPCAT.

### **Cyber Crime**

Ministers:

- (a) noted the progress of the National Cyber Crime Working Group in developing a national response to cyber crime
- (b) noted that a detailed proposal for the establishment of a national online reporting facility for cyber crime is expected to be completed by the end of the year.

## **Model Computer Offences**

Ministers:

- (a) endorsed the Model Criminal Law Officers Committee's conclusion that the model computer offences are adequate and do not require revision
- (b) agreed that jurisdictions continue to monitor their computer offences and other laws relevant to cyber crime to ensure they keep pace with advances in technology.

## **DNA Evidence**

Ministers noted a paper outlining issues relating to the use of DNA evidence in criminal proceedings.

## **Commercial Arbitration**

Ministers noted that submissions to consultation on section 27D of the model *Commercial Arbitration Bill 2010* expressed different views on the formulation of the section.

Ministers agreed to clarify that consent to an arbitrator resuming arbitration following mediation should be obtained after the termination of the mediation in the form contained in the NSW *Commercial Arbitration Act 2010*.

## **Sentencing**

Ministers noted the range of community based sentencing options, including programs to divert offenders with mental health, drug and alcohol problems and to enable those who are unable to satisfy fines as a result of disadvantage, the option of participating in work and development orders and similar initiatives.

The Commonwealth Attorney-General agreed to explore ways to share information with the States and Territories and to generally improve fine enforcement, particularly in relation to serial fine defaulters.

### **Match-fixing in Sport**

In response to a request from Commonwealth, State and Territory Sports Ministers, Attorneys-General agreed to establish an SCLJ Working Group to develop a proposal and timetable for a nationally consistent approach to criminal offences relating to match-fixing.

### **Suppression Orders – Internet Sites**

Ministers considered the adequacy of the *Court Suppression and Non-Publication Orders* model Bill to deal with the publication of suppressed material on the internet by private individuals.

### **Facebook and Privacy**

Ministers discussed concerns about parents being unable to access or otherwise deal with inappropriate content uploaded onto their child's social networking pages (whether by the child themselves or by others).

### **Australian Council on Children and the Media – *Know Before You Go* Program**

Ministers noted the work of the Australian Council on Children and the Media and the proposal to expand the application of the *Know Before You Go* program to provide a computer game reviewing service to support parental guidance of children's game play.

### **Serious and Organised Crime – Recent High Court Decisions**

Ministers noted the High Court decisions in *Wainohu v New South Wales* [2011] HCA 24 (23 June 2011) and *Lacey v Attorney-General of Queensland* [2011] HCA 10 (7 April 2011).

### **Criminal Cases Review Commission**

Ministers noted the motion carried by the South Australian Legislative Council calling for SCAG to commission an assessment of the value of a national Criminal Cases Review Commission empowered by legislation in participating jurisdictions and expressed their views on commissioning such an assessment.

## **SCAG Communiqué**

### **Summary of Out of Session Decisions**

#### **SCAG Annual Report**

Ministers agreed to publicly release the SCAG Annual Report for the 2010-11 financial year.

#### **Access to Justice: Seamless Access to Legal Information & Services**

Ministers endorsed a set of principles and minimum standards for providing seamless access to legal information and services. These aim to ensure that it is easy for people to get the help they need, there is a “no wrong door” approach, and people are provided with information in an accessible form that addresses their needs.

Ministers agreed to remove this item from the agenda.