CHURCH OF SCIENTOLOGY
Australia, New Zealand and Oceania

Manager
Philanthropy and Exemptions Unit
Indirect Philanthropy and Resource Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

3 May 2013

Dear Sir/Madam,

Comment on the Exposure Draft Charities Bill and Explanatory Material April 2013

I write to you in relation to the Exposure Draft Charities Bill and Explanatory Material, on behalf of the Church of Scientology Australia.

We have considered the draft Charities Bill and Explanatory Material.

0. We see no need for legislation in the first place.

The Charities Uses Act of 1601 has proven sufficient for 412 years – why does it need alteration now?

More than ever, religion and religious organisations seem to find they are on the receiving end of criticism and skepticism in the media and this legislation advertently or inadvertently consolidates such criticism.

The remarkable service churches and religious organisations provide to the community in the form of charity work and community volunteer projects is being potentially undermined by this legislation.

The clergy and volunteers involved are the backbone of many a country town, suburb or under-privileged group. Much of the daily work of religious clergy and volunteers goes to health, welfare and education services that would cost the community much more to replace yet their praises are rarely lauded in the mainstream media.

The saving to the government in terms of tax dollars not spent on these services far outweighs the financial benefit churches receive from being classed as charitable organisations.

00. Nevertheless, in regard to the legislation that is being proposed, we have serious concerns regarding the issue of "Public Benefit".

In paragraph 1.50 of the Explanatory Material it states:

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> *1.50 In determining public benefit, consideration must be given to any possible detriment which arises from the purpose, or would commonly arise, from carrying out of the purpose to the general public, a section of the general public or a-member of the general public. Examples of detriment or harm include damage to mental or physical health, damage to the environment, encouraging violence or hatred towards others, damaging community harmony, or engaging in illegal activities such as vandalism or restricting personal freedom.* **[paragraph 6(3)(b)]**

We will review below the various issues which we believe make this proposed legislation fundamentally flawed.

1. The term "*any possible detriment*".

The first issue concerns the use of the term '*any possible detriment'*. This term is so wide and provides such latitude that what could possibly be determined to be detrimental is only limited by imagination!

In a society governed by the rule of law, legislation should be *specific, clear and definite*.

We cannot see any logical or sensible reason why one would leave legislation open to such imprecision.

If a *detriment* were to be reviewed, surely a **proven** detriment, defined fully, and reviewed according to the laws of evidence and assessed beyond reasonable doubt, would be **minimum** standards.

2. The inclusion of "*or a member*".

This phrase could allow an entirely beneficial purpose to be found detrimental if a single member of the general public claimed that they had been harmed.

That a single complaint, even if found to be justified and accurate, could determine, by reference, the actions and purpose of any organization, is both oppressive and fundamentally contrary to the rule of law and democracy.

This phrase should be deleted.

3. *"Damage to mental" health* as a *detriment*.

This is a nebulous, subjective and dangerous term. The term is undefined and provides perilous latitude for persons unrelated to religion, and whose fundamental belief is that religion is in itself a delusion, to declare a religion dangerous to another's mental state.

The free belief and practice of religion is constitutionally guaranteed (Commonwealth of Australia Constitution Act s.116) and not subject to review by an undefined panel or committee and may *only* be reviewed by the High Court.

So who is to determine that a religious organization or a charity is a “damage to mental health”?

4. Who monitors the *“detriment”*?

Putting the proposed definition of charity and definition of public benefit together raises the following questions:

a) How can spiritual benefit be measured with secular values?

b) How can the setting of moral, family and community values be measured?

c) In what way can the behaviour of parishioners (charitable, social and community work) be measured?

d) Who decides what harm is and with what spiritual or secular qualification?

e) How are the review panel’s members chosen? Who chooses them?

f) What are their qualifications to make decisions about religious organisations or charities?

g) What are the rules by which such reviews are made?

h) What evidence is accepted?

i) At what point do people become responsible for their own actions?

Conclusion

The matters we have raised are serious issues and cannot be papered over with a change of a couple of words. The legislation as it stands will be oppressive as it is unclear, indefinite and open to abuse. We would respectfully request the legislation as it stands be withdrawn.

Yours sincerely,

Rev. Michael Gordon