



## B'NAI B'RITH AUSTRALIA / NEW ZEALAND

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This submission is made in response to the invitation issued to communal groups and organisations to comment on the Charities Bill 2003. B'nai B'rith welcomes the opportunity to comment on aspects of this Bill.

B'nai B'rith is a world-wide Jewish community service organisation, established 160 years ago, and with members in 51 countries including Australia and New Zealand. B'nai B'rith is dedicated to education, tolerance, harmony and social justice, focussing on a wide range of community service projects, directed at enhancing inter-communal understanding and tolerance.

In Australia B'nai B'rith's Anti-Defamation Commission has been active since 1979, combating racism and antisemitism through education programs, media briefings, liaison with key community decision-makers and research. B'nai B'rith has also been instrumental in assembling and developing the racial tolerance education program *Courage to Care* particularly for the benefit of people in regional and rural areas of Australia.

The writer had the opportunity to attend a consultative session at the ECC's offices in Sydney on 10<sup>th</sup> September, and most (but not all) of the points in this letter are framed in the light of comments made and explanations given at that meeting.

### Disqualifying purpose

We note that Section 8 (2) (a) refers to "the purpose of advocating a political party pr cause" as a disqualifying purpose. We submit that the words "or cause" are capable of a very broad interpretation, and rather than "providing clarity to entities within the charitable sector" (as stated in the Explanatory Material) adds uncertainty and confusion. The idea of advocacy for social reform or better understanding of issues in our society underlies the democratic process, and organisations which choose to do such work by focusing on specific causes (such as for example B'nai B'rith's Anti-Defamation Commission) should not be disqualified simply on the grounds of their advocacy activities. **We believe the words "or cause" should be deleted from this Section.**

We also note that Section 8 (2) (c) refers to “the purpose of attempting to change the law or government policy”. The B’nai B’rith Anti-Defamation Commission has provided both State and Federal Governments with valuable material to assist in the preparation of anti-discrimination and anti-vilification legislation. The inclusion of this purpose as a disqualifying purpose would have the effect not only of discouraging charitable bodies from advocating for law reform in areas in which they are expert, but also that the government would be denying itself the opportunity of receiving submissions important for good government, thereby reducing significantly the level of debate in society on important issues. **We believe that Section 8 (2) (c) should be deleted.**

### Who decides

Regardless of whether or not the above recommendations are implemented, there remains a decision to be made under Section 8 (2) as to whether a particular purpose “either on its own or when taken together with one or both of the other purposes [is] more than ancillary or incidental to the other purposes of the entity concerned”. This raises the question as to who decides on what is “more than ancillary or incidental”, and under what guidelines such decisions are made. **It is essential that the process of decision-making be as transparent as possible, to avoid perceptions of political involvement. This issue does not in any way mitigate the importance (in our view) of the points made above in relation to Disqualifying Purpose.**

### Altruism

We endorse the approach of the Bill that altruism should not be regarded as an essential motive or purpose of a Charity (as was recommended Chapter 13 of the June 2001 Report of the Inquiry into the Definition of Charities and Related organisations).

### Partnerships

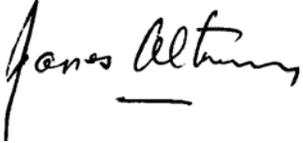
We note that partnerships are to be excluded from recognition as charities. However, **we cannot see why two or more charitable bodies should not be allowed to combine in a partnership arrangement and for the partnership to be recognised as a Charity.** Furthermore, **when a charitable organisation undertakes work in conjunction with or with the support of a Government department** (for example, B’nai B’rith’s Courage to Care project, which was sponsored by DIMIA), **such arrangements should not be seen as compromising the charitable status of the organisation.**

### Religion

B’nai B’rith is an organisation whose membership is open only to people of the Jewish faith. As such, we have some difficulty with the definition of Religion in Section 12. We believe that the definition of religion, while intended to be inclusive rather than exclusive, could present difficulties depending on present and future interpretations. It is our view that there should be no definition of religion and that the common law

approach, reflected in other Commonwealth legislation including revenue laws, should continue.

Yours sincerely

A handwritten signature in black ink that reads "James Altman". The signature is written in a cursive style with a horizontal line underneath the name.

James Altman  
President, B'nai B'rith Australia / New Zealand