



26 September 2003

Consultation on the Definition of a Charity  
The Board of Taxation  
C/- The Treasury  
Langton Crescent  
**PARKES ACT 2600**

Dear Members,

**Re: Consultation by the Board of Taxation on the Definition of a Charity**

Melbourne Citymission welcomes the attention of the Federal Government to review of the archaic laws governing the workings of charitable organisations. In particular, Melbourne Citymission supports the *Report of the Inquiry into the Definition of Charities and Related Organisations*, which represents a thorough and sensitive response to the issues that emerge for contemporary charitable organisations.

***Melbourne Citymission***

Melbourne Citymission is one of the oldest faith-based organisations in Australia and has operated as a charitable organisation since its inception in 1854.

The primary focus of Melbourne Citymission is to work alongside people who are marginalised, at risk, disadvantaged, frail or denied access to other services. Melbourne Citymission's broader aim is to build an inclusive community through personal and social transformation. We work towards this by providing a range of support services to people across all life stages in order to empower and enhance their well-being and maximise their dignity and human potential. The organisation's broader role includes leadership, in partnership with the community, through policy analysis, education, community awareness and advocacy on behalf of those who have no voice.

Melbourne Citymission assists over 15,000 Victorians each year through programs in the following areas:

- Aged Services
- Children, Youth, Adult and Family Services
- Disability Services
- Palliative Care
- Youth Homelessness Services

***Clarity and consistency***

As noted above, Melbourne Citymission supports the review of the definitions and legislation governing charitable organisations. The Exposure Draft Charities Bill 2003, released by the Treasurer, is for the most part a positive piece of legislation that will provide clarity, remove uncertainty and inconsistencies. However, Melbourne Citymission is concerned that a section of the Draft Bill relating to ‘disqualifying purposes’ includes a controversial clause that potentially restricts the advocacy and lobbying activities of charities in Australia, proscribing ‘the purpose of attempting to change the law or government policy’ (Part 2, s8 (c)) if such activity is ‘more than ancillary or incidental to the other purposes of the entity concerned’ (Part 2, s8).

While the Treasurer (Press Release, No 66, 2003) has stated that the Bill is not intended to curb criticism of public policy by recognised charities, Melbourne Citymission is concerned that the legislation, as drafted, introduces ambiguity and uncertainty in this area. In particular, Melbourne Citymission is concerned that:

- Threshold levels of ‘disqualifying purposes’ are unclear.
- The ATO will be required to arbitrate on this matter.
- There are no guidelines in place to assist with this application of the Draft Bill by the ATO.
- There are no clear mechanisms for appeal, beyond existing ATO mechanisms.

All of the above consequences are sufficient to raise concerns that charitable organisations will need, as a matter of accountability, to keep extensive records of all advocacy and lobbying activities, for potential monitoring by the Australian Tax Office. This would clearly be an expensive administrative process, resulting in a significant diversion of resources away from our work with people in need.

***Social Contract***

A social contract between people and their government requires that we tolerate and encourage robust, public debate on matters that concern all members of a democracy. Melbourne Citymission deals with people of all ages who are frail, vulnerable and disadvantaged. We seek to include the voices of those who cannot easily participate in public discussion. As such, Melbourne Citymission acts as a public voice for groups of people – the aged, young homeless people, people with a disability – advocating their needs to all levels of government, to funding bodies and the public. We rely on being able to communicate openly with government and ensure that our clients have fair access to employment, training, education, housing, and aged care support. Any legislation that attempts to restrict comment on existing law or government policy undermines notions of pluralism and the rights of all citizens to participate and take responsibility for their communities.

The work of charities is not limited to responding to individual instances of human need. Part of our work involves looking beyond the individual to the systems and events that might contribute to causing human suffering. Melbourne Citymission believes that, where possible, acting to prevent the circumstances that lead to poverty, for example, is central to the work of charitable organisations. If this involves change to law or government policy, then charitable organisations must be free to

advocate on behalf of those who feel the impact of such law or policy. A restriction such as that proposed in Part 2, s8 of the Draft Bill has the potential to compromise the autonomy of community organisations.

In conclusion, Melbourne Citymission supports the Exposure Draft Charities Bill 2003 but strongly recommends that Part 2, section 8 (c) be re-drafted consistent with the *Report of the Inquiry into the Definition of Charities and Related Organisations* to avoid the problems raised above.

Yours sincerely

George Morgan  
**Chairman**  
**Melbourne Citymission Board**