



**The Leprosy
Mission**
Australia

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TAX DEDUCTIBLE GIFT RECIPIENT REFORM OPPORTUNITIES – Discussion Paper

This letter presents the response of the Board of Directors of The Leprosy Mission Australia (TLMA), regarding the above discussion paper dated 15 June 2017.

Erosion of the Right of Charities like TLMA to Undertake Advocacy

Australian charities such as TLMA can and should undertake advocacy to further our charitable purposes, for example through supporting or opposing relevant government policies and decisions. The importance of this was recognised by the High Court in the *Aid/Watch*¹ decision of 2010, where the Court held that charities undertaking advocacy was essential to Australia's constitutional system of parliamentary democracy. This decision was subsequently legislated in the *Charities Act 2013*.

The Act also prescribes the limits to charitable purpose; for example, charities cannot have a purpose of endorsing or supporting parties or candidates for political office or promoting unlawful activity. The ACNC has published [guidelines](#) on this issue which can assist charities to understand what is permissible and what is not.

The discussion paper seeks to treat advocacy as different to other activities undertaken by charities, by seeking views regarding a proposal for new reporting obligations for advocacy activities (*consultation questions 4-6*).

The discussion paper also seeks views on a proposal to limit the level of advocacy undertaken by environmental organisations by requiring them to allocate 25% - 50% of their donation revenue on environmental remediation (*consultation question 12*).

¹ See *Aid/Watch Incorporated v Commissioner of Taxation* [2010] HCA 42, available at <http://www.austlii.edu.au/au/cases/cth/HCA/2010/42.html>

Some summary responses have been compiled below based on the discussion paper:

1. *Charities undertaking advocacy have been recognised as both a legitimate activity and one essential to our system of parliamentary democracy.*
2. *It is an important approach which charities like TLMA can use to address the causes of social and environmental problems, rather than just the symptoms – this often requires policy change.*
3. *As an example – TLMA partners with groups of people affected by leprosy in self-help groups (SHGs), to build their capacity and to raise awareness of their human rights. If a factory is polluting a river because of poor regulation and is affecting the SHG member's livelihood, environmental remediation work to treat affected wildlife downstream will have little impact if the factory can keep polluting the river. This would require advocacy to ensure the factory complies with regulations or adequate regulations are introduced.*
4. *No evidence has been put forward as to the need for new reporting obligations for advocacy activities, therefore they are **strongly opposed by TLMA** on the basis that they would impose new and unjustified red tape on charities.*
5. *The discussion paper asserts that 'some charities and DGRs undertake advocacy activity that may be out of step with the expectations of the broader community'. This assertion is made without any supporting evidence. Unsubstantiated and speculative statements about the expectations of the broader community should not serve as a basis for making public policy.*
6. *Requiring that a certain proportion of an environmental organisation's activities be directed towards environmental remediation represents an intrusion on the autonomy of environmental organisations. Charities and their supporters are in the best position to determine what approaches are most appropriate in order to achieve their charitable purpose.*
7. *Well targeted and proportional approaches to maintain transparency and accountability for charities are supported and this can be achieved by ensuring all DGRs are registered as charities under the purview of the ACNC, as the discussion paper proposes.*
8. *Existing charity law sets appropriate boundaries for what advocacy activities by charities like TLMA are acceptable, and the ACNC guidance for charities is helpful and reflective of the law – no further changes are justified or necessary.*

We hope that you will consider the above responses from TLMA regarding the erosion of rights of charities to undertake and support legitimate advocacy.

Yours Sincerely,



Dr Colin Martin
Chairman of the Board
The Leprosy Mission Australia