



Committee Secretary  
House of Representatives Standing Committee on the Environment  
PO Box 6021  
Parliament House  
Canberra ACT 2600

Submitted by email: [environment.reps@aph.gov.au](mailto:environment.reps@aph.gov.au)

RE: Inquiry into the register of environmental organisations

Civil Liberties Australia is a strong, vocal supporter of freedom of speech and freedom of political communication. These are rights that all Australians are entitled to.

Freedom of political communication is especially valuable to Australian society when exercised by groups advocating, not on behalf of themselves, but on behalf of the voiceless. Whether they be groups who speak up for the environment, for animals, for children, for the poor or for otherwise marginalised and voiceless people, the groups deserve political and public support: state and philanthropic assistance that makes them financially viable should be encouraged, rather than discouraged.

The terms of reference for this inquiry have sparked discussion about whether it is appropriate for deductible gift recipient status (DGR status) to apply to organisations which engage in providing information about the performance of government aimed at improving service delivery to individuals and the community.

Civil Liberties Australia believes there is inherent good in the free flow of information and that any organisation enjoying DGR status should not have their status revoked because they engage with civil society and share information.

In Australia, there is no broad or general rule excluding political objects from being consistent with charitable purposes. The High Court held in the 2010 decision *Aid/Watch Incorporated v Commissioner of Taxation* [2010] HCA 42 (1 December 2010) that the generation, by lawful means, of public debate itself is a beneficial purpose to the community. The previous Parliament sought to safeguard the independence of charitable bodies through the introduction of the *Charities Act 2013* (opposed by the Coalition), the *Not-for-profit Sector Freedom to Advocate Act 2013* (which received bipartisan support), while the then Government, amended the *Commonwealth Grant Guidelines* to prohibit the use of gag or 'suppression' clauses, not only in funding agreements between the Commonwealth and funded

organisations but also in the design and selection criteria for any Commonwealth grant<sup>1</sup>.

We note that the new *Commonwealth Grant Rules* do not include this explicit protection and, while the *Not-for-profit Sector Freedom to Advocate Act 2013* would continue to apply to any agreement put in place between the Commonwealth and an NGO, the protection against discriminatory selection criteria and processes no longer applies. A more detailed discussion of CLA's concerns regarding NGO independence is set out in the attached *Journal of Law and Medicine* article.

We ask that the inquiry incorporates these legal principles into its deliberations.

Civil Liberties Australia supports the retention of DGR status. We believe it should be extended to groups who, in the pursuit of their charitable or other community-beneficial purposes, share information with the public and agitate for better outcomes and service delivery.

Thank you for this opportunity to bring these matters to your attention.

Yours sincerely

(Dr) Kristine Klugman OAM  
President

Wednesday 20 May 2015

*Addendum: Vines T, Donohoo A, Faunce T, Government Controls over Health-Related Not-For-Profit Organisations: Agency for International Development v Alliance for Open Society International, *Journal of Law and Medicine (JLM)* (2013) 21 278. (attached)*

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<sup>1</sup> "Agency staff must not use criteria in grant application and selection processes or clauses in grant agreements that seek to limit, prevent or ban not-for-profit organisations from advocating on policy issues." *Commonwealth Grant Guidelines*, [3.24] F2013L00433 [Repealed 1 July 2014]