



**Submission by the Rationalist Society of Australia to the Productivity
Commission's review of philanthropy**

May 2023

This is a formal submission by the [Rationalist Society of Australia](#) – Australia's oldest freethought organisation promoting reason, evidence-based policy and secularism – into the Productivity Commission's review of philanthropy. We welcome an opportunity to make this submission as part of this public consultation.

In this submission, we raise a number of long-standing issues relating to Basic Religious Charities (BRCs) – accorded charity status solely for 'advancing religion' – that we believe undermine the integrity of the not-for-profit sector and act as barriers to increasing philanthropic giving in Australia.

'Advancing religion'

The [12 charitable purposes set out in the Charities Act 2013 \(Cth\)](#) include 'advancing religion'. The Rationalist Society of Australia has long argued that the 'advancing religion' should no longer be accepted as head of charitable purpose – and we have made this in numerous submissions to government inquiries.

Australia inherited this 'charitable purpose' from English common law, which had its origins more than 400 years ago – a very different time and place to modern 21st-century Australia. [The common law definition is largely based:](#) on the Preamble to the Statute of Charitable Uses (known as the Statute of Elizabeth), enacted by the English Parliament in 1601; *Commissioners for Special Purposes of Income Tax v Pemsel* [1891-1894] All ER Rep 28 (*Pemsel's case*), which classified the categories of charitable under four heads; and subsequent court cases.



The inclusion of 'advancement of religion' may or may not have been appropriate in 1601 when there was a State religion in England, and even perhaps in 1894 when most people in Britain gave at least nominal adherence to Christianity and most charity work was religion-based, but it is hardly appropriate today when we live in a multicultural and multi-belief society, with an increasingly non-religious citizenry.

We argue below that the 'advancing religion' as a charitable head is out of date, redundant and confusing.

Current arrangements imply that just being involved in a religion, any religion, is *ipso facto* charitable. This is patently false. The mere adherence to and advancement of a set of spiritual beliefs is not intrinsically charitable. There is nothing inherent in being a religious person that makes one automatically a charitable one. Whether one goes on to perform charitable acts or not remains to be seen. If one does, then those charitable acts would be covered by one or more of the other listed charitable purposes. If one does not, then no charity has been performed simply by one's religious allegiance.

As we all know, religious organisations have not infrequently been directly responsible for some singularly uncharitable acts and activities. Allegations of harm have also been widely reported among numerous religious communities, detailing abusive practices such as, for example, [excommunication and shunning of family members Jehovah's Witnesses](#), other psychological abuse and clerical sexual abuse. Media reports in recent years suggest that religious entities have been engaged in activities far from contributing benefit to the public. Numerous reports have detailed alleged corrupt and illegal practices by organisations including the [Church of Scientology](#), the [Mormon Church](#), and [Hillsong](#).

Some groups that operate under the 'advancing religion' category have primarily political aims. The Australian Christian Lobby (ACL) actively campaigns on political issues, lobbies politicians and governments through its direct access to elected representatives, and even



conducts campaigns in targeted electorates during periods of heightened political sensitivity – such as election campaigns.

At the 2021 federal election, the ACL [targeted its activities against a number of ‘moderate’ sitting members of the Liberal Party](#) who voted against previously proposed religious discrimination laws. The then head of the ACL, [Martin Iles, told Christian radio days after election](#) in which the Liberal Party number of moderate members and lost government that “...I think the ACL had a role in this improvement”, adding:

“So we [inaudible] didn’t make the difference, as the ACL, between the Liberals winning and losing, but we certainly made sure that what happened was that, as they lost, four of the five Liberal MPs who crossed the floor to vote against ‘religious freedom’ and vote against Christian schools have lost their seats today.”

There is a further problem with the notion of advancement of religion. If this means attempting to increase numbers and gain converts, such advancement can only be at the expense of other religions, which is hardly charitable. After all, each religion believes it is ‘the one true faith’ and so all other religions must be at least in part false. In an inclusive and multicultural society this leads to unwanted divisiveness, and tends to loosen communities’ ties rather than strengthen them.

If ‘advancing religion’ means internal consolidation and refinement of the religion and its practices, this amounts to self-help rather than helping others outside the religion. This, again, cannot be considered a charitable activity and for the public benefit.

In the past the inclusion of the ‘religion’ head has been buttressed by the argument that, in general, religion is a ‘good thing’ and should be supported by the community. But when it comes to religious affiliation, Australians are increasingly ‘voting with their feet’. Since 1971, Christian identification has plummeted from [86.2% to 43.9% in 2021](#), according to ABS Census figures. Even so, these figures continue to *inflate* the importance of religion to



Australians due to the biased nature of the Census question on religion – [an issue acknowledged in a recent public consultation held by the ABS](#). On the current trends, Australians identifying as not religious (currently 38.9%) will *overtake* those identifying as Christian at the next Census in 2026.

Given this trend in demographics, the case for government maintaining support for ‘advancing religion’ is evidently contrary to the will of the general public. If the advancement of religion were a goal worthy of taxpayer subsidisation, the dramatic trend away from religious affiliation would suggest the effort had failed.

We support charity status for organisations that conduct genuine charitable works for the *public benefit* in an accountable manner, regardless of whether that organisation is religious or not. We believe this to be the clear majority view of the public.

All organisations that enjoy tax-exempt status should be obliged to demonstrate their activities are *in the public benefit* – as is required in the United Kingdom. Even if the ‘advancement of religion’ head of charity were to be removed in Australia, religious charities that do *genuine* work in the public benefit – of which there would be many – would continue to qualify for charity status under another head of charity, such as ‘relief of poverty’ or ‘advancement of community welfare’.

Financial and governance obligations

The Commission’s document, ‘Review of Philanthropy: Call for submissions’, notes that the Commission is seeking information relating to: “The extent that existing government support for philanthropy aligns with good policy design and community priorities, and examples where it may no longer align with community expectations.” The exemptions for BRCs from having to submit financial reports mean that the current system fails both the ‘good policy design’ and the ‘community expectations’ tests, and do not align with community expectations.



Unlike all other charities, BRCs are under no obligation to provide financial and other governance reporting to the ACNC and tax authorities. The Productivity Commission is aware of this. In the 'Review of Philanthropy' document, the commission notes in the section on 'Information about the effectiveness of charities' that the ACNC maintains a searchable public database of financial data on charities *with the exception of BRCs*. The document acknowledges that, while such information may not provide a measure of a charity's effectiveness, it "can assist donors to make decisions".

We were alarmed to hear Taxation Office officials claim at Senate Estimates in November 2022 that, as a result of these financial reporting exemptions, ["potentially billions" of dollars are unaccounted for](#) in the economy. At the same Estimates hearing, officials also revealed that 94% of BRCs – 7,719 out of 8,210 – utilise the exemption in relation to providing financial information. Officials confirmed that there were no limitations in regards to the volume of money or the size of the charity using the BRC exemption.

This lack of transparency and accounting is alarming. We agree – and we believe that the overwhelming majority of Australians would agree – with Senator David Shoebridge's observation at Senate Estimates in November that it was a "fraught environment" to have billions of dollars moving through the economy with almost no reporting to authorities.

We believe it is imperative to restore integrity to the system. One way to do that would be to require that the financial and governance obligations of other charities also be applied to *all* religious charities, including BRCs.

Commercial enterprises

Many religious organisations can use the tax concessions to subsidise their business enterprises – subsidies not available to 'normal' businesses competing in the same market. Current arrangements allow church-owned multimillion-dollar commercial enterprises, such



as the Seventh-Day Adventist-owned cereal maker Sanitarium, to enjoy the tax exemptions. This distorts the commercial market and undermines fair economic competition.

That Sanitarium pays no taxes on Weet-Bix does not pass the pub test. But Sanitarium is not alone. A wide range of businesses – everything from wineries and insurance companies – take advantage of their religious charity status to divert profits to their respective religious institutions. As a result, there is significant cost in lost revenue to the Australian budget that has never been properly accounted for. In the interests of public transparency, it should be.

Religionists support their own

There is a perception that religious people are more generous in giving. Labor assistant minister for charities, Andrew Leigh, has repeatedly claimed that religious people are “nicer” in regards to giving and charity work. [As opposition spokesperson in 2019, he said:](#) “...churchgoers are more likely to donate money, more likely to donate blood. Robert Putnam, in his book *American Grace* sums it up by saying that religious people are just ... nicer.”

Soon-to-be-published research by social researcher Neil Francis, however, makes it clear that the surplus in volunteering and giving “largely occurs in respect of their own religious congregation rather than delivery of support services to others”. In his third report in the [Religiosity in Australia](#) series (a publication of the Rationalist Society of Australia), Francis finds that most (87%) of this religious largesse is donated by ‘Devouts’, who make up just 11% of the population. Of the 13 charitable sectors, donors to congregational religion:

- Report the equal lowest rating (20%, along with education) of their donation being for a “good cause”
- Are very unlikely (10% of donors to religion) to believe that their donation will either help unknown others, or make the world a better place
- Report the second highest rating for personal benefit (50%, after 67% for education), with personal benefit rising with donation size



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Prof. the Hon. Gareth Evans AC QC
Prof. Fiona Stanley AC

- Have the highest rate of donating to just one organisation in the sector which, along with the high rate of personal benefit, illustrates greater self-interest
- Show an extremely elevated rate of feeling coerced (54%, vs 3%–12% all other sectors).

In sum, we urge the Productivity Commission to recommend the removal of the ‘advancement of religion’ head of charity and to insist upon the removal of exemptions for Basic Religious Charities from financial reporting and compliance with normal governance standards.

Regards,

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