

SUBMISSION ON CIVIL ANTI-VILIFICATION AND HARMS BASED SPEECH

Who are we?

1. Freedom for Faith is a Christian legal think tank that exists to see religious freedom for all faiths protected and promoted in Australia and beyond. Freedom for Faith is led by people drawn from a range of denominational churches including the Anglican Church Diocese of Sydney, The Catholic Church, the Australian Christian Churches, Australian Baptist Churches, the Presbyterian Church of Australia, and the Seventh-day Adventist Church in Australia. It has strong links with, and works co-operatively with, a range of other faith groups in Australia.
2. We welcome the opportunity to make this submission and we give consent for this submission to be published. Our contact details are as follows.

Freedom for Faith

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3. Freedom for Faith agrees with and endorses the submission made today by the *Institute for Civil Society*.
4. In particular, we support the view that a “hate speech” law (as opposed to existing vilification laws) sets a bad precedent for free speech on controversial topics, including on matters as to which citizens of faith would have strong views. The proposal risks conflating “hate speech” with “speech that a person hates”.
5. As the Institute for Civil Society states

The expression of views which are offensive to some persons with a relevant attribute but do not incite third persons to hate such persons is not conduct which is prohibited by vilification laws. The expression of such views might cause “harm” in the different sense of offence or hurt to the persons with the attribute but that is not the type of “harm” which justifies a legal restriction on freedom of expression under vilification laws nor should it justify legal restriction of freedom of expression under this proposed “hate speech” law.

[...]

In short, it will be a broad prohibition with an uncertain application, the threat of which will chill free speech because speakers can never be confident that some hearer with an attribute may not perceive the speech as “hateful” of them.

6. Take some examples that members of the Christian denominations we support would objectively consider to be severely ridiculing based on their religion and not merely ‘mildly’ offensive:
 - “Priests are paedophiles”
 - “Religion is for idiots”
 - “Jesus is just your imaginary friend”
 - “The church is a scam to get money”
7. All of these phrases are both deeply offensive and ridiculing to people of faith, and also valid free speech. Offence in a hearer, even deep offence, is not enough to justify a new legal restriction on speech.
8. We also agree that, should such a prohibition be introduced, only those who to whom the speech or conduct was directed should be able to make a complaint to VHREOC or VCAT. If non-targeted persons who heard or saw the conduct second hand or in a video or audio recording could bring a complaint, it would effectively invite activists to search for content to be offended by.
9. We also strongly support retention of the “religious purpose exception” as it currently stands (option 2 to question 11). In particular, the reasonableness test cannot be an opportunity for a secular tribunal or court to examine the “reasonableness” of the content of a religious belief. We do not see it as appropriate for the State, or secular tribunals, to be determining “acceptable” or “reasonable” forms of religious belief and practice. This would be a grave intrusion by the State into matters of faith and contrary to international norms such as art 18 of the ICCPR.¹
10. We would welcome any opportunity to discuss these matters further.

Mike Southon
Executive Director
Freedom for Faith



¹ For further detail, see N Foster, “Respecting the Dignity of Religious Organisations: When is it Appropriate for Courts to Decide Religious Doctrine?” (2020) 47 *University of Western Australia Law Review* 175-219.