



# Victorian Aboriginal Legal Service Co-operative Ltd.

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Thursday, 24 April 2003

The Secretary  
Senate Legal and Constitutional Legislation Committee  
Parliament House  
Canberra ACT 2600

Dear Sir/Madam,

## **Australian Human Rights Commission Bill 2003 Submission**

The Australian Human Rights Commission Bill 2003 proposes changes to the Human Rights and Equal Opportunity Commission.

Many of the recommendations threaten the independence and effectiveness of the Commission.

### **Specialist Commissioners Are an Important Asset**

The Commission's present structure, with five portfolio Commissioners (Human Rights, Sex Discrimination, Race Discrimination, Disability Discrimination and Aboriginal and Torres Strait Islander Social Justice) enables the development of some level of specialisation and expertise which is cost effective and likely to ensure better quality decisions. It is also more likely to enable benefits such as the ability to contribute to policy development and preventative strategies to occur. The alternative of three generic Commissioners proposed under the Bill is a weakening of the capacity and standing of the Commission and is strongly opposed.

### **Attorney General's Conflict of Interest**

The Commonwealth government has recently removed power from ATSIC to make expenditure decisions on the basis of conflict of interest. It is inappropriate that the government should in this proposed legislation ignore the issue of conflict of interest. The proposed Bill will prevent the Commission from intervening in court proceedings in which issues of human rights may be raised, unless approval from the Attorney General is first obtained.

This is a clear conflict of interest for the Attorney General. The cases may involve a conflict with the government or may involve issues to which the government is unsympathetic.

There has been no convincing evidence advanced as to why this change is needed. Presently the courts have the power to refuse the Commission permission to appear. It is not clear why the Attorney would be better able to make this decision. It is our contention that this would be a backward step for the Commission, for the government and for the community as they will now have less reason to trust the independence of the Commission.

### **Attorney General's Power to Refuse to Pay Compensation**

The Bill proposes to remove the obligation on the Commonwealth to pay compensation. This will lessen the respect and authority with which the Commission is regarded. It is likely to deter people with sound cases from proceeding. It implies that the Government wants to avoid its responsibilities

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### **Micro Management of the Commission**

The direction to the commission to include a slogan –“Human Rights is everyone’s responsibility” and to make it shift its resources to education is a further indication that the Government is seeking to interfere and direct the Commission at every level even the micro management level.

### **Discouraging People from Complaining**

Indigenous people have often had very few positive experiences with the law. One of the very concrete ways for Indigenous or any people for that matter, to have proof that a theoretical entitlement is in fact a right, is to see someone exercise that right. This is unfortunately not a common experience for Indigenous people. The changes proposed for the Commission are likely to reduce the Commission’s effectiveness in helping people exercise their rights. It is likely to further discourage Indigenous people from attempting to protect their rights.

The Victorian Aboriginal Legal Service urges the Commonwealth Government to withdraw the proposed legislation.

Yours sincerely

Frank E. Guivarra

**Chairperson**

**Victorian Aboriginal Legal Services Cooperative**