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Submission to the Exception Reviews (*EOA 1995 Vic*)

1. B'nai B'rith Anti-Defamation Commission

B'nai B'rith Anti-Defamation Commission (ADC) is dedicated to increasing tolerance and understanding within Australian society. It works to combat racism and antisemitism and to promote positive relationships between ethnic and religious communities.

The ADC is the human rights arm of B'nai B'rith Australia/New Zealand. Established in 1979 with its headquarters in Melbourne, it is widely recognized as a leading authority on the various manifestations of racism in Australia, including racist groups and their activities and ideologies. B'nai B'rith is the world's largest Jewish human rights organisation, with almost 200,000 members in over 50 countries.

We seek to support a tolerant and multicultural society in which legitimate minorities are able to live openly and free of fear or discrimination.

To this end, we:

- Conduct research including monitoring the activities, publications and websites of extremist groups that disseminate white-supremacist, antisemitic or pro-terrorist material
- Provide reliable information to governments and the media on relevant issues
- Participate in multicultural and positive interfaith activities
- Publish reports and newsletters which are distributed to more than 2000 politicians, community leaders, media representatives and supporters
- Support anti-racism education.

2. Executive Summary

The ADC submits that:

- 2.1. Exceptions that meet the needs of minorities or particular services should be retained. These include section 19, section 38, section, 61, section 75, 76 and 77.
- 2.2. Section 21, the exception for small business, should be repealed.
- 2.3. Section 69, the statutory exception, should be repealed.

3. Principles

The ADC acknowledges the importance of the Equal Opportunity Act and of government efforts to improve equality and eliminate discrimination in Victoria,

3.1. Exceptions to the Act should be limited to:

- Cases of over-riding interest of other factors such as personal privacy or capacity to provide a particular service
- Cases where minorities are protected or supported by the exception/

3.2. Generally exceptions should be made because of the nature of the service being provided not because of who is providing the service. It is acknowledged that in the case of the general exceptions the provider is a reflection of the nature of services.

4. Reasonable exceptions

4.1. The ADC supports the retention of an exception to discrimination in employment for the provision of services for the promotion of the welfare or advancement of people with the same attribute if those services can be provided most effectively by people with that attribute. (section 19) This exception is necessary to ensure minority welfare recipients can access services that best meet their needs and retain their culture and religious practice.

4.2. The ADC supports the retention of an exception for educational institutions for particular groups (section 38) as it is necessary to ensure ethnic, religious and cultural minorities have an opportunity equal to the majority to educate their children in accordance with their beliefs.

4.3. The ADC supports the exception for clubs for minority cultures (section 61) in order to preserve the opportunity for cultural interaction for minorities.

4.4. The ADC supports the retention of general exemptions for religious bodies (section 75), religious schools (section 76) and religious beliefs (section 77) as these are necessary to safeguard the practice of minorities and ensure they do not lose the opportunity for shared experience available to the majority.

5. Exceptions to be repealed

5.1. The ADC opposes the exception for small business (section 21). This an exception based on the provider not the nature of the business. Situations in which a small business would face unreasonable costs are covered by section 22. Small business comprises a large sector of employment and allowing an exception significantly undermines equal opportunity.

6. Statutory authority exception

6.1. Section 69 is an example where an exception is made because of the provider of the service not in response to the need of recipients. The requirements of other Acts should not be privileged over anti-discrimination legislation. Placing equal opportunity at the bottom of the legislative hierarchy sends a poor message about the value government places on these principles and entrenches systemic discrimination. It is in the nature of discrimination that it arises from social values frequent absorbed by osmosis and it is incumbent on governments to structure the legal system to ensure other Acts and Enactments comply with the EOA.

6.2. The ADC therefore supports the repeal of the statutory authority exception.