To: Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs

Subject: Exposure Draft of Human Rights and Anti-Discrimination Bill 2012

Dear Committee Members,

I am strongly opposed to the *Human Rights and Anti-Discrimination Bill 2012*. This Bill is an encroachment on free speech, which is a cherished and essential feature of Australian democracy and the Australian way of life. The provisions in the Bill that prohibit people from offending people at their workplace on the basis of religious or political beliefs, are a cause for great concern. Disagreements are a part of everyday life and disputes over religious and political beliefs can often lead to offence even on occasions and in situations where no such offence is intended. The criminalisation of behaviour of this nature on the basis that it "offends" is puerile and heavy-handed intrusion on the part of government into the lives of Australian citizens.

The Australian government and the judicial system should not be dictating to people what is acceptable language and conduct for Australians when they're discussing religious and political matters. Australians are a characteristically fair-minded and tolerant nation of people and, because of this, the 'court of public opinion' has always been a far more suitable way of regulating acceptable language and discourse in our society. Moreover, public language that amounts to either slander or libel is already outlawed by existing defamation laws. However, there is a vast difference between publicly and falsely attacking a person's character and saying things that may offend that person's religious or political views. Hence there is no need to expand existing laws to curb free speech, indeed to do so would far more likely lead to injustices, which is the antithesis of a good law.

A further point of objection is the prohibition on church-based aged care homes from discriminating on the basis of sexual orientation and gender identity grounds. This is a direct assault on the right of church organisations to employ people whose standards accord with their organisation. If a school for girls began enrolling boys, it would lose a large part of its whole foundation, its purpose and identity. Similarly, if the directors of a church-based aged care home believe in good conscience that the moral values upon which it has ultimately been founded will

be compromised by employing persons with very different moral values, their right to make decisions upon that belief should be respected. Their legitimate and well-founded rights should not be trampled upon under the guise of anti-discrimination.

Finally, it is deeply disturbing that the Bill approves of a reversal of the onus of proof from the accuser to the accused after a *prima facie* case has been made. This is a rejection of the fundamental principle of our justice system that a person is innocent until proven guilty. Our legal system is founded upon this principle partly because of the belief that is better that a guilty person not be punished than an innocent person be wrongly punished. This law would potentially result in the wrongful punishment of innocent Australians for no other reason than the fact that others construe their remarks as offensive. As Jim Spigelman, the former Chief Justice of the New South Wales Supreme Court has rightly observed, "No-one has the right not to be offended." As soon as offending someone on the basis of political, religious or sexual differences becomes a criminal offence and the person who allegedly causes the offence is lumbered with the burden of proof, the citizens of Australia become hostages in their own country, compelled to exercise extreme care lest they say anything that will place them at risk of harm, in this case, legal prosecution.

I therefore urge you to reject the *Human Rights and Anti-Discrimination Bill 2012* and in your function as an elected representative, I trust that you will use prudent judgment in the best interests of the Australian people to ensure that it is not recommended for successful passage through either house of the Commonwealth Parliament.

Yours sincerely,
Paul McCormack