Freedom for Faith
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Dear Committee,

Thank you for the opportunity to follow up on our testimony. This response contains answers to direct questions on notice from Mr Lister and Ms Cleeland, as well as addressing broader themes that were canvassed during the conversation. It is divided thematically into two sections – legislative approaches and non-legislative.

Thank you again for the opportunity to discuss these important matters with you. If we can help any further, please do not hesitate to get in contact.

Yours,

Mike Southon
Executive Director

Legislative options

We acknowledge the legitimate concern of protecting individuals from abusive or coercive conduct in institutional or group settings. However, we caution against any approach that relies on vague or subjective group labels, or that seeks to define coercion by reference to group belief or social consequence rather than identifiable, individual unlawful conduct.

Risk of legally defining "cult" or "fringe group"

The terms "cult" and "fringe group" are inherently subjective and culturally loaded. Efforts to legislate definitions for such terms risk embedding social and political bias into law. Historically, groups labelled as "cults" have included small, non-mainstream religious organisations, intentional communities, or movements that diverge from prevailing social norms. Yet many of these groups pose no objective harm to their members or the wider public.

Defining such terms in law would invite arbitrary distinctions between "mainstream" and "non-mainstream" beliefs, raising serious risks of state overreach into freedom of religion and belief.

In addition, the task of defining such a group is fraught with risk. Australian society is home to many high-solidarity, high-motivation groups—including political parties, trade unions, environmental movements, and religious organisations. These groups often:

- Promote a unifying worldview or mission.
- Expect adherence to shared values or norms.
- Involve strong internal leadership or hierarchies.
- Form close social bonds, sometimes becoming central to members' identity and social life.

Many of these features are common to any vibrant civil society. Attempting to define a "cult" by reference to these attributes risks capturing a wide range of legitimate entities including mainstream religions. The effect could be the stigmatisation or targeting of lawful religious or ideological organisations based solely on their minority status or internal cohesion.

It is important to note that the High Court provides a very broad definition of 'religion', and one that includes the elements of membership, commitment, and standards of conduct. In *Church of the New Faith v Commissioner of Payroll Tax (Vic) (1983)*, Mason ACJ and Brennan J held that:

> … for the purposes of the law, the criteria of religion are twofold: first, belief in a supernatural Being, Thing or Principle; and second, **the acceptance of canons of conduct in order to give effect to that belief**…
>
> We would hold the test of religious belief to be satisfied by belief in supernatural Things or Principles and not to be limited to belief in God or in a supernatural Being otherwise described.

In the same case, Wilson and Deane JJ said:

> **One of the most important indicia of "a religion"** is that the particular collection of ideas and/or practices involves belief in the supernatural, that is to say, belief that reality extends beyond that which is capable of perception by the senses. If that be absent, it is unlikely that one has a "religion". Another is that the ideas relate to things supernatural. A third is that **the ideas are accepted by adherents as requiring or encouraging them to observe particular standards or codes of conduct** or to participate in specific practices having supernatural significance. A fourth is that, however loosely knit and varying in beliefs and practices adherents may be, **they constitute an identifiable group or identifiable groups.** A fifth, and perhaps more controversial, indicium … is that the adherents themselves see the collection of ideas and/or practices as constituting a religion.

Legislating "group-based coercion"

We are also concerned about defining and legislating against "group-based coercion".

While individual coercive control has been successfully legislated, we are concerned that it will be much harder—if not impossible—to accurately define and legislate against group-based coercion without unintended consequences.

It has been suggested that requiring conformity to group norms, especially under the threat of social exclusion, constitutes "group-based coercion." However, this would capture the experience of many Australians in voluntary associations—including secular clubs, political movements, and religious communities. The reality that one may suffer social consequences from leaving a close-knit group does not, in itself, constitute coercion in the legal or criminal sense.

As noted above, the High Court's definition includes the elements of membership and expectations of belief and conduct as fundamental markers of a religion. A broad definition of "group-based coercion" would risk including all religions, as defined by the High Court.

Avoiding religious discrimination

While the Committee has consistently stated that the inquiry is not specifically focused on religious organisations, the conceptual challenges of defining terms such as "fringe group" or "group-based coercion" remain unresolved. In the absence of clear, neutral criteria, there is a real legislative temptation to rely on religious terminology or practices as proxies for identifying groups of concern. This would be a deeply problematic approach.

Defining coercive or fringe behaviour in explicitly religious terms—including theological commitments such as eternal consequences for non-believers—would amount to direct religious discrimination. It would single out religious communities for heightened scrutiny or regulation solely on the basis of their spiritual character, even where no unlawful conduct has occurred.

Avoiding guilt by association

There is no doubt that within high-commitment groups—religious and non-religious alike—there can be individuals who misuse the group's internal solidarity, shared ideology, or hierarchical structures to engage in abusive, manipulative, or even criminal conduct. That tragic reality is not unique to any one kind of group. It is a risk wherever strong social cohesion and power dynamics are present.

However, this does not justify broad-brush characterisations or legal presumptions about entire groups. For example, while there are well-documented instances of union-affiliated individuals harassing non-union or ex-union workers, such conduct has rightly

been dealt with as individual misconduct under existing industrial and criminal laws. It has not been used to define all unions as coercive or criminal organisations.

Similarly, great care must be taken not to impose collective guilt on communities based on the conduct of some individuals—as some witnesses and submissions have appeared to do.

Concerns with enforcing compliance

Mr Lister asked about small groups who are not part of wider networks and therefore do not have that layer of accountability:

> *"How does the state then fill that role? Because when all else fails, unfortunately, our system says that the state is there. How do we do that?"*

This question highlights a significant problem with any legislation in this area. As already discussed, the number of groups that could have strong beliefs and potentially have members exhibiting illegal behaviour is immense. A large number of these are small, independent groups—incorporated and non-incorporated—that have no governing body providing accountability.

Any system that would require increased reporting or compliance would need to be enforced equally and without prejudice on all community groups across Victoria. Any regime that focused specifically on religious organisations would be clear religious discrimination.

In light of this, it is difficult to see how any regime could police the whole Victorian community.

Financial transparency

Ms Cleeland's asked a question about financial transparency.

Voluntary associations—including secular clubs, political movements, and religious communities—do require funds in order to operate. Some members, and indeed supporters who are not members, may donate funds in both small and large quantities to such associations. In itself, this ought not be a basis for suspicion of their operations.

There are a wide variety of legal structures for faith groups, including: basic religious charities; incorporated and unincorporated associations; trusts; and companies limited by guarantee. Each of these structures have different reporting requirements, and we are not in a position to make comment on the specific strengths and weaknesses of the requirements on each possible permutation.

However, to avoid any form of religious discrimination, it is essential to that any changes to reporting or transparency must be applied across all organisations—not applied prejudicially to religious organisations, or an arbitrary definition of "cult".

Education and support

Rather than attempting to define or prohibit "group-based coercion" through legislation—which risks overreach and unintended consequences—a more constructive approach lies in targeted education and community awareness. Educational programs can equip individuals and groups with the skills to recognise manipulative dynamics, undue influence, and unhealthy group behaviours, regardless of the context in which they arise.

Additionally, people wishing to leave coercive situations—of all kinds—should have access to appropriate support services. Law enforcement should be fully equipped to support individuals who are targeted with illegal behaviour, with skills and knowledge to navigate the unique context of a high-commitment group.

Ideological neutrality

It is vitally important that education programs and support groups are ideologically neutral. Some representatives of "anti-cult" organisations have exhibited distinct bias against certain religious groups. More than one witness spoke about their bad experiences in major main-stream religious groups in ways that appeared to imply that those groups were cults.

It is likely that many counsellors in support organisations are former members of groups where they had bad experiences with group members, and they will be carrying those experiences with them. However, there is a danger that those experiences which may be isolated or represent personal adverse interactions contribute to guilt by association for the entire group. While we are sure that the vast majority of these counsellors exhibit great professionalism, there is risk that these groups develop anti-religious attitudes.

Great care needs to be taken in selecting organisations for official government support, that the system does not become implicitly anti-religious.

Concerns with mandatory training

While we are strongly supportive of education programs that religious groups and individuals can adapt and use, we have significant concerns about making such programs compulsory.

Firstly, as discussed earlier, unless every organisation and community group in Victoria is required to undertake the training, there is no principled or viable way to define a sub-group to which it should be mandated without directly targeting religious organisations.

Secondly, the content of any mandated training is likely to become highly contentious. Every example or description of "coercion" used in the program risks being interpreted in ways that implicate legitimate, non-coercive religious practices. Examples that may seem straightforward or appropriate in one context may be viewed as prejudicial or

stigmatising in another. This creates a significant risk of unfairly singling out faith communities or misrepresenting ordinary religious expression as coercive.

Instead, we recommend that the government develops voluntary training frameworks that can be adapted and adopted by community organisations in a manner consistent with their own values and beliefs. The vast majority of community groups—including religious ones—want their people to be safe and to feel safe, and do not wish to see anyone caught in genuinely coercive situations. Most of these groups would welcome resources that help them be safer and keep their people safe.

Importantly, mandating training will not protect people within truly coercive or abusive groups, as such groups are unlikely to engage with the program. A collaborative, voluntary approach that empowers responsible organisations to lead the way in promoting safety and respect will be far more effective and consistent with human rights principles.