To The Federal Attorney General’s Department,

I would like to make a submission relating to the problems limiting religious freedom in the present draft legislation of the Religious Discrimination Act:

- There is no mechanism to deal with clashes of competing rights, especially given our obligations under international law. Without this, it will be left to the courts. Given our experiences, courts are not necessarily sympathetic to religious rights.
- The definition of ‘religious belief or activity’ is restricted to ‘lawful religious activity’. This limitation extends to criminal and civil law. Hence, things that are unlawful according to civil law (say, other state and territory discrimination acts) and other regulatory matters, like council ordinances would be captured. This could result in a State or local government enacting laws that make innocuous religious activities unlawful. Example: faith-based aged care facilities or hospitals which are required under State law to facilitate things like euthanasia would not be protected under the Bills as they stand or a State Government could make funding of religious schools conditional on the schools not teaching their view of marriage or sexuality.
- The definition of ‘statement of belief’ puts too much power in the hands of judges to decide theology. There is a limitation to “a belief that may reasonably be regarded as being in accordance with the doctrines, tenets, beliefs or teachings of the religion.” Clearly this opens up the schism that the view of the court on gender, sexuality and marriage, not be in accordance with the doctrines, tenets, beliefs or teachings of a religion.
- The Bills contain 2 provisions – section 8 (the Folau clause) and Section 41, (the Porteous clause). Protection under these clauses will not be afforded if a statement of belief is “malicious or that would, or is likely to harass, vilify or incite hatred or violence against another person or group of persons.” Use of the word “vilify” is too wide and leads to uncertainty. The definition of what constitutes “vilification” is highly contestable and has been consistently used by the left to censor. It was alleged that Folau’s citing the bible was vilification. Those you subscribe to alternative views on gender, sexuality and even same sex marriage, frequently attack traditional religious views as harmful and vilifying. Excluding words that vilify from these two sections is a serious risk and they should be removed and on a related point, there needs to be clarification that statements of belief cannot vilify.
- We also need to make sure charities aren’t penalised for having a traditional view of marriage.
- The exceptions for inherent requirements of the job are broad and vague and significantly reduce the protection for people of faith.
- The RDA specifies ‘employer conduct rules’ that restrict the ability of an employee to make statements of belief outside of work hours are not reasonable unless necessary to avoid unjustifiable financial hardship.
- There is a gaping hole in section 29 which could enable State governments to permit limitations on the exercise of religious belief which would operate to preclude a person from gaining protection under the RDA and thereby
overriding the federal law.

- There needs to be improvement to enable permission for religious bodies to act in accordance with their faith – hospitals and aged care facilities.
- There is no protection for associates of a religious believer and we need to look at proper conscientious objection by health practitioners.
- There is not, at present, clarity on the issue of whether ministers of religion may refuse to solemnise marriages where the marriage is of two persons whose biological sex is identical, but where one or both of the parties now has a gender identity or legally recognised sex that differs from their biological sex.
- Some faith groups want a covering of the field when it comes to religious discrimination, so that to the extent of any inconsistency between state and federal law when it comes to religious discrimination, the federal law prevails.