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Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

***Re: Inquiry into National Children's Commissioner Bill 2012***

The Australian Christian Lobby (ACL) welcomes this opportunity to comment on the *Australian Human Rights Commission Amendment (National Children's Commissioner) Bill 2012*.

**General comments**

ACL believes that all children are precious and deserve to be raised in a loving and safe family environment. Indeed, the overall health of a society can be judged by how the most vulnerable members of the community are treated and protected by Government. As such, ACL extends cautious support for a National Children's Commissioner.

Currently, children face a range of challenges. Professor Patrick Parkinson of the University of Sydney states in his report *For Kids' Sake*, the last 15 years has seen a dramatic increase in reported numbers of children "being victims of, or at risk of, child abuse or neglect".<sup>1</sup> His report found that by the time children reached the 16-24 age bracket, 44% have either a mental disorder or are experiencing "moderate to severe psychological distress".<sup>2</sup> His report details the alarming state our young people are in today. ACL believes that having a prominent advocate for the best interests of children from a young age could go some of the way to alleviating these problems and improving children's welfare in Australia.

As a society we must do more to advocate for the best interests of children. However, this must be done in a way that respects the lawful right of parents to raise their children according to their values and beliefs. The role of a Children's Commissioner must not usurp the role of parents, particularly in the realm of appropriate discipline and setting boundaries in the home. Furthermore,

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<sup>1</sup> Professor Patrick Parkinson (July 2011), *For Kids' Sake: Repairing the Social Environment for Australian Children and Young People*, The University of Sydney, p 6.

<sup>2</sup> Professor Patrick Parkinson (July 2011), *For Kids' Sake: Repairing the Social Environment for Australian Children and Young People*, The University of Sydney, p 7.

the role of the Children's Commissioner must not conflict with parents' rights to educate their children as they best see fit in a way that best accords with their own beliefs and values, as guaranteed in the ICCPR.<sup>3</sup> In fact we would see part of the Commissioners role being to ensure these rights.

ACL expresses concern at the use of "children's rights" to increasingly deny parents the right to information about dependents in their care, particularly in relation to the provision of health services and advice, such as obtaining contraceptives and pregnancy termination.

ACL supports the establishment of a National Children's Commissioner, with the proviso that the position does not become politicised to focus on questionable children's rights to privacy and autonomy at the expense of respecting the legitimate rights and responsibilities of parents to raise their children in a way that accords with their values and beliefs.

### **Independence**

If a National Children's Commissioner is to be established, it should be maintained as a fully independent organisation as was proposed in the *Commonwealth Commissioner for Children and Young People Bill 2010*. ACL does not wish to see the role of the Commissioner subsumed within the scope of the Australian Human Rights Commission.

### **Children's rights – the right to a mother and father**

Any discussion of children's rights is incomplete without considering that most fundamental of all children's rights, "the right to be born from natural human origins that have not been tampered with by anyone else".<sup>4</sup> Professor Margaret Somerville identifies two other key rights of children: the right to know their biological parents and, wherever possible, the right to "be reared by their biological parents within their immediate and wider biological family".<sup>5</sup> A child's right "to know and be cared for by his or her parents" is enshrined in the UN's *Convention on the Rights of the Child*.<sup>6</sup>

In recent years there has been a spate of anti-child legislation. For example, in NSW the *Adoption Act 2000* was amended in 2010 to allow children to be deprived of their right to a mother and a father and be adopted by two men or two women. The Act also allows a single person to adopt a child. The NSW *Surrogacy Act 2010* also allows single men or women and two men and two women to acquire a baby through surrogacy. Sometimes children are deprived of a mother or father through death or desertion, but legislation now allows children to be brought into the world and deliberately deprived of either a mother or a father.

There are similar laws in Queensland and Victoria. In Tasmania there are also moves to allow two men or two women or a single man or woman to acquire children, depriving them of their right to one of their biological children.

Similarly, the campaign to redefine marriage in the *Marriage Act* would further the acceptance of this kind of abuse of childrens' rights to both a father and a mother.

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<sup>3</sup> Article 18, *International Covenant on Civil and Political Rights*.

<sup>4</sup> Margaret Somerville (2007), *Children's human rights and unlinking child-parent biological bonds with adoption, same-sex marriage and new reproductive technologies*, *Journal of Family Studies*, 13(2), 179-201, p 180.

<sup>5</sup> Somerville (2007), *Children's human rights*, p 180.

<sup>6</sup> Article 7.1, *Convention on the Rights of the Child*.

Given that the evidence shows that family breakdown and the lack of a father present is one of the driving factors of many problems faced by children, any discussion of a Children's Commissioner without consideration of these issues is incomplete. The *For Kids' Sake* report points to "a vast body of evidence that shows that family conflict and family breakdown have a range of deleterious effects on children and young people."<sup>7</sup> The report says further:

*If there is one major demographic change in western societies that can be linked to a large range of adverse consequences for many children and young people, it is the growth in the numbers of children who experience life in a family other than living with their two biological parents, at some point before the age of 16. This has a range of adverse impacts upon children's wellbeing.*

Thus, while a National Children's Commissioner may be a positive start to addressing the problems children face, it is a mere "band-aid solution" if deeper issues such as family breakdown are not addressed as root causes of the problems.

### **Conclusion**

ACL offers tentative support for a National Children's Commissioner with the reservations expressed above. Most importantly, ACL urges the government to consider how to address the root causes of family breakdown as a priority.

Thank you for your consideration of our views.

### **Recommendations**

ACL supports a National Children's Commissioner provided the Commissioner's role does not:

- conflict with parents' rights, especially in the realm of discipline at home
- conflict with parents' rights to educate their children in accordance with their own values and beliefs

ACL recommends that a National Children's Commissioner be independent of the Australian Human Rights Commission.

ACL also urges the government to consider the related issues of family breakdown and legislation which concerns the rights of children to know and be raised by their biological mother and father wherever possible. The issue of a National Children's Commissioner should not be approached in isolation from these issues.

Yours sincerely,

**Lyle Shelton**  
**Chief of Staff**

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<sup>7</sup> Professor Patrick Parkinson (July 2011), *For Kids' Sake: Repairing the Social Environment for Australian Children and Young People*, The University of Sydney, p 48.