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Same-Sex Relationships (Equal Treatment in Commonwealth Laws-General Law Reform) Bill 2008 by the State Steering Committee of the Coming Out Proud Program Tasmania

This submission on behalf of the Coming Out Proud Program (COPP) State Steering Committee calls on the Australian Senate to remove from the Marriage Act 1961 the impediments to the recognition of marriage between same sex couples in Australia.

The COPP has been established in Tasmania with the purpose of negotiating local policy and practice to provide for strategies that will enable GLBTI people in the regions to 'come out with pride' and live in their community with dignity as fully respected and participating members.

The COPP is established in four regions Cradle Coast, Greater Launceston/East Coast, Greater Hobart as well as Kingborough/Huon. The Program is endorsed by nearly 20 Councils and Council Liaison Officers are appointed. COPP is committed to establishing a State GLBTI Council to work with the State Government GLBTI Reference Group in implementing the GLBTI Framework as well as developing local & community responses.

The basis and strength of the COPP is the formulation of a management plan by local CLC members in consultation with local GLBTI communities and local government according to their needs and issues of the local/regional communities. COPP collaborates with other GLBTI service organisations to find solutions to these issues and negotiating in special & mainstream programs & services.

The Senate referred the Same-Sex Relationships (Equal Treatment in Commonwealth Laws-General Law Reform) Bill 2008 Committee for inquiry and report.

The Bill proposes to remove discrimination by amending a number of different definitions across Commonwealth legislation. These amendments will include:

- a new model definition of 'de facto partner' which will apply equally to same and opposite-sex de facto couples;
- the definitions of 'child' and 'parent' will be expanded where appropriate to include the children of same-sex couples; and
- amendments will also be made to ensure that de facto partners, children of same-sex couples, and persons whose relationship is traced through them will be considered to be members of a person's family, and relatives for the purposes of relevant Commonwealth legislation.

Sadly the proposed legislation amendment makes no allowance for the provision of same sex marriages. This unequal and hurtful comparative values of relationship between heterosexual and same sex couples as regards marriage being the prerogative of one group and not the other is simply based on destructive presumptions. Many of these are religious in nature based on the power of recognised churches to deny same sex couples recognition of the spiritual value of loving relationships within the community. It is also based on the presumption that 'same sex couples do not have in many instances the same parenting responsibilities that heterosexual couples have. This strict doctrinaire position about the primary and secondary values of marriage denies the importance of the separation of church and state, which is already recognised in the Marriage Act, as well as practice in the celebration of marriage.

This submission contests the legitimacy of removing those areas of inequality for sexual and gender diverse people while leaving in place a gross exclusion of same-sex couples from marriage. The submission states that while marriage may not be an aspiration for many gay and lesbian people this is the result of long-term rejection by the law in Australia. This pain-full exclusion it is contested has led to a deep-seated cynicism about the celebration of marriage by same sex couples and the value of this community recognition to acknowledge and celebrate the diversity of the expressions of marriage in Australia. It needs to be noted in countries that have a state recognition of same sex marriages that same sex couples approach marriage with less cynicism. Much same sex married couples immigrating to Australia from countries allowing same sex marriages are disturbed at the failure to recognise this inalienable right and their new state in Australia of now not being acknowledged as married by the State.

Given that the Rudd Government is now going to make \$66 million in the first year when it introduces legislation to remove over 100 areas of legal and financial discrimination against gay and lesbian partnerships the only just law the Government can make is to recognise them with the same value of heterosexual marriages.

What is supposed to be a long awaited removal of discrimination and injustice against same sex relationships seems to have turned into a cynical move to raise additional revenue from a section of the community that has been discriminated and vilified against for such a long time without equity in what is for many same sex couples the most important ability to solemnise and have recognised by the community their relationship. Raising revenue on the basis of 'de facto' same sex relationships is a cruel insult

While same – sex couples have avoided much of the damaging impositions of Church and State control on their relationships in the past, the continuing non-recognition of community respect for same sex partnerships through marriage has very serious spiritual, moral and psychological effects on the community'. Gay and lesbian couples have to achieve a much greater degree of maturity, self-confidence and self-esteem to sustain their loving relationships. The Rudd Government in pandering to the fundamentalist right groups on this issue which will allow and actually encourage ongoing discrimination and vilification of this significant and important diverse section of the Australian Community - against international trends of recognition and civil marriage celebration.

The four COPP Community Liaison Committees in Tasmania have had representations from many gay and lesbian couples that are angry at the failure of the

Australian Coalition for Equality lobbyists to negotiate equality of respect for their partnerships in the proposed federal same sex law reform changes. The community will now be anxiously awaiting the tax & pension implications and policing of double incomes without the acknowledgment and respect of the community through marriage. These negotiations seem to have been made without receiving any benefit of civil or community respect and acknowledgement that same sex relationships are equal to and not lesser than heterosexual married couples.

There seems to have been no consultation of the LGBTI community or the general Australian community in the decision that the Government has reached in excluding same sex couples from marriage. Most importantly there has been no information or education provided to the LGBTI community about the financial and social implications of the legislation changes. Without any consultation, added to no information provision our community faces very significant life style changes without any preparation or ownership. This will have very severe implications for people, many of whom are already marginalised. The added fear of being forced 'out' by the legislation changes or 'being doxed in to Centrelink' in often hostile communities requires careful planning and support at local levels.

There is no question that gay and lesbian couples are more than willing to contribute to the 'social purse' on equal terms, but not on the Federal basis of second-rate 'de facto' relationships. Without the recognition of same sex marriage in the legislation change same sex couples will continue to be cynical of a tax imposition without the equality granted to heterosexual couples. Without this equality there will be a strong tension and avoidance of the negative tax and financial implications of the new legislation leading to social disobedience. This will create for many same sex couples especially the poorest a hostile relationship with Centrelink and the same pattern of avoidance and eventually imprisonment that happens with other marginalised groups that rely on de- facto relationship status to survive on pensions and benefits to survive.

There are several recommendations that emerge from this submission as follows,

- It is a misnomer to talk about equal treatment when the right to marry for the sexual and gender diverse community is being replaced with a second class 'de facto relationship'.
- Allowance for 'same sex marriage' is a prerequisite of the financial taxation & superannuation changes.
- The legislation changes require some strong information and support provision focussed at local & regional levels in the immediate future.

The Coming Out Proud Program is happy to support and elaborate on this submission through regional consultation. The regional COPP Community Liaison Committees are obvious vehicles to use in Tasmania as regards consultation and formation/support forums as the organisation has a database of 900 people at regional level that will be affected by these proposed changes.

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