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320 Queen Street  
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March 25, 2003

**Re: Consultation on Proposed Policy: Registered Charities – Political Activities;  
Registering Charities that Focus on Eliminating Racial Discrimination.**

Dear Ms. Gorie:

Enclosed are commentary we are providing on the CCRA's proposed Registered Charities – Political Activities and Registering Charities that Focus on Eliminating Racial Discrimination policies.

Our feedback is directly in response to sections of each of the documents and is numerically referenced to the documents' subheadings and page numbers.

Thank you for the opportunity to provide this commentary. We look forward to the CCRA's feedback.

Nick J. Mulé,  
Spokesperson

Encl.

**Canada Customs  
And Revenue Agency**

**Consultation on Proposed Policy**

**Registered Charities – Political Activities**

**Registering Charities that Focus on  
Eliminating Racial Discrimination**

**Prepared and Submitted by CLGRO**

**March 25, 2003**

## **Registered Charities - Political Activities:**

### **2 - Some Context – p. 3 (latter two paragraphs).**

Although we are encouraged by the CCRA's narrowing of what it considers political activities in permitting charities to inform public opinion on issues, we feel it does not go far enough. Comprehensive public awareness programmes often include a systemic analysis that points people to the relevant decision-makers. A well-reasoned way to address a charity's core mandate may be to do such in order to preserve its charitable purposes. The currently proposed U.K. model addresses this and we encourage the CCRA to do the same.

### **3 - Background/4 - Politics and charities – p. 4.**

The *Income Tax Act* is based on the antiquated Common Law of Elizabethan times, the *Statute of Uses, 1601*. Society has progressed substantially over the past 400 plus years. Serious questions are raised on philosophical, moral and ethical grounds with the limitation the *Act* places on charities specifically with regard to retaining, opposing or changing a law or policy. In fact by staying within these confines, many charities neglect providing for the public benefit, because they are being silenced from engaging in preventative work, but left to deal with the symptoms of not having a voice in the process. There are numerous examples of this in the health and social service fields. On a macro level most damaging is the restriction of voluntary sector voices in the Canadian democratic process. Generally speaking, we do not feel the proposed policies of this document go far enough in establishing a level playing field for all sectors to be heard in the democratic process.

### **8 - What are political activities? – p. 5.**

The draft provides a clear listing of what the CCRA considers to be political activities and it should be helpful to charities in distinguishing them from charitable ones.

### **11 - What expenditure limits does the *Income Tax Act* impose on political activities? – p. 8.**

Although the scheme of proportional incremental expenditure limitations on political activities is an improvement over the across the board 10% limit, it nevertheless falls short of what would be required to mount effective political activities considering the private sector can write off "business lobbying" as a business expense, and may be who charities find themselves in opposition to on given issues. Allowing a charity to spend

unclaimed portion of resources for up to two previous years may not necessarily balance out with the number of issues a charitable organisation may face in a given period of time that are relevant to its purposes. Thus we feel the expenditure limits need to be further increased.

#### **16 – Appendix I -- “Advocacy” – p. 15.**

The statement this draft provides on “advocacy” only perpetuates the longstanding confusion that has been associated with this concept. The CCRA claims it may or may not be a political activity, but does not provide a distinction. Without a distinction, charities are left unsure of the extent to which they may engage in advocacy based on whether such activity is considered political or not. See U.S. model for a definitional breakdown. Also, there is no recognition of the importance of advocacy regarding charitable organisations that undertake a preventative approach in addressing core issues rather than attending to the symptoms only, in its absence. Additionally, the restrictions placed on advocacy on the part of the CCRA can be considered in direct conflict with the values of professions in the voluntary sector (i.e. lawyers, social workers). We urge the CCRA provide a more clear definition of ‘advocacy’ taking the U.S. model into consideration.

#### **16 – Appendix I -- “Political purpose” – p. 16.**

The draft provides a list of “political purposes” as defined by the courts. What the draft does not include is a list of “charitable purposes”. Thus it is assumed the CCRA is intending to maintain the limited list of relief of poverty, advancement of education, advancement of religion and other purposes beneficial to the community (save for the elimination of racism, see comments below). It would be helpful to get a justification from CCRA as to why the advancement of religion continues to be listed when many are known to propagate views that are contrary to specific groups protected in this country’s human rights legislation (i.e. women, lesbians, gays and bisexuals). If religion were to remain on the list, would the CCRA be prepared to impose limitations on all charitable purposes to be respectful of Canadian human rights legislation? Also, the government needs to clarify that ‘purposes beneficial to the community’ is not necessarily defined in democratic terms only. Organisations that provide good works for minority populations inclusive of advancing their interests should not be barred from becoming charities as this is definitely a benefit to the public. It would be beneficial if the CCRA adopted what the U.S. currently has and the U.K. is proposing. The former includes both the ‘elimination of prejudice and discrimination’ and the ‘defence of human and civil rights secured by law’ and the latter the ‘promotion of human rights’ as charitable purposes. This would not only address the concerns we raise about religious and minority-focused organisations, but provide for a more inclusive approach than the more limited elimination

of racial discrimination currently being proposed by CCRA (see below for detailed comments).

## **Registering Charities that Focus on Eliminating Racial Discrimination:**

### **Purpose – p. 2.**

Without argument, we definitely support the concept that organizations that work towards the elimination of racism should be recognized as charities. What we question is why the CCRA has chosen to recognize this one form of discrimination over all others as a legitimate purpose to warrant charitable status? Is discrimination based on gender, age, disability or sexual orientation, to name a few, seen as less important than that of race? Is the CCRA suggesting that works to eliminate racial discrimination are charitable, but works to eliminate other forms of discrimination are not? What of the intersection of oppressions faced by numerous Canadians that combine a number of characteristics exposing them to multi-levels of discrimination? We strongly recommend that the policy proposed in this document shift in name and focus to ‘Registering Charities that Focus on Eliminating Discrimination’ so as to take on a more equitable and inclusive approach.

### **Statement – p. 2. (See footnote 1).**

Footnote 1. Indicates that “other forms of discrimination prohibited by human rights legislation *may* also qualify as charitable. ...grounds for denying or admitting them would *probably* parallel those in this policy” (our italics). This statement is weak in that it relegates other forms of discrimination second to racism and provides no guarantee that they will parallel the narrow focus of this policy. It appears this policy is contributing to a hierarchy of human rights, in which anti-racism work is deemed of higher importance than other forms of anti-discrimination work. Both the *Canadian Charter of Rights and Freedoms* and the *Canadian Human Rights Act* recognize sexual orientation as grounds for protection from discrimination, yet these populations are neither named in this policy nor provided any assurance of inclusion in potentially gaining charitable status. See recommendation above.

### **Definitions – p. 3.**

Firstly, the attempts to limit this policy within the parameters of racial and cultural groups are exclusionary to numerous other groups protected in Canadian human rights legislation. Secondly the non-recognition of lesbians, gays and bisexuals as a cultural group defined by sexual orientation is discriminatory. Thirdly, by focusing narrowly on

definitions of racism and racial discrimination, this policy undermines the experience of inequality felt by numerous minority groups and individuals with intersectional minority status.

### **Implementation -- Rationale – p. 3.**

The document rightly points to the U.S. and proposed U.K. models as examples of international recognition of elimination of discrimination as a charitable purpose. Yet, it selectively chooses to focus on the elimination of racial discrimination in particular to the exclusion of the broader terminology being utilized in those countries. The U.S. has both ‘elimination of prejudice and discrimination’ and ‘defence of human and civil rights secured by law’ as charitable purposes. The latter addressing forms of discrimination recognized in legislation, the former including those not currently recognized as such (i.e. sexual orientation not included in U.S. federal civil rights legislation). In the U.K. the ‘promotion of human rights’ is being proposed as a broadly based form of charitable purpose inclusive of sexual orientation based on an analogy of the existing charitable purpose of ‘promoting mental and moral improvement.’ Therefore, Appendix A – page 8 requires a more comprehensive rendering of both the U.S. and U.K. models to capture the essence of their approaches. Also, Appendix B’s ‘Policy and legislation supporting racial equality’ (page 9) provides no justification for the exclusion of other forms of discrimination from this policy when Canadian human rights legislation is inclusive of them. Thus, it is urged that the CCRA adopt the broader models of discrimination elimination concepts of the U.S and U.K. and similarly base this on their more inclusive and equitable approaches.

### **Political activities, 13. – p. 5.**

Here too the CCRA would do well to review both the U.S. and U.K. models. In the U.S. political activities are broken down into advocacy and lobbying. The former being a permissive political activity the latter not for charitable purposes. Because advocacy is ill-defined as a charitable activity in Canada, we resort to the restrictive “working within the framework of existing legislation and not advocating for legislative change or change in government policy.” Also, the proposed U.K. model approaches the promotion of human rights as charitable works both from the perspective of enforcing existing human rights laws as a public benefit and from the perspective of ‘promoting mental and moral improvement’ (a charitable purpose) for those not currently recognized in existing law. It is recommended the CCRA provide a more flexible approach to political activities as provided in the U.S. and proposed in the U.K.

### **Other purposes beneficial to the community, 19. – p. 6.**

As mentioned above this is seen as too restrictive and the U.S. and U.K. models can provide guidance in these areas. Secondly, this policy's sole focus on the elimination of racial discrimination is contradictory to the broader parameters of Canadian human rights legislation, in that opposing homophobia and heterosexism would also be conforming to existing laws, yet is absent from this policy. See recommendations above regarding broadening the scope of this policy.

**Footnote 10. – p. 11.**

The proposed U.K. model provides for the promotion of human rights domestically or abroad in the absence of such rights through awareness raising, cultivating 'public sentiment in favour of human rights' and undertaking political activities within the confines of a registered charity. The CCRA is urged to adopt the same.

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**About CLGRO:** Founded in 1975, the Coalition for Lesbian and Gay Rights in Ontario is an organization composed of groups and individuals who are committed to working towards feminism and bisexual, lesbian, and gay liberation by engaging in public struggle for full human rights, by promoting diversity and access, and by strengthening cooperative networks for lesbian, gay, and bisexual activism.