The Australian Charities and Not-for-profits Commission announced this week that Catch the Fire Ministries had lost its charitable status. This means it loses entitlements to various Commonwealth tax concessions and exemptions.

Catch the Fire Ministries, which was registered as a charity advancing religion, is based in Melbourne’s outer-east and is led by Danny Nalliah. Nalliah is also the founder of the Rise Up Australia Party; he was its lead Victorian Senate candidate at the past two federal elections.

The commission cannot disclose the details of its decision due to secrecy provisions. However, the loss of Catch the Fire’s charitable status appears to be due to its very close links to Rise Up Australia.

Examples of this can be seen on Catch the Fire’s website. Posts call on church members to distribute Rise Up Australia’s promotional materials and donate to it. In news reports, Nalliah has admitted there were collections during church services to raise funds for the party.

**Charities in Australia can undertake political advocacy**

The Charities Act says charities can promote or oppose a change to any matter of law, policy or practice, provided this advocacy furthers or aids another charitable purpose.

So, a charity that seeks to reduce homelessness can lobby governments to adopt policies to achieve this.

There are some good reasons for allowing charities to advocate and lobby.

Operating at the front line, charities are among the best sources of information about what works when trying to tackle social and environmental challenges.

For example, a charity that supports family violence victims will have important insights about what policies could reduce such violence. This information is valuable when it comes to developing effective policy responses.

Allowing charities to undertake advocacy is also efficient. If a factory is polluting a river because of inadequate regulation, efforts to save wildlife in the river are likely to be futile unless the pollution is stopped. Through advocacy, the inadequate regulation can be tackled and the pollution stopped.

In a 2010 case, the High Court concluded that advocacy by charities was essential to Australia’s system of representative democracy.

However, the Charities Act does state that the purpose of promoting or opposing a political party or a candidate for political office is a “disqualifying purpose”. This means if an organisation has this purpose, then it can’t have charitable status.

**Promoting or opposing a political party or candidate**

Individual and isolated activities that promote or oppose a political party or candidates may not by themselves amount to a “disqualifying purpose”. However, a pattern of activities may be evidence of such a purpose.

The Australian Charities and Not-for-profits Commission has published guidance about what it considers when determining whether something is a disqualifying purpose.

The commission appears to have decided that Catch the Fire’s actions showed it had a disqualifying purpose of
promoting or opposing a political party, due to its support for Rise Up Australia.

**What are the reasons for having this restriction?**

The role of civil society, of which charities are a key part, is vital in a democracy. Charities are seen as independent and not aligned with business or government. Ideally, they should act as a voice for the voiceless, speaking truth to power.

The restriction in the Charities Act reflects the fact such activities could jeopardise this independence; they could lead to co-option of charities by political parties. Rather than acting in the interests of the community they are established to serve, they may act in the interests of political parties or candidates seeking election.

Also, if charities are a source of financial support for political parties or candidates, then these parties or people may start to listen or provide funding to the charities with the biggest pockets, rather than those with the best arguments or record of performance.

In addition, identifying themselves as supporters of a political party or candidate brings charities into an adversarial and partisan political system.

This could have negative repercussions. For example, an opposing political party may win an election and cancel funding for services the charity delivers. This will not be in the interests of those in the community who the charity is meant to support.

**What happens next?**

Catch the Fire can appeal the Australian Charities and Not-for-profits Commission’s decision. Initially, this would lead to an internal review, but it is possible the courts could ultimately consider the matter.

If so, it would be an interesting case. It would probe the boundaries between charity and party-politics. The High Court did not tackle this issue in the 2010 case, but the Charities Act has clearly drawn a line between political advocacy (which is permitted) and involvement in party-politics (which is not permitted).

The issue for the courts would be whether Catch the Fire has crossed that line.