



Draft Submission to the Treasury

**Establishment of the Australian Charities and Not-for-profit
Commission (ACNC)**

This submission addresses the issues outlined in the 'Exposure Draft - Australian Charities and Not-for-profits Commission Bill' and the 'Consultation Paper - Review of Not-for-profit Governance Arrangements'.

January 2012

Introduction

This submission briefly outlines some of the key issues for Australia's not-for-profit sector in response to the release by Treasury of the Exposure Draft – Australian Charities and Not-for-profit Commission and the associated Treasury Consultation Paper - Review of Governance Arrangements for Not-for-profit Sector.

This submission has been prepared with the members of the Community Council for Australia (see Attachment 1 listing of CCA members) as well as other key organisations and individuals working in and with the not-for-profit sector.

It is important to note that this submission does not over-ride the policy positions outlined in the individual submissions from CCA members. In endeavouring to provide concise and useful input in response, this submission is divided into the following sub headings:

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The CCA welcomes this opportunity to comment on the establishment of the ACNC and the exposure draft legislation. CCA is willing to engage in further discussion about any of the issues raised in this submission.

The Community Council for Australia

The Community Council for Australia is an independent, non-political member-based organisation dedicated to building thriving communities by enhancing the extraordinary work and effort undertaken within the not-for-profit sector in Australia. CCA seeks to change the way governments, communities and the not-for-profit sector relate to one another. This includes establishing a regulatory environment that works for community organisations and not against them.

The mission of CCA is to lead by being an effective voice on common and shared issues affecting the contribution, performance and viability of not-for-profit organisations in Australia through:

- providing thought and action leadership
- influencing and shaping sector policy agendas
- informing, educating, and assisting organisations in the sector to deal with change and build sustainable futures
- working in partnership with the government, the business sector, and the broader Australian community.

Executive Summary and Recommendations

CCA has taken the view that the best way to approach the Exposure Draft Legislation to establish the Australian Charities and Not-for-profit Commission (ACNC) and the Consultation Paper on governance of not-for-profit organisations is to reinforce the fundamental role of the ACNC including how the not-for-profit sector would like to see it operate and the areas where the ACNC needs to take a lead role. The final framing of the establishment legislation must enable the operational guidelines and principles outlined in this submission to be fully realised.

It is important to note at the outset that the not-for-profit sector is a highly credible, transparent and accountable sector. In fact it is arguable that the sector is much more accountable to the community than any other, which is why it enjoys such a positive standing within the Australian community.

The assumption that imposing more onerous reporting requirements on not-for-profit organisations makes it more accountable or transparent, or even more effective, is difficult to justify. The best form of accountability is community engagement. In most not-for-profit organisations across Australia, members of the community the organisation serves have direct input into how the organisation operates and responds to community needs.

It is also important to note that most not-for-profit organisations are more transparent and accountable than their for-profit comparators.

The goal of the ACNC should not be primarily about accountability, but enhancement of the invaluable role played by not-for-profit organisations in Australian communities. If we can strengthen our not-for-profit organisations through reduced duplication, compliance costs and red tape, not-for-profit organisations will be able to focus more on doing what they are established to do, serve their community.

Within this broader context, CCA has made 41 recommendations.

Recommendations

1. The independence of the ACNC must be enshrined in legislation. This includes a capacity to recruit staff and develop its own operations and procedures to ensure the ACNC reflects an understanding of the sector and a commitment to the invaluable role of not-for-profit organisations in Australia.
2. The ACNC should report to the Australian Federal Parliament on an annual basis.
3. The scope of the ACNC should be restricted to those organisations receiving or seeking tax concessions. Other (smaller) NFPs may be given the option to register with the ACNC, but registration should not be compulsory.
4. The establishing legislation should make reference to the National Compact and provide a set of guiding principles that reflect the need to enhance the role of not-for-profit organisations in Australia.
5. The ACNC should adopt a 'light touch' reporting framework that draws upon information already collected by or readily available to NFPs.
6. The ACNC Advisory Board should be given powers to advise on any issue it considers relevant to the effective operation of the ACNC.
7. The ACNC Commissioner should be required to take note of and respond to the advice that the ACNC Advisory Board provides.
8. ACNC Advisory Board Members should only be terminated by the Minister if there are grounds for that dismissal such as: end of term of appointment, insolvency, incapacity, inadequate attendance or performance.
9. Appropriate levels of confidentiality must be in place to ensure organisations and individuals are able to provide information to the ACNC with minimal risk.
10. De-identified information collected by the ACNC should be readily available to legitimate researchers and others seeking to use the information to provide a better understanding of the Australian not-for-profit sector.
11. Other government and regulatory agencies should be encouraged to draw on the reports and information collected by the ACNC subject to appropriate approvals from both the ACNC and the NFPs involved.
12. Threshold income of not-for-profit organisations that impact on levels of reporting should initially be set at \$2 million for larger organisations, and \$500,000 for smaller organisations. Organisations with income below \$500,000 should require very minimal reporting.
13. The ACNC Commissioner should have the power to change any threshold amounts based on consultation, reviews and further development of reporting practices.
14. Increased consistency with reporting requirements by State and Territories should be a priority in developing the ACNC operations. A harmonised national regulatory framework should be the goal.

15. The ACNC should also have the power to develop a more flexible framework for reporting in conjunction with the not-for-profit sector and the ACNC Advisory Board.
16. The ACNC Commissioner should have the discretion to lessen or increase the reporting requirements of a specific organisation with good reason.
17. Enforcement should be a last resort following education, investigation and deliberate attempts to address non-compliance through negotiated resolution.
18. CCA supports 'graduated' and 'proportional' enforcement, with clear guidance for organisations about their obligations, right of appeal and responsibilities.
19. The ACNC must be able to protect not-for-profit assets in the case of deregistration.
20. The ACNC must be adequately resourced to enable it to fulfil an effective educative role, thereby reducing non-compliance and enhancing reporting practices.
21. The ACNC should be enabled to draw on the expertise and networks of other organisations in fulfilling its educative and information provision role.
22. Organisations must have a right to protect the privacy of their donors.
23. The ACNC Commissioner should have the power to exclude the provision of information in the public interest if there is risk of harm to individuals, risk of harm to the entity or risk of confusing or misleading the public.
24. The on-line portal needs to be both accessible and able to provide information about the sector that is accurate, relevant, meaningful and responsive to community and not-for-profit expectations.
25. The goals of reducing not-for-profit red tape and compliance costs should be a key driver in determining reporting requirements.
26. The vast majority of not-for-profit reporting should be self-report consisting of brief compliance statements from a responsible person within the organisation against guidelines and principles.
27. The Commissioner should be given powers to determine how large organisations report for multiple entities including discretion to determine simplified reporting where appropriate and where group reporting meets regulatory requirements.
28. A step-by-step guide should be made available for all organisations transitioning to the new regulatory regime. A reasonable transition period should exist to test the impact of the ACNC on red tape reduction and better regulation.
29. The performance of the ACNC needs to be monitored against the goals of the National Compact, particularly in relation to red tape reduction and streamlined reporting.
30. Harmonisation of not-for-profit reporting requirements should be a priority in the ongoing development of the ACNC reporting framework.

31. The ACNC must ensure there are clear provisions for procedural fairness in all ACNC actions.
32. The ACNC should determine the charitable status of not-for-profit organisations.
33. The ACNC should establish a principles based governance compliance requirement that provides guidance rather than prescribing set governance arrangements (drawing on good practice in the United Kingdom and elsewhere).
34. The unique nature of not-for-profit governance and engagement with community should be enhanced by the ACNC governance principles.
35. The obligations of the responsible person within a not-for-profit should be appropriate to their role within the organisation and be limited to those acting as directors or equivalent.
36. The capacity to revoke the registration of a not-for-profit needs to be framed by a commitment to procedural fairness, appropriate scaling of sanctions, and transparency of de-registration requirements.
37. Risk management and insurance may be alluded to in the ACNC governance principles but should not be a separate requirement.
38. Financial reporting should be based on the current procedures within not-for-profit organisations.
39. For larger organisations, one annual financial report should meet all the ACNC requirements.
40. Any requirements to report on fundraising or commercial activities should be incorporated into the one financial report.
41. The ACNC must work to reduce duplication of not-for-profit reporting requirements across State and Territory governments, and across all Federal government departments. This includes duplication of reporting to the ACNC and the ATO which should be eliminated as a priority first step.

How the ACNC will operate

i. Independence – culture and practice

The one consistent theme of all calls for the establishment of a dedicated regulator for the not-for-profit sector has been to ensure independence from government departments such as the ATO and Treasury, and a capacity to understand and reflect the values that drive not-for-profit organisations in Australia. Not-for-profits often have to justify their purposes and activities over and over again to different individuals, sections and departments within various regulatory bodies and government departments, most of whom have a very limited understanding of the sector. It is this lack of understanding and what many have interpreted as an antagonistic approach from various government regulators that has informed and driven the push for the establishment of the ACNC.

As a first priority, the ACNC must be given scope to operate independently. It must have the capacity to recruit and establish operating procedures in a way that develops and sustains an organisational culture supportive of the work of NFPs. Over time, the back office functions initially provided by the ATO should be transferred to the ACNC itself. This commitment to independence should be enshrined in the establishing legislation.

The scope of the regulator should be restricted to those organisations receiving or seeking tax concessions. Other (smaller) NFPs may be given the option to register with the ACNC, but registration should not be compulsory.

Wherever possible the ACNC should draw upon existing information sets provided by NFPs to various regulators and levels of government for a range of complimentary purposes.

The object of the exposure draft Bill should shift from compliance, public accountability and transparency to an object that reflects a commitment to assist NFPs and enable public benefit for communities. This more positive and enabling policy context should inform the development of the practices and operation of the ACNC.

The England and Wales Charities Commission has primary objectives of – *increasing public confidence, promoting awareness, promoting legal compliance, promoting effective use of charitable resources and enhancing the accountability of charities to donors, beneficiaries and the general public*’ but it also includes a ‘*requirement to act to encourage charitable giving and voluntary participation in charity work*. Other objectives include – *sustainability of organisations, capacity building and innovation*. It is important to note that almost all the principles above are reflected in the National Compact between the Federal government and the not-for-profit sector. For this reason the CCA believes the National Compact should be actively referenced as part of the policy context for the operations of the ACNC.

It is also important to note that the regulatory approach outlined by the ACNC Implementation Taskforce in its discussion paper on Implementation Design (9 December 2011) contains many useful concepts and principles that should become the focus of the legislation such as:

- *Beginning from a presumption of honesty*
- *Proportionality*
- *Transparency*
- *Fairness*
- *Timeliness*
- *Consistency*
- *Recognising that non-compliance usually results from a lack of knowledge or capability, rather than refusal.*

Omitted from the draft legislation are powers so the ACNC can report on its activities and functions and objectives to governments (as is the case in Singapore, Ireland, NZ, UK). CCA believes the ACNC should provide an annual independent report to the Federal Parliament.

Recommendations:

1. The independence of the ACNC must be enshrined in legislation. This includes a capacity to recruit staff and develop its own operations and procedures to ensure the ACNC reflects an understanding of the sector and a commitment to the invaluable role of not-for-profit organisations in Australia.
2. The ACNC should report to the Australian Federal Parliament on an annual basis.
3. The scope of the ACNC should be restricted to those organisations receiving or seeking tax concessions. Other (smaller) NFPs may be given the option to register with the ACNC, but registration should not be compulsory.
4. The establishing legislation should make reference to the National Compact and provide a set of guiding principles that reflect the need to enhance the role of not-for-profit organisations in Australia.
5. The ACNC should adopt a 'light touch' reporting framework that draws upon information already collected by or readily available to NFPs.

ii. **ACNC Advisory Board (mostly sector knowledge)**

It is important that the appointment of the Board is transparent, has the scope to give real advice to the ACNC, and includes people with expertise in NFP sector regulation and capacity building.

CCA is concerned that Clause 170-15 empowers the Advisory Board to give advice and make recommendations at the request of the Commissioner only. This means there is no mechanism for the sector to raise issues about the operation of the ACNC. The ASIC Expert Advisory Panel has this power.

Similarly Clause 161-15 states the information provided by the Board can be disregarded by the Commissioner; however there should be a requirement that the Commissioner has to take note of and respond to the advice of the Board, which does not mean the Commissioner must fully accept or act on the advice received.

Clause 171-40 allows the Minister to terminate appointments without any rationale.

Recommendations

6. The ACNC Advisory Board should be given powers to advise on any issue it considers relevant to the effective operation of the ACNC.
7. The ACNC Commissioner should be required to take note of and respond to the advice that the ACNC Advisory Board provides.
8. ACNC Advisory Board Members should only be terminated by the Minister if there are grounds for that dismissal such as: end of term of appointment, insolvency, incapacity, inadequate attendance or performance.

iii. Use of reports and data / confidentiality / research opportunities

Information about charities must be protected while balancing the opportunity to use the information collected by the ACNC to better understand the sector. There must also be commitment to use financial reports etc. across government agencies, and a commitment to work towards harmonization of reporting requirements with the States and Territories.

Recommendations

9. Appropriate levels of confidentiality must be in place to ensure organisations and individuals are able to provide information to the ACNC with minimal risk.
10. De-identified information collected by the ACNC should be readily available to legitimate researchers and others seeking to use the information to provide a better understanding of the Australian not-for-profit sector.
11. Other government and regulatory agencies should be encouraged to draw on the reports and information collected by the ACNC subject to appropriate approvals from both the ACNC and the NFPs involved.

iv. Proportionality and flexibility – size and requirements

Proportionality of reporting, based on thresholds and size of organisations is welcome as outlined in the ACNC paper although there is scope to further explore the thresholds for smaller and larger not-for-profit organisations.

Flexibility in reporting requirements is also a critical aspect of enabling appropriate levels of reporting relative to potential risk.

Recommendations

12. Threshold income of not-for-profit organisations that impact on levels of reporting should initially be set at \$2 million for larger organisations, and \$500,000 for smaller organisations. Organisations with income below \$500,000 should require very minimal reporting.
13. The ACNC Commissioner should have the power to change any threshold amounts based on consultation, reviews and further development of reporting practices.
14. Increased consistency with reporting requirements by State and Territories should be a priority in developing the ACNC operations. A harmonised national regulatory framework should be the goal.
15. The ACNC should also have the power to develop a more flexible framework for reporting in conjunction with the not-for-profit sector and the ACNC Advisory Board.
16. The ACNC Commissioner should have the discretion to lessen or increase the reporting requirements of a specific organisation with good reason.

v. Enforcement – stepped approach

Enforcement should only occur after both education and investigation have failed to address the non-compliance issue within a not-for-profit organisation.

As with proportionality in reporting requirements it is fundamental that the enforcement approach is commensurate with the size and scope of any non-compliant activity. The vast majority of non-compliance is likely to reflect a lack of knowledge or capacity rather than a deliberate attempt to mislead or avoid.

Recommendations

17. Enforcement should be a last resort following education, investigation and deliberate attempts to address non-compliance through negotiated resolution.
18. CCA supports 'graduated' and 'proportional' enforcement, with clear guidance for organisations about their obligations, right of appeal and responsibilities.
19. The ACNC must be able to protect not-for-profit assets in the case of deregistration.

vi. Education – to maximize compliance

As noted above, education is a critical component in the activity of any regulator. It is the primary approach to reducing non-compliance and ensuring all relevant organisations are aware of their responsibilities and how to fulfil them. To this end it is very important that the ACNC is adequately resourced to ensure it can fulfil the education obligations of an effective regulator for the not-for-profit sector. The ACNC should also be encouraged to draw on the expertise, knowledge and networks of other organisations working with the not-for-profit sector to enhance reach and capacity.

Recommendations

20. The ACNC must be adequately resourced to enable it to fulfil an effective educative role, thereby reducing non-compliance and enhancing reporting practices.
21. The ACNC should be enabled to draw on the expertise and networks of other organisations in fulfilling its educative and information provision role.

vii. ACNC Register and Online Portal – accessibility etc.

Clause 100-10 provides a comprehensive list of what the ACNC will maintain in its register. This listing could be improved by adding the purpose of the entity and address to provide more transparency to donors and volunteers so they can quickly determine the mission of an organisation and how to contact them.

Organisations must have a right to protect the privacy of their donors. Some donors may not wish to disclose donations in the interests of restricting publicity.

The ACNC Commissioner should have the power to exclude the provision of information in the public interest if there is risk of harm to individuals, risk of harm to the entity or risk of confusing or misleading the public. There may be other instances where the Commissioner determines that the publication of information is not in the best interests of the public or the organisations.

The online portal must have scope to grow, and meet accessibility requirements.

The superficial league table approach to producing information should be avoided. For instance, making comparisons on issues like fundraising costs could be misinterpreted. An organisation with a higher fundraising cost may be delivering a different service or benefit that attracts higher costs, may be establishing initial fundraising data bases and capacity, may be making a significant investment into program evaluation and effectiveness, or building staffing capacity or infrastructure support etc. The sector needs to be encouraged to invest in enhancing capacity and effectiveness, both of which often require diverting funds from direct service provision. The way information is presented should not disadvantage a not-for-profit that is seeking to ensure organisational capacity is maintained or enhanced rather than run down over time.

Recommendations

22. Organisations must have a right to protect the privacy of their donors.
23. The ACNC Commissioner should have the power to exclude the provision of information in the public interest if there is risk of harm to individuals, risk of harm to the entity or risk of confusing or misleading the public.
24. The on-line portal needs to be both accessible and able to provide information about the sector that is accurate, relevant, meaningful and responsive to community and not-for-profit expectations.

viii. Reporting processes

There must be a fundamental commitment in all reporting requirements to reduce red tape and compliance costs while seeking to streamline other reporting processes through consolidation.

Ideally the vast majority of not-for-profit reporting will be self-reporting consisting of straight forward compliance statements from a responsible person within the organisation against guidelines and principles. For instance, an organisation may be able to make a one sentence statement that they have noted and complied with the ACNC principles of good governance.

Many submissions to the definition of charity consultations identified the need for the statutory definition to recognise groups of entities that fall under the same trustee. Churches in particular will be adversely impacted by the inability of the Commissioner to determine reporting by groups of entities as long as they meet certain provisions. The UK, Northern Ireland and NZ legislation for their charity regulators all feature the ability for groups of related entities to be regulated as a group, if they meet the basic requirements as set out in their regulatory framework. Group accounts should also be considered for multiple entities where they all operate to the same purpose, principles and practices such as individual organisations within a larger national body such as Lifeline Australia. The legislation should not rely on a common law definition of 'entity', which is not modern or appropriate for NFPs and the way they work.

Recommendations

25. The goals of reducing not-for-profit red tape and compliance costs should be a key driver in determining reporting requirements.
26. The vast majority of not-for-profit reporting should be self-report consisting of brief compliance statements from a responsible person within the organisation against guidelines and principles.
27. The Commissioner should be given powers to determine how large organisations report for multiple entities including discretion to determine simplified reporting where appropriate and where group reporting meets regulatory requirements.

ix. Registration and transition

There is likely to be some apprehension about a shift to a new regulator amongst some not-for-profit organisations. There is also a need to consider the impact of the transition and ways to address any emerging issues. The goal of having States and Territories reduce their own reporting requirements by drawing on the ACNC registration and reporting framework should be advanced as a priority.

Recommendations

28. A step-by-step guide should be made available for all organisations transitioning to the new regulatory regime. A reasonable transition period should exist to test the impact of the ACNC on red tape reduction and better regulation.

29. The performance of the ACNC needs to be monitored against the goals of the National Compact, particularly in relation to red tape reduction and streamlined reporting.
30. Harmonisation of not-for-profit reporting requirements should be a priority in the ongoing development of the ACNC reporting framework.

x. Procedural fairness

As with all regulators, there is a need to ensure procedural fairness. CCA believe this includes issues such as: adequate notice periods; notice of intention to issue directions by the ACNC and opportunity for action by an entity within a reasonable period of time; information and reasons for decisions including a published report that includes any evidence given by the entity; and affected people having the opportunity to have their voices heard before a decision is made.

Recommendations

31. The ACNC must ensure there are clear provisions for procedural fairness in all ACNC actions.

What the ACNC will regulate

xi. Charitable status – purpose and activities

Determining the charitable status of a not-for-profit organisation should be clearly articulated in the legislation as a function of the ACNC. To this end, the ACNC will need to work with the emerging definition of charity legislation and with the not-for-profit sector.

Recommendations

32. The ACNC should determine the charitable status of not-for-profit organisations.

xii. Governance

The principles shaping the ACNC governance framework must be sensible and not be a one-size-fits-all approach. They also need to take account of the broad and often onerous range of governance requirements currently imposed on not-for-profit organisations. These include common law provisions, directors' responsibilities (e.g. Centro case), OHS legislation, other regulators, funders, and State governments.

It is also important to note that while there is some variance in practice across the sector, many sector organisations have undertaken extensive work to develop and implement best practice or 'model rules' on governance. CCA members can provide countless examples of how they implement best practice governance that well exceeds the type of requirements currently met in for-profit entities.

Contrary to the implications in some government publications, the community have much greater faith in the transparency, accountability and governance arrangements of not-for-profit organisations than they do in government departments or for-profit organisations.

The community are often directly involved in their not-for-profit organisations. This direct engagement is the strongest accountability and transparency practice in existence and should be actively encouraged, not discouraged through separate onerous reporting.

CCA members are comfortable with the principles-based approach as adopted by the Charities Commission in England and Wales. This framework should be supported by simple and useful education materials which are readily available, and the capacity of not-for-profit organisations to make brief statements of compliance against the principles.

The move to citizen-centric policy making, as supported and encouraged through the social inclusion agenda, should be recognized and supported by new governance frameworks, not impeded by them. The move to greater innovation in service delivery as well as blended financing and use of market mechanisms to deliver social outcomes should also not be impeded by any new governance frameworks.

Recommendations

33. The ACNC should establish a principles based governance compliance requirement that provides guidance rather than prescribing set governance arrangements (drawing on good practice in the United Kingdom and elsewhere).
34. The unique nature of not-for-profit governance and engagement with community should be enhanced by the ACNC governance principles.

xiii. Responsible person

It is important to ensure the requirements imposed on a responsible person are appropriate and not burdensome, and recognise the way most not-for-profit organisations operate and engage with their community.

The notion of who is a responsible person and who is involved in the decision-making process should not impact on all the people involved in decision-making. The responsible person role should be limited to those who are directors or equivalent of registered entities.

The suspension or removal of a 'responsible person' can have a significant impact on the reputation of an entity. It is important the legislation includes provisions that give opportunity for persons who have been given notice by the Commission to be heard and to give evidence to the Commission. Sufficient public notice should also be given e.g. a month if a decision is taken to remove or discharge a trustee.

Recommendations

35. The obligations of the responsible person within a not-for-profit should be appropriate to their role within the organisation and be limited to those acting as directors or equivalent.

xiv. Scope of regulatory powers

CCA is concerned that there are clauses in the draft legislation that provide grounds for 'revoking a registration' (clause 10-55 (1) (e)) if an entity 'may cause harm to, or jeopardise, the public trust and confidence mentioned' in the object of the Act. This appears to be too low a threshold for regulatory responses and action that may lead to the de-registration of charities. It is preferable that the clause identifies the level of inappropriate activity or misconduct that may trigger such extreme action by ACNC. Some of the factors that may need to be referred to or taken into account include repeated non-compliance, insolvency, repeated false or misleading information, and ceasing to exist.

The proposed regulator could also have the legal power to deregister entities for minor breaches of the Act or directions given by the regulator under Division 140. Again, significant failure and ongoing misdemeanours should be grounds for action to deregister by the regulator, not one-off breaches of the Act. Even if this is not the intention of the legislation, it is starting with a low threshold and giving the regulator very broad powers.

Deregistration of organisations which become insolvent also has the potential to put charitable assets at risk. The focus should be on enabling the appointment of administrators in the case of insolvency, and not automatic deregistration which puts the work and assets of charities at risk.

Recommendations

36. The capacity to revoke the registration of a not-for-profit needs to be framed by a commitment to procedural fairness, appropriate scaling of sanctions, and transparency of de-registration requirements.

xv. Risk management and insurance

The issue of appropriate risk management and insurance should not be a separate requirement. Good governance principles may include guidelines about ensuring the management of larger not-for-profit organisations take account of such factors in governance and management decisions. There should be no prescribed level of insurance and no requirement for the development of risk analysis implementation plans. Most not-for-profit organisations already have to manage both risk and insurance and the ways they approach these requirements varies considerably according to the organisation, its purpose and activities.

Recommendations

37. Risk management and insurance may be alluded to in the ACNC governance principles but should not be a separate requirement.

xvi. Financial transparency

The focus of the regulator's function should be to protect the assets of charities, to ensure the assets are used to meet the charity's purpose, to protect the interests of members and those who are the beneficiaries of charity's activities, and provide a level of transparency about the financial operations of larger not-for-profit organisations.

Wherever possible the use of one audited report should satisfy financial reporting requirements, particularly for larger not-for-profit organisations. Similarly this audited report should form the basis of public reporting and multiple reporting to other government agencies.

The regulator should not have broad powers to impose their own view on how an organisation should allocate funding or pursue its purpose. There is no equivalent provision in the Corporations Act. There should also be respect of the principles of network governance that enable charities to enter unique relationships with business and other partners to achieve social impacts.

Recommendations

38. Financial reporting should be based on the current procedures within not-for-profit organisations.
39. For larger organisations, one annual financial report should meet all the ACNC requirements.
40. Any requirements to report on fundraising or commercial activities should be incorporated into the one financial report.

xvii. Duplication of reporting

It is fundamental to the enhancement of the role and function of not-for-profit organisations that duplication of reporting be eliminated wherever possible. This will require considerable work with State and Territory authorities as well as working across the Federal government. The goal of the ACNC will only be achieved when reporting requirements on all not-for-profit organisations are actually reduced.

Recommendations

41. The ACNC must work to reduce duplication of not-for-profit reporting requirements across State and Territory governments, and across all Federal government departments. This includes duplication of reporting to the ACNC and the ATO which should be eliminated as a priority first step.

Conclusion

The establishment of the ACNC is a wonderful opportunity for the not-for-profit sector and the broader community to benefit from a dedicated independent regulator committed to enhancing the role of not-for-profit organisations in our communities.

The recommendations in this submission provide a platform for ensuring this opportunity is realised.

CCA will assess the proposed ACNC establishing legislation against each of the recommendations outlined in this submission with a view to seeking further amendment either prior to or as part of the process of passing the legislation through the Federal Parliament.

Current Membership – Community Council for Australia (December 2011)

1. Aboriginal Employment Strategy Ltd. – Danny Lester
2. Alcohol and other Drugs Council of Australia – David Templeman
3. Alcohol Tobacco and Other Drugs Association ACT – Carrie Fowlie
4. Associations Forum Pty. Ltd – John Peacock
5. Australian Indigenous Leadership Centre – Rachele Towart
6. Australian Institute of Superannuation Trustees – Fiona Reynolds
7. Australian Major Performing Arts Group – Susan Donnelly (Director)
8. Church Communities Australia – Chris Voll
9. Connecting Up Australia – Doug Jacquier
10. Consumers Health Forum of Australia – Carol Bennett
11. Fundraising Institute of Australia – Rob Edwards
12. Good Start Childcare – Julia Davison
13. Good Beginnings Australia – Jayne Meyer Tucker (Director)
14. HammondCare – Stephen Judd (Director)
15. HETA Incorporated – Sue Lea
16. Hillsong Church – George Aghajanian
17. Illawara Retirement Trust – Nieves Murray
18. Lifeline Australia – Dr Maggie Jamieson
19. Maroba Lodge Ltd. – Viv Allanson
20. Mental Health Council of Australia – Frank Quinlan
21. Mission Australia – Toby Hall (Director)
22. Musica Viva Australia – Mary Jo Capps (Director)
23. Opportunity International Australia – Rob Dunn
24. Philanthropy Australia – Deborah Seifert
25. Principals Australia – Liz Furler
26. RSPCA Australia – Heather Neil (Director)
27. St John Ambulance Australia – Peter Lecornu
28. Social Ventures Australia – Michael Traill
29. Surf Life Saving Australia – Brett Williamson (Director)
30. The ANZCA Foundation – Ian Higgins
31. The Benevolent Society – Richard Spencer (Retiring Director)
32. The Big Issue – Steven Persson (Director)
33. The Centre for Social Impact – Peter Shergold
34. The Smith Family – Lisa O'Brien (Director)
35. The Ted Noffs Foundation – Wesley Noffs
36. Volunteering Australia Inc. – Cary Pedicini
37. Wesley Mission – Keith Garner (Director)
38. WorkVentures Ltd. – Arsenio Alegre
39. World Vision Australia – Tim Costello (Chair)
40. YMCA Australia – Ron Mell
41. Youth Off The Streets – Fr Chris Riley