

**John Church**  
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ACNCReview@treasury.gov.au

Dear Review Members ,

I welcome this opportunity to make a submission as one who has had an interest in this matter since 2009 and originally in the Charities Definition Inquiry in 2001.

I think some comment should be made on the efficiency of the ACNC. This is an organisation commenced operation some 5 years ago. And we now have a single spot where the public can access information about all charities whereas before this information was unavailable to members of the public and clearly there was no policing of charities carried out on a regular basis by the ATO.

I would submit that the ACNC is currently efficient organisation in dealing with public and that any changes you recommend do not make become inefficient.

Your review is to examine what has happened and address some shortcomings .

## **1 . Accounting issues**

- a) The AASB has only now after 9 years admitted that charities are a class that they should address and the inconsistent rules they now apply. *The AASB has a principle Conceptual Framework for Financial Reporting*

*“Financial reports are prepared for users who have a reasonable*

*knowledge of business and economic activities and who review and analyse the information diligently. At times, even well-informed and diligent users may need to seek the aid of an adviser to understand information about complex economic phenomena”*

This principle is clearly contrary to the concept of simplicity and clarity which at least 5 million donors who may wish to look and understand the accounts presented. It would be totally contrary to the concept of the ACNC to allow a confusing and ambiguous set of accounting rules. I would urge the Review to direct that the accounting rules be designed to provide simplicity, consistency and clarity.

b)

I attach copies of my correspondence with the AASB on the question of Charities which clearly reveal that their interest in the review is very late. In fact the last advice to me was the Board has not made up its mind whether to lodge a submission. The correspondence is at the end of this letter .

c)

Interesting to note the attached extract article from Emeritus Professor Myles McGregor-Lowndes which illustrates the unsatisfactory state of accounting standards as they apply to charities .

*“the government currently mandates generic accounting standards through the AASB that are not fit for charity transparency purposes.*

*They do not provide what many users (including donors) want -a template to benchmark or compare financial accounts -let alone efficiency or even effectiveness .*

*To illustrate the point, I recently provided three sets of AASB compliant accounts to a meeting of seasoned sector donors,*

*decades long professionals who chair charity boards, award winning regulators and experienced government funders. Unbeknownst to the small groups looking at them, everybody had the same underlying transactions -just classified differently as allowed by the vanilla AASB standards. Yet when asked to investigate their charity's administration and fundraising costs each deeply experienced -arrived at wildly different answers. The penny fell with a thud to the floor when the identical base transactions were revealed to all. Under current AASB standards it is not a case of "can you do the accounts" but "what would you like the accounts to be ? Transparency of financial accounts is of limited value if you are comparing apples, oranges and lemons dressed up as mangoes. It does not matter how deep you drill with a hipster uberised Internet app. We have 5 years of mixed quality and different accounting treatments that no amount of visual graphing ,cleansing or cooking the books is going to provide donors or anyone else with any significant clarification about an individual charity's performance against others*

This should be a clear recommendation from your committee that the AASB be directed to produce a fit for purpose not-for-profit accounting standards such as the UK's Standard of recommended practice (SORP) or Singapore ,Canada or New Zealand's specific accounting standards to give charities an important tool for transparency .

d)

I have attended several sessions conducted by the AASB and have noted here have been no representatives of the 5 million donors in attendance .

e)

Another issue I have become aware of is that the current accounting standards do not require full disclosure of related party transactions

e.g if an auditor carries out other work for the charity the auditor is not required to disclose this information in the accounts. This suggests that there should be a tightening of related party definition to ensure all parties that do such work for the charity be disclosed.

f)

I believe it is essential that a clear set of accounting standards be established for the benefit of all persons who may access them not merely a person who needs to consult others.

### **Comments on the current legislation**

a)

Governance of responsible persons it is bad and clumsy practice to refer to another Act to define this.

b)

That the secrecy provisions are overly restrictive and does not permit the publication of reasons on registration or revocation of a charity's registration. This inability leads to an unreasonable fear and knowledge of the ACNC.

c)

The concept of relying on turning on and off provisions of the Corporations Act is messy and not helpful to the user. The provisions should be contained the ACNC legislation for simplicity and clarity .

So often it is forgotten that there are some 5 million donors to charities and having the public having to search multiple places does not make for openness, simplicity and clarity.

d)

I am not aware in detail but I understand that certain organisations have a very different accountability and reporting requirements to government and that those reports should be permitted as complying with the ACNC reporting requirements.

## **General Comments**

The failure of NSW ,Victorian and Queensland Governments to participate in reducing the Red Tape and Regulatory framework and co-operating with the ACNC is worthy of public comment of 5 years of refusing to address the ACNC .

### **Brief comments on your particular questions.**

1. Yes . There does not seem to be any reason for additional matters.
2. Fundraising inconsistencies throughout out Australia. It should be recommended to the States to develop a working regulatory framework for a single body. It should be achievable within 2 years.
3. No. I note that there is a total lack of clarity of a definition other classes of not-for-profits e.g co-operatives ,mutuals ,unions business associations etc
4. Inappropriate governance and fundraising activities which are not in keeping with current attitudes.
5. I think so provided that there is a clear simple accounting issue that can be readily understood.
6. The ACNC has definitely reduced the risks of misconduct prior to this there was only garbled headline reporting in the press. The issue that needs to be addressed is the limited response by the State Attorneys General for acting on matters referred from the ACNC.

7. Unfortunately your question emphasises a problem that it is just bad the people who control them and not the charity itself . It seems that the process for protecting Charity assets when its status is revoked is rather muddled and needs to be clarified. Announcements of an investigation could easily destroy a charity when the investigation proves fruitless. However when the decision is reached reasons/restrictions should be published .
8. The answer is yes but more could be done by States and Federal Government agencies to adopt the Charity Passport
9. In general the ACNC has performed better than most expected and has become respected body that has developed considerable credibility in dealing with Charities.

Yours Faithfully

A handwritten signature in black ink that reads "John Church". The signature is written in a cursive, slightly slanted style.

John Church

27<sup>th</sup> February 2018

Attached correspondence is on the next 5 pages .

Ms.Kris Peach  
Chair  
AustralianAccounting Standards Board  
PO Box204  
Collins St West  
Victoria 8007.

Dear Ms Peach,

I refer in particular to your words to me on 11<sup>th</sup> November 2015 and on an earlier occasion on 26<sup>th</sup> June 2015.

The words were to the effect you were not prepared to answer the question I asked. Why has the Board refused to answer the question I put to it in 2009.

“That the Board consider a separate standard for charities”.

The only response I have ever received is “We have addressed your issues” yet nowhere has the AASB been able to advise me of when and where.

I note that the UK produced a separate SORP in 2005. Even in 1995 the Industry Commission recommended

*Rec 24 (8.1)* .The Commonwealth government should provide funds to the AASB and Public Sector Accounting Standards Boards to develop- within 2 years suitable accounting standards for Community Social Welfare Organisations.

It appears that the Board has completely ignored this suggestion. Is there any reason not to consider the Industry Commission recommendation?

The indication given to me by the 2 members of the Board in 2009 was that it would be considered. I note you were a member of the AASB from 2004 -2012 during the period my question was or should have been put to the Board for its consideration.

I had hoped you would voluntarily advise me of the reason and when the Board considered the question and the reasons behind the decision.

I think I have been reasonable in waiting over 6 years to obtain an answer from the Board.

Kindly acknowledge receipt of this letter.

Yours Faithfully,

John Church  
5<sup>th</sup> January,2015

14 January 2016

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John Church

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Dear Mr Church

Thank you for your letter dated 5 January.

The AASB's general approach to setting standards is to address types of transactions and events, rather than the accounting by particular types of entities. The AASB periodically reviews its approach to setting standards in light of current needs and, consistent with most international practice, has so far concluded that the transactions and events approach generally suits most stakeholder needs.

The AASB understands that there is periodically support among some stakeholders for separate 'industry' standards and, in the past, the AASB has set standards for particular entity types such as local governments, government

departments and insurers. The trend has been away from industry standards because most Australian stakeholders have concluded that transactions and other events with a common basis in economics are best addressed in standards applicable to reporting entities generally. Support for that approach was evident in the responses received on consultative documents<sup>1</sup> that led to the withdrawal of industry specific standards.

<sup>1</sup> Exposure Draft ED 122 *Request for Comment on IASB ED 5 Insurance Contracts* issued in August 2003; and Exposure Draft ED 156 *Proposals Arising from the Short-term Review of the Requirements in AAS 27, AAS 29 and AAS 31*, which was issued in June 2007

Certain types of transactions and events have a particular significance for not-for-profit entities, including charities, and the AASB addresses those issues from an entity perspective. For example, the AASB is developing improved requirements in its Income of Not-for-Profit Entities project.

The AASB is keen to meet the ongoing need for high-quality accounting standards for application by not-for-profit entities and, at this stage, considers that this need is best met through standards dealing with particular types of transactions and events.

You may be aware that we have a post implementation review of IFRS adoption underway and part of this will consider the application of IFRS to not for profit entities. We also have a framework project looking at assisting regulators with determining who should be reporting and what form their financial reporting should take. One option that is being explored is the need for a third tier of accounting. We are consulting closely with the ACNC and may give consideration to the need for more specific charity guidance. I would welcome your input to these projects. I also note that the AASB's Invitation to Comment ITC 34 *Agenda Consultation 2017-2019*, which focuses on the AASB's domestic work program, is open for comment until 4 March 2016. I would encourage you to make a submission.

Yours sincerely

Kris Peach

AASB Chair & CEO

Ms.Kris Peach  
Chair  
Australian Accounting Standards Board  
PO Box204  
Collins St West  
Victoria 8007.

Dear Ms Peach,

Thank you for the acknowledgement of my letter.

I must admit it disappointed me in that you refused to answer my questions and merely ignored them.

It raises in my view the credibility of the Board which I do not believe was your intent. My understanding now is:

1. Oral comments of Board Members are not to be relied on.
2. It is clear that the Board never considered my request. It would have been more honest to say so than it had not.
3. I note that the Board is out of step and acting in a completely different manner to the United Kingdom, Scotland and Singapore , perhaps you can explain why?
4. You say you are closely consulting with the ACNC something that its representative questioned on the 11<sup>th</sup> November 2015. Has this process improved since then?

As my comments raise questions of the Board I would be pleased if you would place this letter,my letter of the 5<sup>th</sup> January and your reply of the 14<sup>th</sup> January before the Board at its next meeting on the 23<sup>rd</sup> February 2016.Please advise that you will carry out this request.

Yours Faithfully,

John Church  
28<sup>th</sup> January , 2016

