

21 September, 2018

Individuals and Indirect Tax Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

[ExternalConductStandards@treasury.gov.au](mailto:ExternalConductStandards@treasury.gov.au)

To whom it may concern

**Re: External conduct standards for charities registered with the  
Australian Charities and Not-for-profits Commission**

I write to provide feedback to the Exposure Draft of the proposed *Australian Charities and Not-for-profits Commission Amendment Regulations (No. 2) 2018*.

Universities Australia (UA) is the peak body for Australia's 39 comprehensive universities. Our members are all registered as charitable entities with the ACNC, and welcome the organisation's support of the not-for-profit sector.

Universities directly contributed \$25b to Australia's GDP in 2013, and employ over 120,000 full-time staff. Universities educate 1.3m students each year, and support Australia's \$30.9b international education sector. Research undertaken in universities has added \$10b to Australia's GDP each year for the last thirty years.

Of UA's 39 members, 9 have international campuses. All of our members undertake research collaborations with individuals or organisations based overseas. Many of our members participate in programs such as the New Colombo Plan, or partner with other education institutions to offer international study as part of their degrees.

While UA supports the intention of the new regulations, we have serious concerns about the sheer volume of reporting required for each of our members and, indeed, the workload that will be imposed on the ACNC to monitor the reports received.

For example, there are now more than 9,170 global agreements between Australian universities and their global counterparts, enabling research collaborations and the exchange of students and staff. Under the proposed regulations, it appears that each university will need to report on their specific agreements annually.

Given the ACNC's position on reducing red tape for registered entities, UA believes the regulations will need to be reviewed to reduce potential unintended consequences, and proposes the following options:

1. Allowing the ACNC to draw on its existing MoU with the Tertiary Education Quality and Standards Agency (TEQSA) to share information about its regulation of Australian universities. TEQSA is responsible for regulating the quality and standards of courses offered at international campuses of Australian universities and Australian campuses of international universities. Utilising the existing terms of the MoU (with amendments if required) would significantly reduce the burden on both universities and the ACNC.
2. Relying on other existing regulatory requirements in place for universities. These include, but are not limited to:
  - 2.1 The financial reporting obligations in universities' establishing Acts, which require annual reports to be submitted to the relevant state Auditor-General for tabling in Parliament;
  - 2.2 The *Defence Trade Controls Act 2012*, which controls the transfer of defence and strategic goods technologies and applies to international research collaborations in these fields;
  - 2.3 The *Education Services for Overseas Students Act 2000 (ESOS Act)* and its associated Acts sets out the legal framework governing delivery of education to international students in Australia on a student visa; and
  - 2.4 The Australian Code for the Responsible Conduct of Research guides responsible research practices and research integrity, and assists institutions in developing employee codes of conduct and procedures for the investigation of allegations of research misconduct. It was developed by the National Health and Medical Research Council (NHMRC), the Australian Research Council (ARC) and UA, and adherence to the Code is a prerequisite for NHMRC and ARC research funding.

It is also important to note that universities are considered to be 'low risk' for the purposes of the *Tuition Protection Service* established under the *Education Services for Overseas Students Act 2000*.

UA suggests Treasury and the ACNC consider that accepting compliance with existing legislation and regulations as compliance with the proposed regulations would significantly reduce the potential regulatory burden on both universities and the ACNC.

3. Inserting a clear definition of 'international operations' or 'activities outside Australia' to capture the types of activities the ACNC wishes to examine would reduce potential unintended consequences. Treasury and the ACNC would be best placed to determine this definition, but its inclusion would ensure the regulations are appropriately targeted and do not inadvertently create undue burden on the regulator and the sector.

We would be pleased to provide further information on the above proposals if required. We thank you for the opportunity to give feedback on the proposed regulations, and look forward to discussing them with you further.

Yours sincerely,



Catriona Jackson  
Chief Executive