

15 March 2018

Review Panel  
Review of Australian Charities and Not-for-profits Commission (ACNC) legislation  
c/o Principal Adviser, Individuals and Indirect Tax Division  
The Treasury  
Langton Crescent  
Parkes ACT 2600  
By email: [acncsecretariat@acnclegislationreview.com.au](mailto:acncsecretariat@acnclegislationreview.com.au)  
cc: Review Panel Secretariat, [anna.eraclides@pwc.com](mailto:anna.eraclides@pwc.com)

Dear Review Panel,

**Re: Follow up comments following VCOSS attendance at ACNC Roundtable 8<sup>th</sup> March 2018**

Following the roundtable in Melbourne attended by Mary Sayers, VCOSS Deputy CEO, VCOSS are writing to add comments relating to the regulation of Australian charities. We also endorse the follow up letter provided to the Review panel by Tessa Boyd-Caine, CEO, Health Justice Australia.

There have been submissions to this Review seeking for exemptions for small and very small charities (less than \$50,000 revenue per annum) from the ACNC's reporting and regulatory functions. VCOSS does not consider that the ACNC's reporting requirement for very small charities to be burdensome. Importantly, in reviewing the 2016 Annual Information Statement data, many small charities with less than \$50,000 income do receive government funding, and sometimes this constitutes their total revenue. Small charities should be just as accountable as large charities, and given the regulatory burden is extremely small we recommend no exemptions be made for small charities. As noted by Tessa Boyd-Caine in her letter, "in a period of heightened concern about the good governance of charities, reflected both in declining institutional trust; and in specific processes such as the Royal Commission into Institutionalised Sexual Abuse. We should be strengthening and safeguarding the mechanisms of transparency and accountability across the sector, including through the ACNC; not eroding them by exempting more charities from them."

VCOSS is also aware that small charities have been a significant part of the investigatory and regulatory work of the ACNC. VCOSS believes that the regulatory requirements are fit for purpose and should be maintained at the current level.

A better way to reduce the regulatory burden on small and very small charities would be extensive use of the charity passport. Many small charities are incorporated associations under state or territory legislation. In Victoria and most other states, incorporated associations are rarely required to report annually to a state regulator. The removal of this requirement would better reduce the burden on small charities than exempting them from the reporting to the ACNC.

Streamlining fundraising regulations would further the regulatory burden on charities, large and small. The South Australian Government has removed its fundraising license requirements for registered charities. The ACNC should encourage this approach in other jurisdictions. Further VCOSS believes the Australian Consumer Law is a better mechanism to regulate

fundraising, rather than the ACNC. It has been used to prosecute misleading and deceptive conduct by fraudulent charity fundraisers.

We reiterate that the objects of the ACNC Act should not be changed. There is no evidence to support the proposal by the ACNC to add two new objects to the Act. As outlined at the roundtable, measuring outcomes across charities is not possible because there is no agreement on what 'effective' means nor how it would be measured. Explorations of contemporary research and practice highlight not just a diversity of approaches but rather very disparate responses that reflect fundamentally different and potentially contradictory elements<sup>1</sup>. Charities also already provide extensive accountability reporting to funding bodies such as government and philanthropic bodies. They are also subject to intensive and duplicitous accreditation which is often creating substantial red tape for charities. Further, VCOSS is concerned that giving oversight of the effective use of resources by charities to the ACNC would detract from its other regulatory functions.

Finally, VCOSS believes that the independence of the charities and not-for-profits from government is vital in a democratic country. Charities and not-for-profit organisations must have the right to give voice to those facing poverty and disadvantage to inform government policy, programs and legislation. Charities work closely with their communities and work with people from diverse backgrounds to advocate against individual, systemic and structural inequality. Charities do not undertake such advocacy lightly but do so to ensure government is acting in the best interests of people facing vulnerability and disadvantage. The right to speak out must be protected.

Yours sincerely

  
Emma King  
**Chief Executive Officer**

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<sup>1</sup> Future Social Services Institute, Community services of the future: An evidence review, January 2018