



Australian Government

GOVERNMENT RESPONSE TO THE AUSTRALIAN CHARITIES AND NOT-FOR-PROFITS COMMISSION LEGISLATION REVIEW 2018

6 March 2020



Australian Government

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Foreword

I am pleased to release the Australian Government response to the Australian Charities and Not-for-profits Commission (ACNC) Legislation Review 2018.

Our response forms part of the Government's wider commitment to guarantee the essential services Australians rely on. Indeed, I am confident our approach will deliver tangible benefits to the more than 57,000 registered charities in Australia, the ACNC, and the wider community.

The panel received more than 170 submissions and met with 215 stakeholders to gauge the effectiveness of the ACNC as the primary regulator of charities in Australia. The Government welcomes the panel's finding that there is strong support for the ACNC within the sector, and that the legislation underpinning the ACNC has been functioning as intended. However, the panel identified some areas for improvement proposing 30 recommendations.

Since the Government tabled the panel's report in Parliament in August 2018, I have consulted extensively with the charity sector, the community, and with state and territory ministers to understand their views on the panel's recommendations.

I believe our response to the recommendations will result in a better balance between reducing red tape for charities so they can focus their resources on supporting their communities, while ensuring the generous Australians who give their time and money to various causes can have trust and confidence in the governance of the charities they support.

Yet I note some of the recommendations require more time and consultation to yield meaningful

reform. This includes working towards the harmonisation of regulatory requirements across all jurisdictions.

Finally, we have been reminded over the summer once again of the vital role that our charities play during natural disasters and states of emergency. Charities have stepped up and have mobilised support services to help tens of thousands of people right across our country. I note that this Government response relates solely to the report undertaken in 2018 into the ACNC and is aimed at our charities sector more broadly, and it not a reflection on recent events.

I would like to acknowledge the review panel — Mr Patrick McClure AO (chair), Mr Greg Hammond OAM, Ms Su McCluskey and Dr Matthew Turnour — for their outstanding work and thank everyone who made submissions. The Government is taking clear and decisive action thanks to the panel's thorough review and comprehensive report.

A vibrant charities sector is important to all Australians, and as evident in this response, the Government will continue to strongly support it.

Senator the Hon Zed Seselja

Assistant Minister for Finance, Charities and Electoral Matters

Overview

The Government response

The Australian Government is committed to a regulatory regime for charities that fosters a vibrant and innovative sector. We support a steadfast, independent and effective regulator. Our response also aims to ensure the sector meets community expectations when it comes to transparency, accountability and good governance.

Reducing red tape

Ensuring charities face minimal red tape — freeing them to focus on serving the community — remains a priority for the Government. Although charities will always have to provide information and work with their regulator, the Government supports opportunities to reduce the complexity of requirements and inefficiencies for charities when engaging with the ACNC and other government agencies.

Strengthening trust

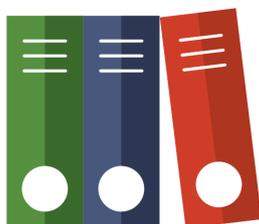
Strengthening trust and confidence in the charities sector is critical not only to its success, but its very existence. While the incidence of misconduct and misappropriation is very limited, it has the potential to undermine the commendable work of the sector. Measures to enhance transparency, clarify permissible advocacy and share information with the public go a long way towards strengthening the trust and confidence the sector needs.

Supporting an effective regulator

The ACNC has been a reliable steward of the charities sector and, in the more than seven years it has been operating, it has become a highly regarded institution. As the independent national regulator of more than 57,000 charities, the ACNC has a responsibility to ensure optimal organisational and governance structures are in place. This will ensure it remains the effective and respected regulator for the charities sector.



Key responses



SUPPORTING AN EFFECTIVE REGULATOR

- Enabling swifter decision making through expanded delegation powers
- Enhancing ACNC powers to detect breaches of governance standards and deal with misconduct
- Prioritising education and research



REDUCING RED TAPE

- Adjusting the reporting thresholds for registered charities
- Streamlining and harmonising the regulatory requirements across all jurisdictions
- Simplifying reporting requirements for small entities
- Sharing data on charities between Commonwealth agencies



STRENGTHENING TRUST

- Mandating the disclosure of related party transactions and, for large charities, aggregated remuneration paid to responsible persons
- Sharing information on ACNC investigations, when in the public interest
- Disqualifying responsible persons who have certain criminal convictions

Government response

Government response to the recommendations in the Australian Charities and Not-for-profits Commission Legislation Review 2018

Recommendation	Government response
<i>Part A – Objects, Functions and Powers</i>	
<p>1. The objects in the <i>Australian Charities and Not-for-profits Commission Act 2012 (Cth)</i> (ACNC Act) should not be changed.</p> <p>The panel found no evidence the current objects are ineffective or deficient and concluded that no additions to the current ACNC objects are warranted.</p>	<p>The Government supports the recommendation.</p> <p>No change to the current objects of the ACNC is necessary as the objects remain relevant and contemporary.</p>
<p>2. The ACNC Act should be amended to include functions and duties that align with the objects.</p> <p>The panel recommended that the ACNC Act be amended so it conforms to the legislative model adopted in the UK where the functions and duties of the regulator correspond directly with the objects.</p>	<p>The Government does not support the recommendation.</p> <p>The Government does not consider these amendments will enhance the ACNC’s effectiveness as a regulator.</p>

Recommendation	Government response
<p data-bbox="199 300 875 408">3. The ACNC should continue to prioritise its education and research functions, including the use of behavioural insights and incentives.</p> <p data-bbox="199 448 875 584">The panel found the ACNC’s focus on research, guidance and education has been effective as a form of ‘behavioural nudging’ to the charity sector. The panel believes this focus should continue.</p>	<p data-bbox="909 300 1496 328">The Government supports the recommendation.</p> <p data-bbox="909 368 1778 397">The ACNC will continue to put a strong focus on education and research.</p>
<p data-bbox="199 643 869 715">4. The ACNC Act should be amended to replace the term ‘responsible entity’ with ‘responsible person’.</p> <p data-bbox="199 754 889 962">The term ‘responsible person’ is used by the ACNC in its guidance material to describe those responsible for governance of charities. The term used in the ACNC Act is ‘responsible entity’. The panel found the misalignment between the ACNC Act and the ACNC guidance material could create confusion.</p>	<p data-bbox="909 643 1594 671">The Government does not support the recommendation.</p> <p data-bbox="909 711 2056 812">The amendment would create a new opportunity for legal uncertainty because the definition of ‘responsible person’ in the ACNC Act would be different to the meaning of the term used in tax law.</p>

Recommendation	Government response
<p data-bbox="199 300 824 368">5. The powers of the Commissioner to replace a responsible person should be removed.</p> <p data-bbox="199 408 873 512">The panel found the ACNC Commissioner’s powers in relation to responsible persons are broad and subject to less scrutiny than comparable regulators.</p>	<p data-bbox="909 300 1995 363">The Government does not support the removal of the Commissioner’s power to remove or replace a responsible person.</p> <p data-bbox="909 403 2051 467">This power is important as it allows the ACNC Commissioner to act quickly and may prevent the misuse of charitable assets.</p> <p data-bbox="909 507 1973 571">However, the Government will mandate additional criteria that the Commissioner will be required to consider when making a decision to remove or replace a responsible person.</p> <p data-bbox="909 611 2074 715">The Government will also broaden the power of appeal to allow both the ACNC registered charity and the responsible person the right to appeal a decision relating to a Commissioner’s decision to remove or replace a responsible person.</p> <p data-bbox="909 754 2040 818">The additional safeguards and appeal rights will enhance the protections for those responsible persons affected by a decision of the ACNC Commissioner.</p> <p data-bbox="909 858 1603 882">The Government will consult on the detail of the changes.</p>
<p data-bbox="199 943 842 1094">6. An Executive Committee comprising the Commissioner and the Assistant Commissioners should be established, and be responsible for the strategic direction and performance of the ACNC.</p> <p data-bbox="199 1134 824 1238">The panel found the ACNC should have an Executive Committee structure similar to other comparable statutory organisations.</p>	<p data-bbox="909 943 2063 1046">The Government agrees it is good practice for a regulator to establish an executive committee to manage the strategic direction and performance of the organisation, and notes that the ACNC has an Executive Committee.</p>

Recommendation	Government response
<p data-bbox="188 300 898 411">7. The ACNC Act should be amended to give the Commissioner broader powers to delegate functions or powers to staff.</p> <p data-bbox="188 448 898 552">The panel found the expansion of the ACNC Commissioner’s delegation powers would facilitate more efficient decision making.</p>	<p data-bbox="898 300 2085 403">The Government supports the recommendation to allow the Commissioner to delegate functions or powers to staff if satisfied the person performing the delegated functions has an appropriate level of expertise.</p> <p data-bbox="898 440 2085 504">The change will enhance the efficiency and quality of the ACNC’s administrative decision-making process.</p> <p data-bbox="898 544 2085 576">The Government will implement this recommendation by changes to legislation.</p>
<p data-bbox="188 632 898 775">8. The [ACNC] Advisory Board should be empowered to provide advice to the Minister or the Commissioner on its own initiative, and engage directly with the sector.</p> <p data-bbox="188 815 898 879">The panel found the Advisory Board could play a greater role, given its expertise.</p>	<p data-bbox="898 632 2085 695">The Government supports the Advisory Board proactively reviewing issues of importance to the sector and providing advice to the Commissioner.</p> <p data-bbox="898 735 2085 767">There is no legal barrier to the Advisory Board meeting with the Minister.</p>

Recommendation	Government response
Part B – Regulatory Framework	
<p>9. ACNC governance standard 3 should be repealed and ACNC governance standard 5 should be amended to remove the word ‘perceived’ with a view to consistency with the <i>Corporations Act 2001</i> (Cth).</p> <p>The panel found governance standard 3, stipulating that a charity must not commit a serious offence under Australian laws, is not appropriate for the ACNC to enforce. The panel also found that the concept of ‘perceived conflicts’ in governance standard 5 is not clearly defined in law.</p>	<p>The Government does not support the recommendation.</p> <p>The Government supports the ACNC having the power to take action to deregister an entity where serious offences have been committed and therefore supports the retention of governance standard 3.</p> <p>The Government considers the requirement for registered entities to disclose perceived conflicts of interest enhances transparency and mitigates the risk of poor behaviour. For these reasons, the Government does not support removing the word ‘perceived’ from governance standard 5.</p>
<p>10. A registered entity should be presumed to comply with the ACNC governance standards if it already complies with other comparable governance requirements.</p> <p>The panel found a registered entity should be presumed compliant with ACNC governance standards if it self-assesses that it has complied with comparable governance requirements and makes a declaration to that effect in the Annual Information Statement.</p>	<p>The Government supports the ACNC’s existing approach of reducing regulatory burden for the charity sector by publishing information on whether particular codes of conduct, as enforced by peak bodies, are consistent with the ACNC governance standards.</p> <p>The ACNC will retain the capacity to monitor and assess an entity’s compliance with the ACNC’s governance standards and retain the power to deregister a charity if it is found non-compliant with the governance standards.</p>

Recommendation	Government response
<p data-bbox="197 300 801 411">11. The <i>Corporations Act 2001</i> (Cth) should be amended to ‘turn on’ the duties and other provisions previously ‘turned off’.</p> <p data-bbox="197 451 873 622">The panel found an amendment to the Corporations Act would reduce the ambiguity about whether directors’ duties for charitable companies applied and strengthen the rights of members to take action against directors in the case of a breach of duties.</p>	<p data-bbox="913 300 1456 327">The Government notes the recommendation.</p> <p data-bbox="913 367 2049 470">The Government will release a consultation paper seeking the views of the sector on the merits and risks of “turning on” the directors’ duties under the Corporations Act for charitable companies.</p>
<p data-bbox="197 681 884 906">12. Registered entities should be required to report based on size, determined on rolling three-year revenue, with thresholds of less than \$1 million for a small entity, from \$1 million to less than \$5 million for a medium entity, and \$5 million or more for a large entity.</p> <p data-bbox="197 946 862 1117">The panel found that current revenue thresholds for determining minimum reporting requirements are too low. Adjusting the thresholds, so fewer charities are required to provide financial reports, would reduce the compliance burden of registered entities.</p>	<p data-bbox="913 681 2049 742">The Government supports the recommendation, balancing red tape reduction for charities with transparency.</p> <p data-bbox="913 782 2049 885">To avoid unintended consequences for charities, the Government is consulting with states and territories on the appropriate level of revenue thresholds for minimum reporting requirements, before proceeding with legislative change.</p>

Recommendation	Government response
<p data-bbox="199 300 887 485">13. Minimum reporting requirements for small registered entities should be amended to allow in an Annual Information Statement an option to provide a simplified balance sheet or a statement of resources.</p> <p data-bbox="199 528 875 842">The panel found the ACNC balance sheet reporting requirement in the Annual Information Statement to be inconsistent with the option for small registered entities to report using cash accounting. The panel’s proposed statement of resources would require a description of the assets used by the small registered entity to be provided in the Annual Information Statement. Asset valuations would only be required if practicable to obtain.</p>	<p data-bbox="909 300 1491 325">The Government supports the recommendation.</p> <p data-bbox="909 368 2069 432">Over 18,000 charities which currently use cash accounting will now have the flexibility to provide a statement of resources to the ACNC. This will reduce regulatory burden for small charities.</p> <p data-bbox="909 475 1984 539">The ACNC will make changes to the Annual Information Statement requirements for small charities.</p>
<p data-bbox="199 954 781 1023">14. Registered entities should be required to disclose related party transactions.</p> <p data-bbox="199 1066 882 1342">The panel found that charities should disclose related party transactions as part of their financial disclosures. Related parties include persons or organisations that are connected to the charity, such as family members of responsible persons or subsidiaries of the charity. The recommendation is intended to increase transparency of transactions that pose a higher risk to charitable assets being used for private benefit.</p>	<p data-bbox="909 954 1962 1018">The Government supports all registered entities being required to disclose related party transactions.</p> <p data-bbox="909 1061 2056 1157">To minimise the compliance burden on small charities, the Government will require small registered entities to make a simplified disclosure involving a brief description of a related party transaction.</p> <p data-bbox="909 1200 2056 1295">The Government will implement this recommendation by changes to regulations. The start date for this measure will align with any change to the revenue thresholds for financial reporting requirements.</p>

Recommendation	Government response
<p data-bbox="199 300 853 448">15. Large registered entities should be required to disclose the remuneration paid to responsible persons and senior executives on an aggregated basis.</p> <p data-bbox="199 488 869 767">The panel found that all large registered entities should disclose the remuneration of responsible persons and senior executives to align ACNC reporting requirements with Australian Accounting Standards Board requirements. This recommendation is aimed at providing greater accountability to donors, beneficiaries and the public by requiring charities to be transparent about remuneration of key management personnel.</p>	<p data-bbox="909 300 1491 328">The Government supports the recommendation.</p> <p data-bbox="909 368 2033 432">Large registered entities will be required to disclose remuneration paid to responsible persons and senior executives on an aggregated basis.</p> <p data-bbox="909 472 2051 536">This disclosure will only be required from entities with two or more key management personnel to accommodate privacy concerns.</p> <p data-bbox="909 576 1989 639">The start date will align with any change to the revenue thresholds for minimum reporting requirements.</p>
<p data-bbox="199 826 880 1054">16. If recommendations 12 and 13 are adopted, the necessity for the exemption from financial reporting for basic religious charities should be reviewed, and if recommendations 5 and 10 are also adopted, all exemptions for basic religious charities should be reviewed.</p> <p data-bbox="199 1094 846 1302">The panel supports a review of basic religious charity exemptions on condition that the Government implements four recommendations aimed at reducing reporting obligations for small charities, streamlining compliance with governance standards, and removing the ACNC's power to replace responsible persons.</p>	<p data-bbox="909 826 1910 855">The Government has no plans to review the exemptions for basic religious charities.</p>

Recommendation	Government response
<p data-bbox="199 300 862 448">17. The Commissioner should be given a discretion to disclose information about regulatory activities (including investigations) when it is necessary to protect public trust and confidence in the sector.</p> <p data-bbox="199 488 882 660">The secrecy provisions of the ACNC Act prevent the Commissioner from making information public about the ACNC's regulatory activities except to respond to or clarify issues that have already been raised in the public domain by a charity.</p> <p data-bbox="199 684 866 857">The panel found an expansion of the powers to disclose information would increase public confidence that the regulator is actively pursuing misconduct. It will also provide salutary guidance to other charities about poor behaviour.</p>	<p data-bbox="909 300 1494 327">The Government supports the recommendation.</p> <p data-bbox="909 365 2058 469">The change will allow the Commissioner to release information about ACNC regulatory activities in the public interest. It will strengthen public trust and confidence in both the sector and the regulator.</p> <p data-bbox="909 507 2069 571">The Government will consult on the detail of the change, including the triggers for and bounds of the Commissioner's discretion.</p> <p data-bbox="909 609 1868 638">The Government will implement this recommendation by changes to legislation.</p>
<p data-bbox="199 967 853 1075">18. The Commissioner should be authorised to collect the personal details of responsible persons involved in unlawful activity.</p> <p data-bbox="199 1115 884 1251">The panel found that the ACNC should be able to request details on the criminal records of responsible persons to allow it to detect unlawful behaviour and contraventions of the ACNC Act.</p>	<p data-bbox="909 967 2058 1031">The Government supports the recommendation as it will enhance the ACNC's capacity to detect breaches of its governance standards and external conduct standards.</p>

Recommendation	Government response
<p data-bbox="199 300 851 488">19. The ACNC should be resourced to enable the Commissioner to enforce and develop the law where registered entities engage in disqualifying purposes (within the meaning of the <i>Charities Act 2013</i> (Cth)).</p> <p data-bbox="199 528 837 700">The panel found the ACNC must be well resourced so that it can enforce the law and prevent the misapplication of charitable assets. The panel also considered there to be benefit in further case law on entities engaging in disqualifying purposes.</p>	<p data-bbox="909 300 1494 328">The Government supports the recommendation.</p> <p data-bbox="909 368 2002 469">The Government provided the ACNC with \$1 million of additional litigation funding in the 2018-19 Budget. This funding will enable the Commissioner to enforce and develop the law where ambiguity exists.</p>
<p data-bbox="199 759 851 868">20. Test case funding should be made available to develop the law in matters of public interest, including disqualifying purposes.</p> <p data-bbox="199 908 871 1080">The panel found the ACNC should be given test case litigation funding (similar to the ATO model). This would provide registered entities with financial assistance to take matters with broad implications to court with the objective of clarifying contentious areas of law.</p>	<p data-bbox="909 759 2069 820">The Government does not support the recommendation. The Government will explore legislative options to address uncertainty in the law.</p>

Recommendation	Government response
<p data-bbox="199 300 882 528">21. The ACNC’s regulatory approach to high-risk registered entities should be further developed in partnership with the Australian Criminal Intelligence Commission (ACIC), the Australian Transactions Reports and Analysis Centre (AUSTRAC) and other Commonwealth departments and agencies.</p> <p data-bbox="199 568 869 703">The panel found the ACNC should work with other government agencies to develop a regulatory model for high-risk charities to ensure proper monitoring and compliance.</p>	<p data-bbox="909 300 1491 328">The Government supports the recommendation.</p> <p data-bbox="909 368 1733 397">The ACNC is actively building its partnership with ACIC and AUSTRAC.</p> <p data-bbox="909 437 2011 536">The ACNC was recently listed as a ‘designated agency’ for the purposes of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> (Cth), which will provide it with direct access to AUSTRAC information.</p>
<p data-bbox="199 762 882 911">22. The ACNC should be resourced to enhance its access to criminal intelligence databases, use of secondments and information sharing with the ACIC and other agencies.</p> <p data-bbox="199 951 869 1086">The panel found additional resourcing to the ACNC to access databases would enhance the ACNC’s capacity to detect charities with links to criminal behaviour and terrorism.</p>	<p data-bbox="909 762 2069 791">The Government supports the ACNC engaging with ACIC to enhance cooperation and integration.</p> <p data-bbox="909 831 1935 895">The ACNC will work with ACIC to consider the merits of developing a memorandum of understanding around the sharing of data.</p>

Recommendation	Government response
<p data-bbox="199 300 875 564"><i>23. The Australian Charities and Not-for-profits Commission Regulation 2013 should be changed to disqualify a person from being a responsible person if they have a conviction for terrorism, terrorism financing, money laundering, fraud, importation or distribution of illicit drugs or a child sexual offence under Commonwealth, state or territory law.</i></p> <p data-bbox="199 608 875 778">The panel found that the current disqualifying criteria for responsible persons is too narrow, limiting the ACNC's ability to prevent individuals linked to serious criminal activities, including terrorism financing and money laundering, from being responsible persons of charities.</p>	<p data-bbox="909 300 1496 328">The Government supports the recommendation.</p> <p data-bbox="909 368 2040 469">While proven instances of criminal misconduct in the sector remain low, illicit activity could severely damage public trust and confidence in the sector and harm the communities they are working to assist.</p> <p data-bbox="909 509 2051 571">This recommendation will enhance the accountability of responsible persons, thereby reducing the risk of charities becoming involved in serious criminal misconduct.</p> <p data-bbox="909 611 1868 639">The Government will implement this recommendation by changes to legislation.</p>
<p data-bbox="199 839 875 1023"><i>24. The ACNC Act should be amended to provide that certain not-for-profits with annual revenue of \$5 million or more must be registered under the ACNC Act to be exempt from income tax and access Commonwealth tax concessions.</i></p> <p data-bbox="199 1062 875 1233">The panel found that the ACNC should be given oversight of not-for-profits with annual revenue of \$5 million or more to ensure the largest not-for-profits are complying with their obligations. It is estimated there are 580 such entities.</p>	<p data-bbox="909 839 1592 868">The Government does not support the recommendation.</p> <p data-bbox="909 908 2051 970">The Government considers that eligibility for income tax exemptions and other tax concessions for non-charitable not-for-profits is best regulated by the ATO.</p> <p data-bbox="909 1010 2074 1072">The Government will consider options for tightening the ATO's existing regulatory framework for not-for-profits and consider any implications for the regulatory scope of the ACNC.</p>

Recommendation	Government response
Part C – Red Tape Reduction	
<p data-bbox="188 379 869 531">25. The Australian Consumer Law should be amended to clarify its application to charitable and not-for-profit fundraising and a mandatory Code of Conduct for fundraising activities be developed.</p> <p data-bbox="188 563 846 707">The panel found there are substantial inconsistencies across state and territory licensing and reporting requirements, and made a recommendation aimed at reducing red tape for fundraisers.</p>	<p data-bbox="898 379 1592 411">The Government does not support the recommendation.</p> <p data-bbox="898 443 2069 555">The Government notes the findings of the Senate Select Committee Report on Charity Fundraising in the 21st Century, which considered, but did not endorse, recommendation 25 as a regulatory reform model.</p> <p data-bbox="898 587 2069 659">The Government will continue to support efforts by the states and territories to harmonise state and territory fundraising laws.</p> <p data-bbox="898 691 2069 906">The ACL is not an appropriate mechanism to harmonise laws in the NFP sector. The ACL provides broad, economy-wide protections, including against misleading and deceptive conduct. It is not designed to impose detailed licensing, reporting and conduct requirements in specified sectors, which in the case of fundraisers includes matters such as hours and location of collections, identification requirements for collectors or the issuing of receipts by collectors. Repealing state fundraising legislation and relying on the ACL’s broad protections could leave regulatory gaps.</p> <p data-bbox="898 938 2011 1010">The ACCC expressed a similar view in its submissions to the Review and to the Senate Select Committee.</p> <p data-bbox="898 1042 2047 1185">Additionally, the ACL does not currently provide a mechanism for a code of conduct. Amending the ACL to provide for a code would require the agreement of the states and territories, and significant changes to state and territory legislation. It is unclear how such a process would achieve a faster reduction in red tape than harmonisation of state and territory laws.</p>

Recommendation	Government response
<p data-bbox="199 300 857 408">26. The use of the Charity Passport by Commonwealth departments and agencies should be mandated.</p> <p data-bbox="199 448 725 515">The panel found that the Charity Passport is underutilised by government agencies.</p>	<p data-bbox="909 300 2060 363">The Government supports the ACNC working with Commonwealth agencies to increase the take up of the Charity Passport.</p> <p data-bbox="909 403 2054 467">Increased use of the Charity Passport by government agencies will reduce the need for charities to provide the same information to different government agencies multiple times.</p>
<p data-bbox="199 571 857 759">27. Responsibility for the incorporation and all aspects of the regulation of companies which are registered entities should be transferred from the Australian Securities and Investments Commission (ASIC) to the ACNC, except for criminal offences.</p> <p data-bbox="199 799 880 935">The panel found registration and regulatory responsibility for companies limited by guarantee registered under the ACNC Act should primarily rest with the ACNC.</p>	<p data-bbox="909 571 2038 671">The Government supports the ACNC working with ASIC, through the modernising business registers program, to reduce the practical and administrative challenges for registered entities dealing with both regulators.</p>

Recommendation	Government response
<p data-bbox="199 300 801 368">28. A single, national scheme for charities and not-for-profits should be developed.</p> <p data-bbox="199 408 887 655">Inconsistencies and complexities in Commonwealth, state and territory regulation impose three key forms of regulatory burden on charities: registration and reporting obligations under state and territory incorporated association legislation; licensing, reporting and operational restrictions under fundraising legislation; and eligibility requirements for tax concessions.</p> <p data-bbox="199 679 826 778">Advances in technology (such as online fundraising platforms) mean charities are increasingly operating across multiple jurisdictions.</p> <p data-bbox="199 802 797 901">The panel found that a single national scheme for charities and not-for-profits would alleviate these burdens, improving sector outcomes.</p>	<p data-bbox="909 300 1458 325">The Government notes the recommendation.</p> <p data-bbox="909 349 2069 416">The panel’s proposal for a single national scheme involved a referral of powers by the states. Any referral of powers would require agreement of the states.</p> <p data-bbox="909 456 2069 555">In light of this hurdle, the Government will continue to work closely with the states and territories (via relevant cross-jurisdictional fora) to streamline and harmonise charities regulation in three important areas.</p> <p data-bbox="909 595 2047 767">First, the ACNC has led a cross-jurisdictional process since 2013 which has succeeded in streamlining reporting requirements for charities which are incorporated associations in New South Wales, Victoria, South Australia, Tasmania, the Australian Capital Territory and the Northern Territory. These reforms allow registered charities to report financial and governance information to the ACNC alone. Queensland is moving towards similar reforms.</p> <p data-bbox="909 807 2063 906">Second, state and territory officials are also working with the ACNC to explore options to further reduce the regulatory burden on the sector. This includes considering possible cross-border recognition arrangements for charitable fundraisers.</p> <p data-bbox="909 946 2069 1045">Finally, the Government is consulting with states and territories on the development of a common statutory definition of charity across jurisdictions to replace 45 existing definitions. This will reduce complexity and regulatory burden for charities when seeking tax concessions.</p>

Recommendation	Government response
Part D – Additional Amendments	
<p data-bbox="197 384 880 533">29. Review the interface between the ACNC Act and the Corporations Act and consider the additional amendments set out in Appendix B [of the final report].</p> <p data-bbox="197 571 880 746">The panel has suggested a number of technical amendments to resolve certain interactions between the ACNC Act and Corporations Act. This recommendation is aimed at improving administration and simplifying the application of legislation.</p>	<p data-bbox="907 384 2051 485">The Government supports in principle removing any ambiguity in the interactions between the ACNC Act and Corporations Act. However, the priority now is to implement reforms in response to the panel’s other recommendations before considering further reforms.</p>
<p data-bbox="197 804 880 874">30. The ACNC Acts should be consolidated and there should be ongoing five year reviews.</p> <p data-bbox="197 912 880 1088">The panel found that it would be preferable for all regulatory provisions applying to the sector to be contained in one Act. The panel also found there should be ongoing reviews because the sector is dynamic and evolving.</p>	<p data-bbox="907 804 1592 831">The Government does not support the recommendation.</p> <p data-bbox="907 869 2016 938">There is no evidence that the ACNC legislation in its current form is causing problems for the charity sector.</p> <p data-bbox="907 976 2063 1045">If a review of the sector is warranted in future years, this should be a matter for the government of the day.</p>