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Not-For-Profit Unit, Not-for-profits and Tax Administration Branch
Treasury Melbourne
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By email: charitiesconsultation@treasury.gov.au

Submission on ACNC Governance Standards

To whom it may concern,

I am writing regarding the proposed changes to Governance Standard 3 of the *ACNC Regulation 2013*. I would like to raise my strong concern with these changes and object to their proceeding in any form. It is clear to me that these proposed changes would unreasonably impact on the way that charities are able to carry out their work, creating a dangerous ripple effect for the health of our society and our democracy.

Small Giants is a collective of businesses and non-profits committed to an economy that supports human flourishing while living in harmony with the natural world. This collective includes the **Impact Investment Group**, a leading *impact investment* funds manager, the **Small Giants Academy**, a non-profit media and education initiative that develops empathic leadership, and the **Sociable Weaver Group**, a sustainable design and construction company, amongst others.

Our vision is for an integrated economy where the business sector, the social sector and our public policy works together to achieve a prosperous and sustainable Australia. As such, we strongly believe the changes proposed to Standard 3 are unnecessary, and would heavily limit a charity's ability to contribute to freedom of expression and achieve its mission. By linking deregistration to a vast array of minor summary offences, the proposal would restrict legitimate and lawful policy advocacy. To also propose that charities could be deregistered based on the chance of a future act occurring, or inadvertently as a result of a member of staff being involved in a summary offence,

unfairly targets charities in a way unparalleled in the private sector. Like every other member of society, charities and their staff already face penalties for breaking the law, as well as the additional sanctions already existing under charities law.

We are also concerned as the proposed changes directly contradict the findings of Patrick McClure's 2018 government-commissioned review of the ACNC legislation which found the existing governance standard 3 is not appropriate, already overreaching, and should be repealed in its entirety. The Commissioner's role should be to regulate charity law and its focus should be on ensuring charitable purpose does not fall into unlawful realms, while police investigate criminal laws. This proposal represents a further step towards the government judging charities on the individual actions of their employees rather than their charitable purpose.

As someone who has led and worked in both the non-profit (I was the founding CEO of *Engineers Without Borders Australia*) and business sector I am also very conscious that the proposed changes to standard 3 would add a further administrative burden, reducing charities' abilities to deliver their work and redirecting donations from charitable purpose to compliance. We believe thoughtful regulation is a necessary part of ensuring both businesses and charities act in ways that align with the interests of a thriving and sustainable economy. However, charities are already covered by appropriate regulation, and overly burdensome regulation distracts charities from their core mission resulting in the inefficient allocation of donor money, as well as creating a barrier to entry for smaller charities who do not have sufficient capacity to comply with the already complex minimum legal requirements.

It is my strong view that these proposed changes are inappropriate and not fit for purpose. I am particularly concerned about the potential for these changes to provide any government (ALP or LNP) with the ability to silence its opponents, breaching our fundamental democratic values. The idea that an organisation could be deregistered because a staff member voiced support for a peaceful protest on social media at which a minor summary offence was breached, it would have a chilling effect across society as a whole. This is certainly not the vision of Australia that I have been working towards my entire life.

I have seen no justification that existing penalties are inappropriate, and why the complete deregistration of the charity is preferable to other responses. I also find myself reflecting on the fact that this proposal is yet another situation where charities have felt they needed to divert resources in order to defend their very existence.

I believe these proposed changes should be withdrawn in all forms. I trust that my concerns will attract genuine consideration and I would also like to thank Treasury for the opportunity to contribute in this way.

Kind regards,

A handwritten signature in black ink, appearing to be 'D Almagor', written in a cursive style.

Danny Almagor OAM

Chair

Small Giants Group