



Submission to:

The Treasury

**COAG REGULATORY IMPACT ASSESSMENT OF
POTENTIAL DUPLICATION OF GOVERNANCE AND
REPORTING STANDARDS FOR CHARITIES**

February 2013

Introduction

This submission briefly outlines the Community Council for Australia (CCA) response to the COAG *Regulatory Impact Assessment of potential duplication of governance and reporting standards for charities* (RIA) consultation paper.

The CCA Board and members believe the issue of duplication in regulatory requirements for charities and more broadly for the not-for-profit (NFP) sector is a critical issue.

It is important to note that this submission has been prepared through a process of consultation with the membership of CCA (see Attachment 1 list of CCA members) and other key organisations in the NFP sector. This submission does not over-ride any positions outlined in individual submissions from CCA members.

CCA commends the government and COAG officials for the process adopted in developing this consultation paper, including seeking input from the NFP sector and other interested groups.

CCA is particularly pleased that the RIA consultation paper provides a clear set of options and encourages interested stakeholders to provide input.

Ideally, this initiative of reviewing duplication as it applies to charities will be expanded over time to become a more complete review of the broader regulatory and compliance burdens imposed all NFP entities.

CCA looks forward to ongoing discussion and input in relation to these important matters.

The Community Council for Australia

The Community Council for Australia (CCA) is an independent, non-political, member-based organisation dedicated to building flourishing communities primarily by enhancing the extraordinary work and effort undertaken within the NFP sector in Australia. CCA seeks to change the way governments, communities and the NFP sector relate to one another. This includes establishing a regulatory environment that works for community organisations, not against them.

The mission of CCA is to lead the sector by being an effective voice on common and shared issues affecting the contribution, performance and viability of NFP organisations in Australia, through:

- promoting the values of the sector and the need for reform
- influencing and shaping relevant policy agendas
- informing, educating, and assisting organisations in the sector to deal with change and build sustainable futures
- working in partnership with government, business and the broader Australian community to achieve positive change.

Context: not-for-profit reform

The NFP sector contributes over \$43 billion to GDP per annum, encompasses over 600,000 organisations ranging in size from large to very small, and is estimated to employ over one million staff (or eight per cent of all employees in Australia). Over the last decade, the growth in the NFP sector is second only to the mining industry, and employment growth has outstripped any other industry. These figures only tell a small part of the story. The real value of the NFP sector is in the often unattributed contribution to the quality of life we all experience in Australia. NFPs are at the heart of our communities and are what makes us resilient as a society.

The current Federal Government has committed to promoting social enterprise; reducing compliance costs for NFP organisations; encouraging a diversification of financing options to build a more sustainable funding base; streamlining and refining the regulation of NFPs and charities; developing a clearer definition of charities; establishing less bureaucratic reporting requirements while building community transparency; and working to improve relationships between government and the NFP sector (see Attachments 2 and 3). These are major commitments and have informed a raft of NFP sector reforms. While the benefit of these reforms may take some time to be realised, the NFP reform agenda is already well advanced.

The Australian Charities and Not-for-profits Commission (ACNC) is now established and operational. While the ACNC still lacks full capacity to investigate and take action where inappropriate practices are suspected, the establishment of the ACNC is the first time the NFP sector has had an independent regulator dedicated to serving their needs. It is a very positive step towards reducing red tape and enhancing the role of the sector. The new regulator has followed other reforms including the signing of the National Compact between the government and the NFP sector, and the now well established work of the Not-for-profit Sector Reform Council that continues to drive reform across government from the Department of Prime Minister and Cabinet.

Within this context, the issue of how charities meet their regulatory requirements is not only important for the NFP sector, governments and the ACNC, it is also important for the broader community.

Regulatory compliance – a brief overview of the issues

As noted in the RIA consultation paper, the 2010 Productivity Commission highlighted the cost of compliance and the diversity of regulatory imposts across the whole NFP sector. While it is difficult to quantify the amount of time and energy spent meeting these various regulatory requirements, there is no doubt that all compliance demands have a cost. The real challenge is to reduce compliance costs while maintaining accountability.

CCA believes that the newly established ACNC will provide increased transparency and accountability at a national level and, wherever possible, the ACNC should be the primary reference point in setting compliance requirements. The ACNC Charities passport needs to be accepted by all jurisdictions if it is to fulfil the potential to reduce compliance costs.

At the same time CCA notes that the ACNC will not be able to address all the issues relating to duplication.

All CCA members have raised issues about the cost of compliance requirements, often related to issues such as fundraising, payroll exemptions, rates exemptions, ATO compliance requirements (particularly for some special purpose foundations), and obtaining government contracts and funding. The cost of cross-jurisdiction operations can also be substantial. For example, there are often accreditation issues and associated requirements imposed on individual staff who may work with children or vulnerable people.

CCA realises that many of these issues are well beyond the scope of this relatively narrow RIA consultation paper, but would note the need for a more comprehensive analysis of duplication, red tape and compliance costs across the whole NFP sector.

Recommendations

- 1. CCA supports Option 4B, and recommends that all charities be exempt from State and Territory statutory regimes for incorporated associations and cooperatives***

CCA recognises that this may not be the very best solution, but believe it is the most practical solution that can deliver real outcomes to the NFP sector. CCA would ideally prefer a referral of powers, but given the political difficulties in achieving this goal, is unable to support option 5. At this point in time all other options appear unlikely to deliver positive outcomes to the NFP sector.

- 2. State and Territory governments should actively engage with the ACNC to reduce compliance costs across all charities and NFP organisations***

CCA believes there are significant immediate gains to be made by government and the NFP sector if individual jurisdictions can work to align their regulatory requirements with those being developed by the ACNC. This should extend to using the proposed ACNC Charities Passport and the ACNC one stop charities portal wherever possible.

- 3. State and Territory governments should actively engage with the ACNC and the charities sector to review and regularly report on red tape and compliance costs associated with the operations of charities across Australia***

While the current RIA on duplication of regulatory requirements is a useful step forward, it falls well short of providing the kind of information needed to actively monitor red tape and compliance costs on Australian charities. CCA believes this kind of report, which is already required in the ACNC annual report, is critical to actively monitoring and reducing red tape and compliance costs for all NFP entities.

Conclusion

CCA commends COAG and Commonwealth officials for their work to date in addressing this important issue of regulatory compliance costs on charities, particularly in the context of establishing a new national regulator for the sector.

CCA will be actively promoting the adoption of all three of the recommendations made in this submission and looks forward to further engagement with governments across Australia on how best to reduce compliance costs and strengthen the NFP sector.

Current Membership – Community Council for Australia (February 2013)

Attachment 1

Organisation	CEO/Director
Access Australia	Sandra Dill
Access Community Group	Samantha Hill
Alcohol and Other Drugs Council of Australia	David Templeman
Alcohol Tobacco and Other Drugs Association ACT	Carrie Fowlie
ANEX	John Ryan
Associations Forum Pty Ltd	John Peacock
Australian Council for International Development	Marc Purcell
Australian Healthcare and Hospitals Association	Prue Power
Australian Indigenous Leadership Centre	Rachelle Towart
Australian Institute of Superannuation Trustees	Fiona Reynolds
Australian Major Performing Arts Group	Bethwyn Serow
Church Communities Australia	Chris Voll
Connecting Up Australia	Doug Jacquier
Consumers Health Forum of Australia	Carol Bennett
Drug Arm	Dr Dennis Young (Director)
Foundation for Alcohol Research and Education	Michael Thorn
Fundraising Institute of Australia	Rob Edwards
Goodstart Early Learning	Julia Davison
Good Beginnings Australia	Jayne Meyer-Tucker (Director)
HammondCare	Stephen Judd (Director)
HETA Incorporated	Sue Lea
Hillsong Church	George Aghajanian
Illawarra Retirement Trust	Nieves Murray
Lifeline Australia	Dr Maggie Jamieson
Maroba Lodge Ltd	Viv Allanson
Mental Health Council of Australia	Frank Quinlan
Melbourne Citymission	Rev. Ric Holland
Missions Interlink	Pam Thyer
Mission Australia	Toby Hall (Director)
Musica Viva Australia	Mary Jo Capps (Director)
Opportunity International Australia	Rob Dunn
Philanthropy Australia	Deborah Seifert
Principals Australia Institute	Heather Parkes
Pro Bono Australia	Karen Mahlab (Assoc. Member)
RSPCA Australia	Heather Neil (Director)
St John Ambulance Australia	Peter LeCornu
Social Ventures Australia	Michael Traill
Surf Lifesaving Australia	Brett Williamson (Director)
The ANZCA Foundation	Ian Higgins
The Australian Charities Fund	Edward Kerr
The Benevolent Society	Anne Hollonds (Director)
The Big Issue	Steven Persson (Director)
The Centre for Social Impact	Andrew Young
The Smith Family	Lisa O'Brien (Director)
The Ted Noffs Foundation	Wesley Noffs
Volunteering Australia Inc	Cary Pedicini
Wesley Mission	Keith Garner (Director)
WorkVentures Ltd	Arsenio Alegre
World Vision Australia	Tim Costello (Chair)
YMCA Australia	Ron Mell
Workplace Giving Australia	Peter Walkemeyer
Youth Off The Streets	Fr Chris Riley
YWCA Australia	Dr Caroline Lambert

Attachment 2

National Compact Extract: signed by sector organisations and Government 17/3/10

Shared principles of the National Compact

The Australian Government and the Third Sector will work together according to these principles to achieve their shared vision:

- We believe a strong independent Sector is vital for a fair, inclusive society. We acknowledge and value the immense contribution the Sector and its volunteers make to Australian life.
- We aspire to a relationship between the Government and the Sector based on mutual respect and trust.
- We agree that authentic consultation, constructive advocacy and genuine collaboration between the Sector and the Government will lead to better policies, programs and services for our communities.
- We believe the great diversity within Australia's Third Sector is a significant strength, enabling it to understand and respond to the needs and aspirations of the nation's varied communities, in collaboration with those communities.
- We commit to enduring engagement with marginalised and disadvantaged Australians, in particular, Aboriginal and Torres Strait Islander people and their communities.
- We recognise the value of our multicultural society and we will plan, design and deliver culturally responsive services.
- We share a desire to improve life in Australia through cultural, social, humanitarian, environmental and economic activity. To achieve this, we need to plan, learn and improve together, building on existing strengths and making thoughtful decisions using sound evidence.
- We share a drive to respond to the needs and aspirations of communities through effective, pragmatic use of available resources.
- We recognise concerted effort is needed to develop an innovative, appropriately resourced and sustainable Sector.
- We acknowledge the need to develop measurable outcomes and invest in accountability mechanisms to demonstrate the effectiveness of our joint endeavours.

Priorities for action

Implementing the Compact principles will require coordinated engagement across Government and collaboration with the Sector to develop action plans. These plans will detail how the Compact's eight priorities for action, outlined below, will be met.

1. Document and promote the value and contribution of the Sector.
2. Protect the Sector's right to advocacy irrespective of any funding relationship that might exist.
3. Recognise Sector diversity in consultation processes and Sector development initiatives.
4. Improve information sharing including greater access to publicly funded research and data.
5. Reduce red tape and streamline reporting.
6. Simplify and improve consistency of financial arrangements including across state and federal jurisdictions.
7. Act to improve paid and unpaid workforce issues.
8. Improve funding and procurement processes

Reference: www.nationalcompact.gov.au/resources/national-compact/

Attachment 3

Statement of government support for PC recommendations (extract from the Communiqué from the second meeting of the Not-For-Profit Sector Reform Council, 18 May 2011)

With regards to the Productivity Commission research report, Contributions of the Not for Profit Sector, the Minister advised that the Commonwealth Government has accepted 'in-principle' all but one of the recommendations relating to the Commonwealth. The one recommendation not supported was recommendation 9.5 pertaining to program related social innovation funds. While encouraging greater innovation is critical, the Government believes this should be pursued in other ways.

Reference: www.notforprofit.gov.au/node/140