



Australia's Charities and Not-for-profits

Written Submission

The Options Paper, Australia's Charities and Not-for-profits sets out proposed replacement arrangements for charities in Australia. The paper outlines policy directions proposed by the Government to introduce effective replacement arrangements that reduce the burden of regulation on the civil society sector.

The paper is being released to seek feedback from charities and interested parties on the proposed replacement options. Comments and feedback will inform development of the replacement arrangements. A summary of written submissions will be provided on the Department's website in September 2014.

Please use this submission template to provide your feedback on the proposed replacement arrangements for charities in Australia.

Instructions for completing the Submission Template

- Download and save a copy of the template to your computer.

Completed submissions are to be sent by 20 August 2014 to:

consultationwithcharities@dss.gov.au (preferred method) OR

Civil Society and Programme Delivery Policy Branch
Department of Social Services PO BOX 7576
Canberra Business Centre, ACT 2610

Submissions received after 20 August may not be considered.

Unless otherwise stated, the information and feedback you provide may be used for publishing purposes. Please state if you do not wish for your comments to be published.

- Refer to the *Options Paper, Australia's Charities and Not-for-profits* for context and discussion questions.
- You do not need to respond to all of the questions.
- Please keep your answers relevant to the topic being addressed, we ask that submissions be limited to two pages.

Submitted by: **David Crosbie**, CEO, Community Council for Australia

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

State: **ACT**

Contact email: **davidc@communitycouncil.com.au**

Response to Options Paper:

Introduction

This outlines Community Council for Australia's (CCA) response to the Options Paper on proposed replacement arrangements for charities if the Australian Charities and Not-for-profits Commission (ACNC) is disbanded. This is CCA's fifth submission in relation to the establishment of the ACNC. It is important to note that this response has been prepared in consultation with the membership of CCA (see Appendix 1 list of CCA members) and key organisations in the not-for-profit sector. This CCA response does not, however, over-ride any positions outlined in individual submissions from CCA members.

'Consultation'

CCA strongly believe that authentic consultation, constructive advocacy and genuine collaboration between the sector and government will lead to better policies, programs and services for our communities.

Unfortunately, the options proposed through this limited consultation are, at best, dismissive of the sector's views and impose a predetermined agenda with very little meaningful capacity to offer input or change policy. Detailed below are reasons why none of the proposed options are in the sector or the community's interests.

While this response provides comment on the Options Paper and consultation process, CCA remains very disappointed that the Government has chosen not to listen to the views of the sector and associated experts, and then to window-dress this dismissal of the sector with a very limited and limiting consideration of options. There have already been over 2000 submissions, numerous hearings and consultations on the establishment of an independent regulator for the charities sector since it was first proposed by a Howard Government review of the definition of charity in 2001. Since serious discussion and consultation began thirteen years ago the establishment of the ACNC has been supported by the majority of the not-for-profit sector, professional stakeholders and independent reviews, including the Productivity Commission, the Henry Review and Senate Inquiries, well over 1000 submissions, presentations at public hearings and findings from consultations.

Ultimately, there are no government or sector endorsed guidelines that are satisfied by this predetermined tokenistic "consultation" in which the options provided are not desired or supported by the majority of the charities and not-for-profit sector.

Concerns with the options provided

It is important to note that as an outcomes of previous extensive consultations, the ACNC was established with three clear objects that were strongly endorsed by the charities sector. CCA concerns are grouped under each of these objects. CCA is happy to provide detail on any of these concerns or refer to previous submissions where these issues have been more fully detailed.

ACNC Object 1: *to maintain, protect and enhance public trust and confidence in the Australian not-for-profit sector*

1. No way of providing public accountability other than the un-enforceable ad hoc approach of relying on website listings
2. No real methods or proposals about developing or implementing a public complaints mechanism that provides a light touch proportionate response to community and sector concerns about charities (ATO and ASIC both poor performers in this area)

3. No mandatory reporting leaves open the opportunity for organisations not doing the right thing to avoid any measure of accountability. Self-report systems suit those seeking to hide from accountability, not those seeking to build trust with their community
4. No public register of charities, currently a place where the public can access a listing of charities
5. Requires members of the public to search charities individually rather than being able to access one central register of all charities
6. Does not address the need to build and strengthen public trust and confidence in charities

ACNC Object 2: *to support and sustain a robust, vibrant, independent and innovative Australian not-for-profit sector*

7. No attempt to address the risks or confusions for charities and the community that will be created by a proposed return to the ATO and ASIC as regulators
8. No costing of each proposed model that factors in additional costs in compliance and charity payments to ASIC
9. No real strategy to address the loss of charities expertise if the ACNC closes
10. Conflict of interest in using the ATO as a regulator (identified by the ATO itself) not addressed
11. Knowledge and flexibility in dealing with charities not reflected in ASIC or ATO actions (e.g. mandatory fines for late lodgements)
12. No integration between regulation of charities and any other related initiative (e.g. National Centre of Excellence)
13. No collection of aggregate data about the sector and its various component parts as can be provided through the ACNC register
14. Does not require annual reporting to Parliament on progress made in reducing red tape, building public confidence and supporting the charities sector

ACNC Object 3: *to promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector*

15. No way of addressing increased impost of red tape, duplication and compliance across the charities sector (one of the reasons the ACNC was established)
16. Loss of the dedicated charities registration and compliance expertise at the ACNC
17. Increased reliance on States and Territories (eight separate regulators) and the burdensome compliance activities of individual government departments
18. Increased compliance costs imposed by new website reporting requirements
19. Concern that information provided to the ACNC will now in some way be transferred to ASIC and the ATO and be stripped of context or meaning
20. New compliance requirements imposed on charities, but diminished benefit to charities or the community

Conclusion

CCA does not support the very limiting consultation process and does not support any of the proposed options for replacing the ACNC. The ACNC works for charities - let it do its work.