



HammondCare

An independent Christian charity

27 February 2018

Mr Murray Crowe
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600
Via email to: ACNCRewiew@treasury.gov.au

Re: Review of Australian Charities and Not-for-profits Commission (ACNC) legislation

Dear Mr Crowe,

Thank you for the opportunity to provide input into the review of the ACNC legislation.

In the short timeframe it has existed, the ACNC has done much to enhance public trust and support vibrancy in the not-for-profit sector while promoting reductions in unnecessary red tape.

The objects the ACNC seeks to uphold are worthy and I see no reason to amend or add to them. Rather than changing these objects, the focus of this review should be ensuring that the ACNC is suitably equipped and empowered to meet them.

By making a small number of changes to the ACNC legislation, the effectiveness and efficiency of the commission will be greatly improved.

Secrecy provisions

The secrecy provisions that currently apply to the ACNC must be reviewed. By preventing the commission from explaining why certain charities have had their registration revoked, these provisions have weakened the ACNC's ability to build public trust and confidence in the sector.

The limitations caused by these provisions make little sense when compared to other regulatory bodies, such as the Australian Competition and Consumer Commission and the Australian Prudential Regulatory Authority. Where the ACNC makes an adverse finding, it should not be prevented from outlining the reasons for its decision.

Reporting requirements

The removal of the requirement for charities to report to the Australian Securities & Investments Commission (ASIC) with the introduction of the ACNC has led to significant improvements. Removing the separate reporting regimes to each of the state and territory charitable fundraising regulators would be a further improvement.

However, there is a problem with the level of reporting to the ACNC that needs to be addressed. Most medium and large charities are structured as Australian public companies limited by guarantee. Before the ACNC commenced its work, these charities had to report key data about their directors to ASIC. All this information, both current and historical, was

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available on ASIC's public register so that anyone could check it and see the true status of a company.

While this was reporting, it was not burdensome and is necessary for the proper functioning of the corporate system in Australia. It was also used when dealing with banks, insurance companies, other businesses, and government. That same information is not available from the ACNC register. Critically, historical information is unavailable so, for example, there is no public record when a director resigns from the board of a charity.

This has also caused great difficulties when dealing with banks and other companies that place high levels of confidence in ASIC's records. In a number of cases companies have only accepted signatures of directors listed on the ASIC record; that is, those who were directors on 3 December 2012. The nature of the ACNC register ought to be amended to include information about directors of medium and large charities who would have previously reported this to ASIC.

Advocacy and political activities

Finally, charities in Australia make a significant contribution by advocating in relation to their charitable purpose. Any steps to limit this valuable advocacy through the ACNC must be avoided.

Yours sincerely,



Stephen Judd
Chief Executive
HammondCare

About HammondCare

HammondCare is an independent Christian charity specialising in dementia care and palliative care. Regarded nationally and internationally as one of Australia's most innovative health and aged care providers, HammondCare offers hospital care, residential care and community services.