



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.

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.

Instructions for completing the Submission Template

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

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If submitting on behalf of a company or organisation

Name of organisation: Deloitte Touche Tohmatsu

Stakeholder category (e.g. service provider, client, peak body, academic): Service Provider

State/Territory: NSW

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Response to Options Paper:

See attached.

20 August 2014

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

By Email: consultationwithcharities@dss.gov.au

Dear Sir/Madam

Options for Replacement Arrangements following the abolition of the Australian Charities and Not-for-profits Commission (Options paper)

We welcome the opportunity to participate in the consultation process in relation to the replacement arrangements following the proposed abolition of the Australian Charities and Not-for-Profits Commission (ACNC).

Our involvement and commitment to the Sector provides us with insights into the issues and challenges affecting the Sector.

We see this Sector's contribution to the Australian economy and community as fundamental and any changes in its regulation need to take into account this significant contribution.

When considering our response to the Options paper we make the following observations and comments:

- The predominant theme of the previous reviews and reform discussions have been that a nationalised approach to regulation and that of red tape reduction is the most appropriate. We refer to our comments to the Self Reporting questions, where we perceive that there may be an increase in the cost of compliance as there will be multiple reporting requirements for a range of entities.
- One of the objectives of the ACNC was to promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector. This objective required the co-operation of other Federal Government Departments, COAG etc. The need for co-operation would still be the case with any replacement arrangements.
- The role and scope of the National Civil Society Centre for Excellence is yet to be defined and needs to consider education and the promotion of public trust and confidence.
- Despite the short period of time the ACNC has been operating, it has provided a number of benefits to the Sector such as supportive education, effective communication channels and the establishment of a comprehensive register of Charities within Australia. It is our view that these benefits should be considered as part of the replacement arrangements.
- The ACNC demonstrates a supportive understanding of Charity and to date has provided a significant level of support to the Sector. Replacement arrangements should include consideration of the level of support the Sector needs to develop, and promote public trust and confidence.

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We attach our specific responses to the questions posed in the Options paper at Appendix A

Should you have any questions regarding this submission, please do not hesitate to contact us. .

Yours sincerely

Katrina Daly
Partner
Deloitte Touche Tohmatsu

APPENDIX A

Self-Reporting

Do you believe that these proposed requirements will be less time consuming than current requirements?

Given the limited information provided in the Options paper, it is our view that for larger charities the self-reporting arrangements will result in a similar level of time involvement as those currently mandated by the ACNC. If the Charity Passport had been fully implemented however, we would have anticipated a significant reduction in red tape. For smaller charities particularly those such as foundations, the maintenance of a publicly accessible website will place additional time demands on the organisation as a significant number of small charities do not maintain a website. A potential alternative option could be to allow Charities to present this information using a Facebook page. We support the continued application of financial reporting exemptions for basic religious charities and recommend increasing the relatively low \$250,000 threshold for small Charities.

Do you foresee any impediments to charities complying with these requirements?

Given the nature of self-reporting, the determination of what should be included on the website and who should maintain it will be problematic particularly for smaller organisations. Many charities are grouped or aligned with multiple similar charities and utilise single websites to cover multiple charities. Therefore if each charity is required to maintain a website, many of these groups will either only comply in relation to one of the Charities or alternatively will include repetitive detail on the same website.

The Options paper does not address the impact of this type of self-reporting on charities which have limited interaction with the general public such as private ancillary funds.

Do you believe these requirements will provide transparency? If not, what changes would you make?

Any question of transparency requires consideration of comparability and some level of consistency for the general public to make informed decisions. Therefore disclosure of all funds received gives the public greater insight into charities when making donations.

We recommend the consideration be given to a government maintained website where charities would be able to provide a link to their own website or to provide their information directly on the website in a consistent manner. Alternatively for small charities, the government could provide website hosting arrangements.

It is important that the proposed arrangements adequately address all Charities regardless of their structure.

Administrative Options

Which of these options do you believe best guarantees the independence of the decision making process?

We note that the Options paper has identified the perceived conflict of interest with the proposal for the ATO to determine charitable status, tax concessions and raising revenue. However the options provided provide the ATO with a level of oversight. An independent panel appropriately constituted is more likely to provide the Sector with a greater degree of confidence that the perceived conflict is being effectively managed.

Are there any other considerations that should be taken into account when these functions are undertaken?

The structure of the work groups within the ATO in relation to granting and reviewing the Charities status should be separated from other ATO functions. Also it should be led and staffed by individuals with appropriate Sector experience to avoid the need for referral to the independent panel. This would provide a more effective model to allow for an organisation's issues to be dealt with through the registration process. Many organisations seeking charity status may not have the resources or ability to argue their case and should be supported through the registration process to minimise the need for referral.

Compliance Framework

Are there any reasons why this approach may not work? Do you foresee any risks in this approach?

The framework is predicated on the underlying structure of a Charity as opposed to the nature of its activities, leading to potential inconsistencies in regulation between arguably similar organisations.

The ability of the ATO/APRA to remove a responsible entity may also result in similar potential conflict of interest issues where there are revenue disputes.

One area that does not appear to be adequately addressed is in relation to those Charities for which ASIC or State and Territory Governments have limited compliance or monitoring powers as in the case of unincorporated associations, body corporates established under various Acts or other instruments. These types of organisations represent a significant proportion of the approximately 60,000 charities in Australia.

Transitional Arrangements

What other transitional arrangements might be required?

One of the key elements of the ACNC was education. The replacement arrangements do not appear to address this aspect and whilst it may be intended to be covered by the Centre of Excellence until this is established, education of the Sector needs to be factored into the transitional arrangements.

What factors should be considered in relation to the timing of the new arrangements?

It is essential that the Sector has sufficient opportunity to review, consider and provide commentary in relation to the legislation through an appropriate timed Exposure Draft consultation process.

In addition, there should be an appropriate timeframe between the passing of the legislation in the Parliament and its effective date. We support a specific timing of the transition for the website but recommend that this approach be broadened to all aspects of the replacement arrangements to ensure that all parties, including government departments, have appropriate arrangements in place to deal with Charities concerns etc.