

Consultation Response

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Response

We are strongly opposed to the abolition or any changes to the general charter of the ACNC. It was established with strong support from the Not-For-Profit sector and was widely seen as a means of reducing overheads, cutting Red Tape and improving transparency and governance across the sector. These proposals appear to negate all of those expectations. Specific comments are as follows.

Self Reporting

- **Do you believe that these proposed requirements will be less time consuming than current requirements?**
- **What changes would your organisation need to make to meet the new requirements?**
- **Do you foresee any impediments to charities complying with these requirements?**
- **Do you believe these requirements will provide transparency?**

One great benefit of the ACNC was to reduce the reporting requirements of organisations so that charities (and eventually others) would only report once. The changes mean that every organisation that operates in more than one jurisdiction will need to report to each, often with different requirements in different jurisdictions. Maintaining the required data (potentially highly sensitive and accessible to mischief-makers as well as legitimate enquirers) on a website will also increase the direct costs for most organisations. Maintaining premises unnecessarily, reporting multiple times in multiple places, including to multiple agencies within multiple governments and publishing data that might damage organisations' viability with no 'need to know' principles seems to capture all of the worst possible scenarios imaginable.

Clearly, the proposals increase the reporting obligations, as well as imposing additional direct costs on many organisations and are directly counter to the stated objectives of the government.

All legitimate NFPs should be happy to subject themselves to public scrutiny, but this appears to be a classic example of regulation to punish the innocent because it is too hard to police the guilty. Multiple authorities will need to pursue recalcitrants under several different legal frameworks and through varying legal processes, rather than a more sensible and economic approach. In practice, only the guilty need regulation, but these changes provide an impost on everyone without any indication that the guilty will be either detected or obliged to comply. Indeed, with so many disparate processes and locations of sensitive data involved, there seems to be additional opportunities to avoid transparency and to promote improper practices.

Determining Charitable Status

- **Which of these options do you believe best guarantees the independence of the decision making process?**
- **Are there any other considerations that should be taken into account when these functions are undertaken?**

It is hard to imagine any independence in decision-making where such an obvious conflict of interest is perpetuated. Those seeking to maximise revenue will obviously have a vested interest in minimising exceptions or concessions and neither option offers the sector any confidence that realistic impartial decisions are likely.

Option 1 is superficially attractive, but unless the Panel is empowered to make binding decisions or at least report to a separate Ministerial portfolio where binding decisions are made, there is little prospect of any fairer decisions than occurred prior to the ACNC being established.

Option 2 is even less attractive, but both options result in the same outcome: decisions being made under the effective supervision of the Commissioner – whose primary objective is to maximise revenue and minimise any exemptions and concessions. The outcomes appear to be as predictable as they were in the past.

Proportionate Compliance Framework

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

Relying on a mishmash of inconsistent regulations and jurisdictional conflicts returns the sector to the worst of all possible worlds: the problem that the ACNC was designed to address. Compliance will become significantly more difficult and additional costs will need to be incurred by those least able to bear those imposts. Moreover, it will provide more avenues for the dishonest to avoid detection than at present, whilst placing at risk organisations managed by people with the highest levels of integrity and ethical governance.

We support the concept of proportionate risk and regulation, but again, the proposals appear to fail to recognise real-world situations. The nature of an organisation's activities is often more important than its size in terms of public exposure, but this has been overlooked. We would argue that even small charities that raise funds from the public are more risky and require more scrutiny than much larger organisations (for example, member-based organisations) that present no risk to the public at all.

Transitional Arrangements

- **What other transitional arrangements might be required?**
- **Are there things the Department could undertake to assist charities with this transition?**
- **What factors should be considered in relation to the timing of the new arrangements?**

We have nothing to offer on this topic. We saw great advantage in registering our organisation with the ACNC, possibly even attempting to register as a charity. Unfortunately, as this is no longer possible under the ATO arrangements, we do not expect to be impacted by any of these proposals. More's the pity because we saw great benefit in the arrangements now proposed for repeal.

Life Activities Clubs Victoria Inc.
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