

House of Representatives  
Standing Committee on Economics  
[economics.reps@aph.gov.au](mailto:economics.reps@aph.gov.au)

20 July 2012

Dear Sir / Madam,

**Inquiry into the Australian Charities and Not-for-profits Commission Exposure Draft Bills**

Changemakers Australia welcomes the opportunity to comment on the draft Bill to establish the Australian Charities and Not for Profit Commission (ACNC). We note that there has been a truncated time allowed for submissions, due to the importance of finalising the legislative process in time for a 1 October commencement date. As a result, we have focused our review of the Bill on the areas of most interest to our organisation and trust that other organisations such as PILCH Connect and ACOSS will provide feedback from a 'bigger picture' perspective.

Changemakers is a national incorporated organisation with Tax Concession Charity status. Our mission is to grow philanthropic resources for social change. Changemakers believes that effective philanthropy strives to make the world a better place for everyone. This occurs when we direct resources towards long lasting systemic and institutional change – social change.

An important role for Changemakers is to identify barriers to social change philanthropy and work to remove the barriers through advocacy, information and education. Most recently we have been working to remove barriers which have made it difficult to support and undertake advocacy under charity and tax law.

As part of our wider interest in social change philanthropy, Changemakers is concerned about the lack of transparency and transparency in the philanthropic sector. We note that to date public discussion of the ACNC has focused more on the benefits to philanthropy when 'doing' charities become more transparent and accountable. However, we believe the benefit needs to flow both ways, so that 'doing' charities are equally able to feel confident that the money held in trust for them is managed and distributed properly.

There are many examples of public trusts and foundations operating in a transparent and accountable manner, providing information to the public and other charities through



websites and annual reports. Given the public dimension of philanthropy, due to the preferential tax treatment of trusts and foundations, there are strong public benefit reasons to direct private trusts and foundations down the transparency path. The annual reporting obligation and public portal of the ACNC are crucial to ensuring this occurs.

We would like to provide the following comments on details of the Bill:

### **Division 15 – Objects of this Act**

We support the objects of the Act.

### **Section 40 (10 – Register**

We support the establishment of a Register which will be made publically available through the web portal. This is an important transparency initiative with wide ranging benefits.

We note that the Commissioner has been provided with powers to withhold information from the public under circumstances outlined in the Bill and in exercising that power needs to consider the public interest in the Register. This section provides a remedy for charities with justifiable concerns that making certain information public may put individuals or the organisation at risk. We note that this power needs to be exercised on a case by case basis and that the Commission needs to consider the consequences of eroding transparency to the public before withholding information. We believe this is a balanced approach and support this aspect of the Bill.

We have been surprised to discover reference in the Explanatory Notes to forthcoming regulations which will exempt certain classes of charities, in particular Private Ancillary Funds, from having to provide certain information or make certain information public through the portal. We are concerned that this initiative has potential to erode the portal and look forward to further consultation on this matter.

One small issue, on page 20 there is a note which says “see Section 150-35 for limitations on including personal information on the Register”. This note appears to be misleading.

### **Section 60 – B Annual Information Statements**

We note that the Bill provides reporting obligations which differ according to the size of the entity (small, medium and large). Small entities, with revenue of under \$250,000 per year, are not required to provide financial reports. Entities with revenue of \$250,000 and above must provide financial reports. While it is not specified in the Bill, an earlier consultation on the ACNC implementation indicated that the Information Statements will include some basic financial information, and therefore all charities will provide at least some financial information. We support this approach.

As described earlier, we believe there is much to be gained by having the charities which hold money in trust, and the charities which do the charitable work, providing information to each other. There is a strong public interest in providing information on how much money trusts distribute to the charitable sector annually. However, until the ACNC has finalised the forms, it is unclear how 'deep' the information will be. We believe that, at a minimum, trusts and foundations should report separately on how much they distribute and other running costs such as managing the funds in corpus and granting costs.

### **60-6 Collective and Joint Reporting**

We note that the Commissioner has the power to enable collective and joint reporting and understand that this makes sense in certain circumstances. We believe trustee companies should not be given the ability to report in this way. The vast majority of philanthropic dollars and trusts are managed by trustee companies. The value and usefulness of the register and portal would be severely eroded if trustee companies treated all of the separate entities under their management as one for reporting purposes. This would also be unfair to the rest of the philanthropic sector.

Please contact me on 0409 962 992 if you need any clarification or more information on our submission.

Yours sincerely,

Esther Abram  
Executive Officer