



24 April 2014

Senate Standing Committees on Economics
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Dear Committee

Re: Australian Charities and Not-for-profits Commission (Repeal) (No. 1) Bill 2014

Creating Australia is an independent not-for-profit national organisation providing advocacy, support and leadership for the community arts and cultural development sector.

Community Arts and Cultural Development practice embraces a wide range of activities where community members are directly involved in the creation of artistic works and cultural development activities, creating collaborations between professional artists and communities based on a desire to achieve innovative artistic and cultural development outcomes.

Community arts and cultural development practitioners and organisations work with communities across the country but particularly with those facing some form of disadvantage and whose stories, hopes and ambitions often go unheard. They work for positive social change, directly tackling some of the so-called 'wicked problems' facing our society. They do this by utilising the skills of professional artists and a range of tried and tested methods and practices to create great art and, in doing so, building capacity and resilience within individuals and communities.

Creating Australia has a remit to:

- Increase the capacity and improve the sustainability of our sector
- Increase awareness, support, recognition and resources for community arts and cultural development practice
- Undertake evidence-based research that will inform our work

Our stakeholders are located in every city, town and region of Australia and they will be impacted by the proposed changes to the regulatory environment.

Creating Australia expresses its disappointment with the bill to repeal the *Australian Charities and Not-for-profits Commission Act 2012*. We are not in favour of its abolition.

The charitable and not-for-profit sector has spent time and money in making submissions to governments, especially over the past six years, to encourage government to see the issues of the disparate and varied regulation of the sector. The sector greeted the formation of the Australian Charities and Not-for-profits Commission with enthusiasm. Since its establishment, our stakeholders have spent more time and money in becoming compliant with the sector's regulator. If the ACNC were abolished, we would be required to spend yet more time and money to reverse the regulatory requirements.

No other sector is subjected to such random changes which require scarce resources to be diverted to fulfil the revisions to regulation, and this to the sector that uses its resources to build social impact.

Establishing a new commission was always going to take time for it to show an impact and the ACNC is starting to prove its worth. Already the Commission has dealt with more than 500 complaints and investigated 240. It has provided significant support to charities and not-for-profits around issues such as good governance and building knowledge and skills in the sector.

If the ACNC were abolished, would charities and not-for-profits revert to the previous disparate regimes with ASIC and state-based incorporation requirements? 10% of charities and not-for-profits are companies limited by guarantee, 40% are incorporated. The sector will lose the benefits of a regulator which understands the challenges and opportunities which a single regulator can provide.

In the absence of the ACNC:

- Who will investigate complaints against charities and not-for-profits?
- Who will support the additional costs required to unpick one regulatory format for another?
- Indeed what form of regulation will replace the ACNC? [it is a challenge for the sector to respond to the proposed repeal as there are no details of the arrangements to replace the ACNC]
- Who will have powers to investigate issues relating to financial management, breaches of governance procedures, the risk of fraud?
- Where will the public go to make complaints?
- Isn't it going to be expensive to develop yet another 'agency which succeeds the Australian Charities and Not-for-profits Commission'? Why wouldn't you then retain the ACNC?
- We understand that ASIC can deal with governance but what will happen to the 40% of incorporated charities and not-for-profits? The 10% which are cooperatives? We

cannot speak for the 40% unincorporated organisations which are mainly community focused.

- How will the powers vested in the ATO support the credibility of the charitable and not-for-profit sector?

The ACNC is starting to show the benefits it can bring to this varied and variable sector which includes predominantly small organisations. These organisations have few spare resources and the assistance given by the ACNC has been beneficial to their work.

We do not yet understand what plans are being developed for the proposed Centre of Excellence but we have been told that it is not a regulator. So as its powers will be limited and it will have no powers of sanctioning is there a plan to create these somewhere else?

Public trust and confidence is vital to the sustainability of the charitable and not-for-profit sector. The ACNC was providing transparent and accountable regulation that ensured this trust and confidence in the sector grew.

We remain committed to working with the government to address the appropriate regulation of the sector and look forward to making a further contribution to this debate.

Thank you for the opportunity to make comment on the Bill to repeal the ACNC. We would be pleased to provide further comment from the perspective of the community arts and cultural development sector.

Yours sincerely

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Executive Chairman