

1 April 2014

The Secretary
Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

By email

Dear Sir or Madam

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

Westworth Kemp Consultants value the opportunity to provide feedback into the consultative process surrounding the proposed abolition of the ACNC. We are a boutique consultancy specialising in financial reporting, assurance and compliance issues, particularly in the context of litigation and dispute resolution (www.westworthkemp.com.au). Our interest in not-for-profits (“nfps”) and the ACNC is part of our interest in the nature and quality of financial reporting information generally, and particularly in the not-for-profit sector as a result of our voluntary participation in various not-for-profit organisations over the years.

We are concerned that this repeal legislation is a backward step.

The ACNC was the result of extensive consultation and the culmination of years of research and lobbying by the charity and not-for-profit sector, including research into overseas practices. The consultative process embraced a wide variety of stakeholders including representatives from charities and other nfps, their advisers, professional bodies such as the Institute of Chartered Accountants, academic researchers and representatives of regulators. A large number of people wrote submissions on the subject and attended public hearings prior to the legislation being passed and while stakeholders may have argued over the detail, the establishment of the ACNC was broadly supported.

As the privatization of social services continues, the sector grows by the year. It has its own peculiar complexities, such as its reliance on grant funding, an unpredictable flow of donations both in cash and kind and reliance on volunteers in its governance and also in its work force. A single regulator was seen as the first stage towards simplifying a maze of state and federal legislation, compliance with which costs funds that could be used in furthering the charity or nfp’s objectives. The hope was that a simplified federal system with reduced reporting requirements for small entities would lead to a consistent nationwide system for nfps operating throughout the country and the gradual phasing out of underfunded and ineffective state regulators. Rather than abolishing the ACNC, we suggest that the nfp sector would be better served by the Commonwealth working through COAG to design a streamlined system and remove regulation at the State level, so that the ACNC can become the “one stop shop” it was intended to be.

The Tax Office is not the right regulator for the sector. Their focus is on revenue-raising and their interest in the nfp sector is therefore driven by a desire to ensure that deductible gift recipient status is strictly regulated and tax revenues are protected. The ACNC however has a broader brief to

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educate the sector and raise standards of governance as well as to regulate. In a small to medium nfp the treasurer is often a volunteer, who may not have had much training in accounting or book-keeping and corporate governance and there is often little spare cash to pay for professional advice. At the same time, there is a high expectation of probity, as nfps operate on grant funding and/or donations from their members or the general public. Consequently, the ACNC's focus on education as well as regulation was designed to reduce the very real risk of accidental non-compliance with the law and raise standards of governance in the sector. These proposals do not appear to take into account this vital function.

If you wish to discuss any of these matters further, please contact me at stephanie@westworthkemp.com.au.

Yours faithfully

Stephanie Kemp MA, FCA