

The Secretary
Senate Standing Committee on Economics
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Secretary,

Australian Charities & Not-for-Profits Commission Implementation Taskforce

Thank you for the opportunity to provide a submission to the Senate Economics References Committee Inquiry into *Mechanisms and Options for the Development of a Capital Market for Social Economy Organisations*.

As requested, the purpose of this submission is to provide you with information on the progress made in implementing the package of reform measures announced by the Government in May 2011 relating to the creation of national regulator for the Not-for-Profit Sector - the Australian Charities & Not-for-Profits Commission.

Yours sincerely,

Susan Pascoe, AM
Interim Commissioner and Head of the Australian Charities and Not-for-Profits
Commission Implementation Taskforce
6 October 2011

Submission into the Senate Economics Inquiry into Mechanisms and Options for the Development of a Capital Market for Social Economy Organisations.

Australian Charities and Not-for-Profits Commission

Implementation Taskforce

The Treasury

6 October 2011

Table of contents

Item	Subject	Pg
1.	Introduction	4
2.	Role of the proposed Australian Charities & Not-for-Profits Commission	5
3	Expected benefits of new regulation framework for the NFP sector	6
4.	Role of the ACNC Implementation Taskforce	6
5.	Taskforce implementation approach	7

1. Introduction

The Government's 2011-12 Budget announced a number of long-anticipated reforms to the not-for-profit (NFP) sector in recognition of the substantial economic and social contribution the NFP sector makes to Australian society.

The Government reforms are aimed at strengthening the policy and regulatory context in which NFPs operate, reducing the administrative burden they face, and reinforcing public trust and confidence in the sector. These reforms are aimed at making it easier for the NFP sector to deliver vital assistance to Australia's most vulnerable people.

The Government has provided \$53.6million over four years for the establishment of the Australian Charities and Not-for-Profits Commission (ACNC) and related structural changes required to the Australian Taxation Office (ATO):

	2010- 11	2011-12	2012-13	2013-14	2014-15
Australian Taxation Office (\$m)	0.0	+9.6	+23.9	+10.0	+10.1

Source: Budget 2011-12

The creation of a national regulator (external to the ATO), the ACNC, is an important part of a broad suite of reforms for the NFP sector and is expected to have a key role in bringing about the required improvements.

The ACNC regulator requires the enactment of legislation but is expected to commence operations from 1 July 2012. The Government will undertake a merit based selection process for the appointment of the Commissioner for the ACNC once legislation has been finalised.

Treasury is responsible for policy and law design with respect to regulation and taxation of the NFP sector, including:

- developing legislation for the ACNC;
- developing legislation for a statutory definition of "charity";
- reviewing fundraising legislation and 'Companies Limited by Guarantee' (as it relates to charities);
- implementing reforms to better target NFP tax concessions; and
- restating the "In Australia" special conditions and implementing reform of public ancillary funds.

Treasury is engaging with the Taskforce, ATO, the NFP Sector Reform Council and others in the sector as part of this process. At the same time, ATO personnel are working to separate and move the registration function from the ATO to the ACNC. The Department of the Prime Minister & Cabinet (PM&C) is promoting all aspects of the social inclusion agenda and coordinating NFP regulatory reform initiatives across the Australian Government.

2. Role of the proposed Australian Charities & Not-for-Profits Commission

From 1 July 2012, the ACNC will have responsibility for administering the new regulatory framework and will operate as an independent statutory body.

The Commissioner of the ACNC will be appointed by the Government and report to Parliament through the Treasurer. This will follow an open process of advertisement and appointment, conducted by Treasury. The Commissioner will have sole responsibility for determining charitable, public benevolent and other NFP status for all Commonwealth purposes.

The Commissioner of Taxation will retain responsibility for administering tax concessions for the NFP sector.

The ATO will provide corporate service support to the ACNC such as information technology, human services and accommodation support to utilise economies of scale. The Commissioner for the ACNC will be accountable to the Commissioner of Taxation for financial management reporting purposes. The ACNC's funding will be a separate appropriation in the budget.

An Advisory Board of legal, accounting and NFP sector experts will be established to provide advice to the ACNC.

The ACNC will be located in two sites, Melbourne and Canberra.

Staff will be appointed in a phased fashion from October 2011 to enable sufficient trained personnel to be ready for operation on 1 July 2012. The appointed Commissioner will have responsibility over time to establish the required blend of support products and services for the sector to ensure charitable bodies have the knowledge and skills to comply with the new regulatory framework.

The ACNC will be an independent regulator and will be responsible for;

- Assessing applications for registration from NFP entities and determining their charitable status and public benevolent institution status.
 - It is not anticipated that every registered charity will need to reapply for registration on 1 July 2012. However the ACNC will require charities to lodge an Annual Return for the reporting period beginning 1 July 2013.
 - The ATO will retain responsibility for administering Commonwealth tax concessions.
- Providing education and support on matters such as governance and financial reporting. (It is expected this will include services such as web based information, a phone advisory service and ongoing guidance for the NFP sector).
- Implementing a 'report-once use-often' general reporting framework for charities.
- Establishing a public information portal by 1 July 2013.

The ACNC will:

- be advised by an Advisory Board chaired by Robert Fitzgerald, AM;
- report to Parliament through the Treasurer;
- be staffed by around 90 officers, which may grow if additional functions are added; and
- be supported by the ATO

3. Expected Benefits of new regulation framework for the NFP sector

- 'Report once, use often' will avoid duplication and minimise the number of times NFPs have to give their details to government.
- 'One stop shop' regulator will reduce unnecessary red tape and the number of interactions NFPs need to have with different government agencies.
- Analysis of information will highlight emerging risks and tips about appropriate governance arrangements on the portal will assist organisations from being unwittingly made use of for improper purposes.
- Provision of useful publications and university research will inform and educate the sector and the public.
- Greater transparency will lead to increased community confidence in the sector.
- Greater public trust and confidence in NFP sector over time will demonstrate a well regulated sector.
- Greater transparency will encourage greater philanthropic engagement by the public
- Protection of the sector's reputation against being unfairly tainted by mischievous or illegal activity (taken advantage of, or being used for, terrorism/organised crime purposes).

4. Role of the ACNC Implementation Taskforce

The ACNC Implementation Taskforce was formed on July 2011 with responsibility for preparing the way for the ACNC to open its doors on 1 July 2012

The Taskforce will be disbanded once its role of setting up the ACNC is complete.

Ms Susan Pascoe AM has been appointed Interim Commissioner and Head of the ACNC Implementation Taskforce and heads a nine member taskforce. Prior to the establishment of the ACNC, Mr Robert Fitzgerald AM will be a Special Adviser to the Taskforce and the Minister and an ex-officio member of the Reform Council.

The Taskforce is establishing relationships with peak NFP bodies, government agencies and the public on general reporting and public information portal requirements and clarifying the educational and advisory role of the ACNC.

The Taskforce is also engaging with state agencies to negotiate use of the public information portal as a 'one stop shop'

The work of the ACNC Taskforce is being supported by the ATO, the Treasury and PM&C.

The ATO is providing operational support – building the IT portal, separating the registration function from current operations and assisting with the development of a communications strategy. During 2011 to 2012, the ATO will begin to structurally separate its role of determining charitable status from its role of administering tax concessions for the charitable sector.

The Treasury is providing budget and administrative support and accommodation for the Taskforce.

PM&C is providing coordination support with the NFP Sector Reform Council and the sector.

5. Taskforce Implementation Approach

The ACNC Taskforce (the Taskforce) is keen to promote accessibility with the sector and the public and engage as widely as possible with the NFP sector on key elements related to the establishment of the ACNC and its modus operandi as a regulator.

The Taskforce is working closely with relevant personnel in Commonwealth government agencies and across different levels of government, as well as with peak bodies in the sector to enhance relationships and to ensure that knowledge and expertise from the sector is factored into reform proposals.

The Taskforce is keen to lay the ground work for productive working relationships which the new ACNC regulator can build on from 1 July 2012. We will be engaging with the sector on key priorities:

- developing a reporting framework;
- building the information portal and;
- creating a model for the provision of information, education and advice to the sector in close collaboration with peak bodies and NFP sector representatives.

The Taskforce is adopting a staged approach:

October 2011 – *Improve access to information via website*

The Taskforce has built an electronic communication platform to ensure the NFP sector is kept up to date on the objectives and approach of the Taskforce in the

establishment of the ACNC. The website will be launched shortly. This is expected to be useful to those in remote locations to both build awareness of developments and have the opportunity to contribute their views. There will be regular updates available through the web site: www.acnctaskforce.treasury.gov.au

October 2011 – *Information sessions*

Briefing information on the broad reform agenda for the NFP sector will be made available through social media such as YouTube. There is to be a launch of a YouTube Channel on 19 October with regular updates to its content.

The aim of this session will be to **inform** the sector about a very comprehensive, complex and inter-related reform agenda for the NFP sector. It will provide the basis for subsequent discussions – ensuring that all who want to get involved in consultation have an understanding of the broad policy context within which the ACNC is being established. Key stakeholders will provide information on the Government's NFP reform agenda through YouTube and the Taskforce website.

November 2011- *Education Roundtable Forums*

The roundtables (to be held from 2 to 10 November) will provide forums for experts comprised of academics, public servants, NFP regulators, NFP and professional peak bodies, and the sector to share their knowledge on key issues:

- a general governance and financial reporting framework.
- the public information portal.
- the provision of education to the sector.

The sessions will aim to **educate** both the members of the ACNC Taskforce and the NFP sector on reporting practice in parallel sectors, technical capabilities in portal design, and best practice around regulatory education and advice. The roundtable forums will provide opportunity for clarification and detailed discussions on contentious issues.

Stimulus Papers provided to participants prior to the roundtables will document the range of emerging themes, opportunities and implications. They will be made accessible to the NFP sector and wider general community through the ACNC taskforce website.

Following the completion of the Roundtables, a Discussion Paper will be provided on 30 November 2011 for broad circulation. The sector and the public will be invited to comment on the paper by 27 February 2012.

January to February 2012 – *Consult*

Formal consultations involving face-to-face meetings in capital cities will be held from 30 January to 10 February 2012. An online forum will be available over that period to enable those physically unable to attend to still contribute their ideas.

The public sessions will be advertised in local media. The intention is to **engage** with the sector and public on matters associated with operation of the ACNC. Outcomes of the sessions will inform the development of the general reporting framework, the design of the portal and a framework for regulating information, education and advice.

The closing date for public submissions is 27 February 2012.

The outcomes of the roundtables, website, formal consultations and public submissions will inform the establishment of the ACNC.

6 October 2011