

Commonwealth Government response to the Standing Committee on Economics Senate inquiry into disclosure regimes for charities and not-for-profit organisations

<i>Key recommendations</i>	<i>Commonwealth Government response</i>
<p>Recommendation 1</p> <p>The committee recommends that all Australian Governments agree on common terminology for referring to organisations within the Sector. Governments should also develop a common meaning for terms referring to the size of these organisations, including 'micro', 'small', 'medium' and 'large'. This standard terminology should be adopted by all government departments.</p>	<p>Agree in principle. The Commonwealth Government recognises the broad range of organisations that make up the third sector and the lack of clear terminology, particularly when various tax concessions are available. Common definitions and terminology will help to build a consistent view of the third sector and its operation within Australia. The results of the Productivity Commission's Review of the contribution of the not-for-profit sector may assist in developing a framework which could underpin standard definitions and terminology.</p> <p>The Review of Australia's future tax system (the "Henry Review") may also examine the complex tax arrangements available to various types of organisations under the umbrella of the third sector and consider appropriate and alternative arrangements.</p>
<p>Recommendation 2</p> <p>The committee recommends that the Government establish a unit within the Department of Prime Minister and Cabinet specifically to manage issues arising for Not-For-Profit Organisations. The unit should report to a Minister for the Third Sector.</p>	<p>Noted. The Social Inclusion Unit within the Department of the Prime Minister and Cabinet currently provides co-ordination on these issues across government. This recognises that other departments have responsibilities that intersect with the third sector and are often more suited to provide overall policy guidance.</p> <p>The Social Inclusion Unit reports to the Prime Minister and the Minister for Social Inclusion.</p>
<p>Recommendation 3</p> <p>The committee recommends that there be a single independent national regulator for Not-For-Profit Organisations.</p> <p>Recommendation 4</p> <p>The committee recommends that the Australian National Regulator for Not-For-Profit Organisations should have similar functions to regulators overseas, and particularly in the UK, including a Register for Not-For-Profit Organisations with a compulsory sign-up requirement. The committee recommends</p>	<p>Noted. The establishment of a single, independent national regulator, enacted by Commonwealth legislation, requires agreement by State and Territory Governments to refer their responsibilities to the Commonwealth. It will be considered by Government, drawing on findings of reviews progressing throughout 2009 such as the Productivity Commission Review of the contribution of the not-for-profit sector.</p> <p>The Council of Australian Government's Business Regulation and Competition Working Group (COAG BRCWG) has included regulatory reform of the third</p>

<p>consultation with the Sector to formulate the duties of the National Regulator.</p> <p>As a minimum, the Regulator should:</p> <ul style="list-style-type: none"> a) Develop and maintain a Register of all Not-For-Profit Organisations in Australia. Once registered, the Commission should issue each organisation with a unique identifying number or allow organisations with an ABN to use that number as their Not-For-Profit identifier. This could be enabled using existing ASIC website resources. b) Develop and maintain an accessible, searchable public interface. c) Undertake either an annual descriptive analysis of the organisations that it regulates or provide the required information annually to the ABS for collation and analysis. d) Secure compliance with the relevant legislation. e) Develop best practice standards for the operation of Not-For-Profit Organisations. f) Educate/Advise Not-For-Profit Organisations on best practice standards. g) Investigate complaints relating to the operations of the organisations. h) Educate the public about the role of Not-For-Profit Organisations. <p>The voluntary codes of conduct developed by ACFID and FIA respectively should be considered by the Regulator when implementing its own code of conduct.</p> <p>Recommendation 5</p> <p>The committee recommends that the Commonwealth Government develop the legislation that will be required in order to establish a national regulator for Australia.</p>	<p>sector as part of its 2009 work plan.</p> <p>In recommending a national regulator, the Senate Committee has indicated that the Office of the Registrar of Indigenous Corporations (ORIC) which regulates Indigenous corporations under the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> (CATSI Act) would cease as an entity. The CATSI Act is a special measure for the advancement and protection of Aboriginal and Torres Strait Islander people. Any consideration of ceasing ORIC or repealing the CATSI Act requires consideration of the impact this may have on Indigenous corporations and their unique role and function.</p>
<p>Recommendation 6</p> <p>The committee recommends that, once a Register is established and populated, this information should be provided to the ABS, who should prepare and publish a comprehensive study to provide government with a clearer</p>	<p>Noted. The Productivity Commission Review of the contribution of the not-for-profit sector will consider, among other issues, alternatives for, or improvements in, measurements or further quantitative and/or qualitative means of capturing the not-for-profit sector's full contribution to</p>

<p>picture of the size and composition of the Third Sector.</p>	<p>society.</p> <p>The Australian Bureau of Statistics will be conducting a Non-Profit Institutions Satellite Account in 2009. This will provide important evidence relating to the contribution of the non-profit sector and feed into the Productivity Commission Review.</p> <p>The outcome of this Productivity Commission Review will inform any decision regarding the establishment of, and use for, such a register.</p>
<p>Recommendation 7</p> <p>The committee recommends that a single, mandatory, specialist legal structure be adopted for Not-For-Profit Organisations through a referral of state and territory powers. Given the degree of change such a legal structure would mean for some not-for-profit organisations, the legal structure must be developed in full consultation with these organisations.</p>	<p>Noted. As with Recommendations 3, 4 and 5, the move to a single specialist legal structure requires agreement by State and Territory Governments to refer their responsibilities to the Commonwealth Government. It is an issue to be considered in light of reviews relating to the third sector taking place throughout 2009, such as the Productivity Commission Review of the contribution of the not-for-profit sector.</p> <p>The BRCWG has also included regulatory reform of the third sector as part of its 2009 work plan.</p>
<p>Recommendation 8</p> <p>The committee recommends that the Henry Review include an examination of taxation measures affecting Not-For-Profit Organisations with a view to simplifying these arrangements and reducing confusion and cost of compliance for these organisations.</p>	<p>As part of the Henry Review, a discussion paper has been released to seek community input. Chapter 7 specifically relates to the tax treatment of not-for-profit organisations and possible alternative arrangements that may assist organisations to further their philanthropic and community-based activities.</p>
<p>Recommendation 9</p> <p>The committee recommends that a National Fundraising Act be developed following a referral of powers from states and territories to the Commonwealth.</p> <p>This Act should include the following minimum features:</p> <ul style="list-style-type: none"> • It should apply nationally. • It should apply to all organisations. • It should require accounts or records to be submitted following the fundraising period with the level of reporting commensurate with the size of the organisation or amount raised. • It should include a provision for the granting of a license. 	<p>Noted. State and Territory Governments regulate fundraising activities in accordance with their own legislation. The BRCWG, as part of its 2009 work plan, is considering reform options to fundraising legislation.</p>

<ul style="list-style-type: none"> • It should clearly regulate contemporary fundraising activities such as internet fundraising. 	
<p>Recommendation 10</p> <p>The committee recommends that a tiered reporting system be established under the legislation for a specialist legal structure.</p> <p>Recommendation 11</p> <p>The committee recommends that the tiers be assigned to organisations based on total annual revenue.</p>	<p>Noted. Refer to response to Recommendation 3.</p> <p>A Review of financial reporting by unlisted companies under the <i>Corporations Act 2001</i> has been conducted by the Treasury and policy reforms are being considered.</p> <p>The Commonwealth Government is also developing a Commonwealth grants policy framework that, amongst other things, will include arrangements to minimise unnecessary red tape for grant recipients.</p>
<p>Recommendation 12</p> <p>The committee recommends that the Commonwealth Government work with the Sector to implement a standard chart of accounts for use by all departments and Not-For-Profit Organisations as a priority.</p> <p>Recommendation 13</p> <p>The committee recommends that a new disclosure regime contain elements of narrative and numeric reporting as well as financial, in acknowledgement that the stakeholders of the Sector want different information to that of shareholders in the Business Sector. The financial reporting should be transparent and facilitate comparison across charities.</p>	<p>Noted. The BRCWG, as part of its 2009 work plan, is considering reform options aimed at developing a standard chart of accounts.</p> <p>The Commonwealth Government will also consider accounting disclosure regimes in light of the findings of the Review of financial reporting by unlisted companies by Treasury, which may address some of the issues raised by the Senate Committee.</p> <p>The findings of the Review of accounting standards for 'Non-publicly Accountable Entities', that is, non-listed entities, by the Australian Accounting Standards Board, and the Productivity Commission Review of the contribution of the not-for-profit sector will also be considered.</p>
<p>Recommendation 14</p> <p>The committee recommends that the national regulator investigate the cost vs benefit of a GuideStar-type system (a website portal that publishes information on the aims and activities of Not-For-Profit Organisations) in Australia to encompass all Not-For-Profit Organisations.</p>	<p>Noted. This recommendation will be considered within the context of the reviews noted. States and Territories will be consulted in the process.</p>
<p>Recommendation 15</p> <p>The committee recommends that a Taskforce be established for the purposes of implementing the recommendations of this report. The Taskforce should report to COAG. Its membership should include:</p> <ul style="list-style-type: none"> • a government representative from the Commonwealth; • a COAG-elected representative to speak for 	<p>Noted. The Commonwealth Government will consider the recommendations of the Senate Inquiry throughout 2009, as findings of various reviews are reported. It will consult extensively across the third sector, business community and State and Territory Governments. It will also seek expert advice as required. The appropriate mechanism for consultation will be determined as the issues are considered.</p>

<p>states and territories;</p> <ul style="list-style-type: none">• one or more qualified legal experts with expertise with the major pieces of legislation affecting Not-For-Profit organisations;• a representative from an organisation which manages private charitable foundations;• an accountant with not-for-profit expertise; and• a number of representatives from the peak bodies of Not-For-Profit Organisations, including a representative from a peak body for social enterprises. <p>The Taskforce should actively seek to ensure that the measures of reform that it implements do not impose an unreasonable reporting burden on small and micro Not-For-Profit Organisations.</p>	
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