

**Productivity Commission study on the contributions of
Australia's not for profit sector**

Key focus A

“Assess the extent to which the not for profit sector’s contributions to Australian society are currently measured, the utility of such measurements and the possible uses of such measurements in helping shape government policy and programs.

or,

Assess current and alternative measures of the contribution of the not for profit sector and how these can be used to better shape government policy and programs so as to optimise the sectors contribution to society.”

Discussion

The three major sources of data about the not-for-profit sector in Australia are governments, commercial information providers and not for profit organisations themselves through the World Wide Web.

The major governmental organisations that currently collect data from not-for-profit organisations are:

- Australian Taxation Office;
- The Australian Bureau of Statistics;
- The government regulators of the legal form taken by not-for-profit organisations, including the State-based regulators of incorporated associations (the dominant form of incorporation for not-for-profit organisations in Australia) and the Australian Securities and Investments Commission (ASIC) that regulates nonprofits with a company structure;
- The State-based government regulators of public fundraising;
- The Commonwealth, State and Local government agencies that fund not for profit organisations to deliver services, and
- State-based government regulators of charitable and nonprofit gambling.

Any assessments of the extent of the data needed to measure the contribution of the sector need to be informed by the perspectives of the sector itself, Commonwealth, state and local governments and of policy advisors and academics.

The not for profit sector will argue that it is already heavily burdened with data collection tasks for government and the evidence from credible sources supports that view (see for example State Services Authority of Victoria, 2007 and Auditor General of Queensland, 2007). The problem as they see it, is not that there is insufficient data, but rather, the data that is collected, at considerable cost to the sector, is uncoordinated, fragmentary, duplicated and of little value to the not for profits that collect them. The “drivers” of these disparate data collection mechanisms are the program by program responses of bureaucrats in funding departments needing to acquit outputs/ deliverables in each program area. The present systems fail to take sufficient notice of the reality that, for many human service providers, funding from several sources needs to be understood as bundled funding for integrated services (see pages 7 and 8 below and Appendix A to this submission).

From the Commonwealth government’s perspective, much of the data that is collected is of little use for the purposes of informing policy because the data can not be usefully aggregated.

Each data collection channel is designed and operated independently without any attempt to coordinate collection or to develop standard data dictionaries. In some cases, data is collected about aspects of the organisations using an industry framework or a tax framework, without regard to whether the organisation is governmental, for-profit or not for profit. As a consequence of these uncoordinated data collection mechanisms, the data are of little use either to the nonprofit organisations who prepare them, or to the Commonwealth government for the purpose of informing policy.

From the perspective of State, territory and local governments, these data are collected by several very different “stovepipe” bureaucracies. Regulators require reports and returns from nonprofit organisations that are incorporated as associations, cooperatives, etc, under state laws, from nonprofit organisations that are licensed to conduct public fundraising and/or gambling and from nonprofit organisations funded by line Departments to deliver certain services. These bureaucracies have very different perspectives. The regulators of incorporated associations for example tend to see their role as relatively passive facilitators of nonprofit organisations, the regulators of fundraising tend to take a more proactive consumer protection perspective, whilst the government funding agencies are interested primarily in the appropriate acquittal of government funding and accountability for service outputs. The interest at State level in coordinating these data collection streams is mixed, with the Victorian government taking a serious interest in the issue (State Services Authority of Victoria, 2007), but little interest evident in other States.

From the perspective of academics and policy advisors, the very significant amount of data currently collected by governments at all three levels represent fragmented and uncoordinated data sets that are almost useless for the purposes of research. The single national regulator solution is clearly an attractive option for those who would like easy access to a source of comprehensive, but relatively shallow data on the whole sector. It is noted however that survey methods such as those used by the Australian Bureau of Statistics in gathering data on a range of industries, offer much cheaper alternative methodologies. In addition, an increasing proportion of nonprofit organisations maintain a presence on the net and make regular disclosures about their activities (see Appendix C)

Local government is also a potential source of data about not for profit organisations. Local governments frequently maintain databases of community organisations and offer rates and tax concessions to a subset of such organisations. For example, some years ago, Brisbane City Council conducted a review of their records of property owned by organisations enjoying concessional treatment in order to rationalise policy regarding such concessions.

The current uncoordinated data collection activities of governments at all three levels do generate a very substantial body of data that, if properly coordinated, could provide a substantial resource for “helping shape government policy and programs”.

It is recognised that there are significant gaps in the available data, particularly in respect of smaller organisations, unincorporated organisations, religious and some other organisations that are incorporated under special statute, those that are structured as charitable trusts and those who are exempt from State fundraising regulation.

The commercial and not for profit information providers who collect data and make information available to the public in directories and on-line databases also collect data about not for profit organisations.

The following are some of the available services that specialise in not for profit organisations:

- Givewell (www.givewell.com.au)
- Pathways (www.pathwaysaustralia.com.au)
- Our Community (<http://www.ourcommunity.com.au/directories>)
- Directory of Australian Associations (<http://www.crowncontent.com.au>)
- Philanthropy Australia (<http://www.philanthropy.org.au/publications/directory.html>)
- Pro Bono Australia (<http://www.probonoaustralia.com.au/directory/>)

The World Wide Web is an increasingly important source of information about not for profit organisations as increasing numbers of these organisations have a permanent web presence. The World Wide Web is a rich source of data about not for profit organisations, with official organisational web sites often providing key governance and accountability documents such as annual reports, newsletters, policies and press releases (See Appendix C).

Recommendations:

A1. That the Commission make strong recommendations to government about the need to rationalise and standardise the data already collected by government from the not for profit sector;

A2. That the Commission avoid recommendations that would impose a new data collection burdens on the not for profit sector without first investigating ways to rationalise and coordinate existing data collection so as to make the data collected useful for all stakeholders.

Key Focus B

Consider alternatives for, or improvements in, such measurements or further quantitative and/or qualitative means of capturing the not for profit sector's full contribution to society;

Recommendations:

Following on from the discussion above, several specific measures can be implemented relatively quickly which will significantly improve the availability of comparable data on the contribution of the sector as follows:

- B1. Implement the Standard Chart of Accounts Project (see Australian Centre of Philanthropy and Nonprofit Studies Chart of Accounts Project at <http://www.bus.qut.edu.au/research/cpns/whatweresear/chartofaccou.jsp>);
- B2. Recommend the development of a standardised National data dictionary for use in collecting services related data (see for example, Department of Human Services Victoria, 2004)
- B3. Recommend the development of national not for profit sector-specific accounting standards;
- B4. Recommend the rationalisation of the multiple and often contradictory sets of services standards imposed by government funding Departments as a part of funding agreements with not for profit service providers. Consideration should be given to the development of industry specific standards in consultation with industry peak bodies such Australian Council on Disability (ACROD), the Australia Council for International Development (ACFID), the aged care accreditation agency, child care accreditation agency, etc.

Focus C

Identify unnecessary burdens or impediments to the efficient and effective operation of community organisations generally, including unnecessary or ineffective regulatory requirements and governance arrangements, while having regard to the need to maintain transparency and accountability;

or,

Identify unnecessary impediments to the efficient and effective operation of not for profit organisations and measures to enhance their operation.

Discussion

Four areas of unnecessary burden or impediments have been identified in several recent inquiries as follows:

- Inconsistent regulation of the legal forms taken by not for profit organisations across jurisdictions of government with inconsistent terminology, definitions and standards;
- Lack of consistent fundraising legislation across state and territory boundaries;
- Inconsistent tax treatment of charities and other not for profit organisations between Commonwealth and State and across State and Territory boundaries¹;
- Uncoordinated collection of program focussed data by government funding departments (see below);
- Multiple, incompatible client data collection systems across funding channels

Legal Forms

The dominant legal form of incorporation used by nonprofit organisations in Australia is the Incorporated Association of which there are approximately 140,000 in Australia². The next most numerous legal form is the Company Limited by Guarantee, of which there are about 12,000 in Australia. After these two forms, the proliferation of types increases rapidly and include an eclectic set of legal forms including organisations individually incorporated by statute, religious structures, cooperatives and land councils. The problem for the inquirer is that there is no one place where these nonprofit organisations are registered and where the public can obtain anything much more than their ABN number.

Case study

In the 2008 “Choice Magazine” conducted a survey of large charities and published a list of large charities which showed what was said to be their “annual income from donations, grants and other activities”. Choice reported that Lifeline Community Care and National Heart Foundation did not provide the requested data.

The problem with the Choice findings is that Choice appeared to have no appreciation of the different corporate structures of several of the organisations reported on. What were reported as the nation’s largest organisations were sometimes state-based organisations with a federated structure and sometimes part of a larger religious body. As a result Choice’s rankings and conclusions were flawed.

Much of the information sought by Choice was and is available from the web sites of the named organisations, who, in the main, publish their annual reports on-line (Appendix C).

¹ See the paper entitled “The assessment of charitable status in Australia” submitted as attachment C to the National Roundtable of Non-profit Organisations submission to the Senate Inquiry into disclosure regimes for charities and not-for-profit organisations. (2008)

² See <http://www.bus.qut.edu.au/research/cpns/documents/IncAssocStats2005.pdf>

Fundraising Legislation

Most charitable and other not for profit organisations that solicit public fundraising support for their organisations are required to obtain a license from a state-based regulator. Religious organisations and some semi-government organisations are exempt from some or all of these provisions. Unnecessary burdens are imposed on those organisations that conduct public fundraising in more than one jurisdiction because they are required to comply with multiple and often incompatible regulations. In some States, the regulations require preparation of reports and returns that contain data which has a definition different from similar data collected for another State regulator. As a result, the data collected at considerable cost to public fundraising not-for-profit organisations can not be accurately aggregated across State boundaries and are therefore less that useful for research purposes or for informing policy.

Case study

A charity which has branches in Queensland New South Wales and Victoria must prepare three entirely different accounts of its fundraising revenues for three different State-based regulators. In NSW bequests are not to be included in “appeals”, but in Victoria and Queensland, bequests are to be included. In Queensland the income derived from raffles is to be included in the calculation of “appeals for support”, but in Victoria they are not. Donations in lieu of flowers and any unsolicited gifts are to be excluded from fundraising totals in Victoria but included in NSW and Queensland. To complicate matters further, Victorian regulation excludes from the calculation of fundraising funds raised from trusts and foundations. (see Sections 5(3)(c) of the Charitable Fundraising Act 1991 (NSW) and Chapter 7 of the NSW Best Practice Guide; Section 5(3)(a)(ii) of the Fundraising Act 1998 (Vic); Reg 5 of the Fundraising Appeals Regulation (Vic) and Section 5 of the Collections Act 1966 (Qld).

The consequences for researchers and policy makers of these various different definitions of fundraising are that data from multiple State fundraising regulators are largely spoiled by the non-comparability. The consequences for not for profit organisations, that have fundraising operations in multiple States, are that their audited annual financial statements will not be able to comply in every respect with the requirements of all the relevant State regulatory regimes.

Recommendations

In addition to Recommendations A1 and A2, it is recommended that:

C1. Commonwealth legislation be introduced to provide for the incorporation of associations that operate across jurisdictions and that provision be made for the voluntary transfer of associations incorporated under existing State and Territory associations incorporation legislation to this new national form of incorporation for associations.

C2. State and Territories refer to the Commonwealth their powers to regulate and license charitable and community organisations wishing to conduct public fundraising and then introduce soft touch regulation in conjunction with National Codes of Practice supervised by sub-sector industry bodies.

C3. That the new national fundraising regulation removes all current exemptions from state regulation currently enjoyed by religious and semi government organisations.

C4. That the new national fundraising regulation provide for the mandatory publication on the World Wide Web within 6 months of the end of the financial year of an annual report, authorised by the governing body (including audited annual financial statements), on the activities of all licensed organisations.

C5. That State legislation be amended to provide for mutual recognition of the decisions of the Australian Taxation Office with regard to the tax status of nonprofit organisations.

Key Focus D

Consider options for improving the efficient and effective delivery of government funded services by community organisations, including improved funding, contractual and reporting arrangements with government, while having regard to the need for transparency and accountability;

or,

Consider ways in which the delivery and outcomes from government funded services by not for profit organisations could be improved

Discussion

Measuring the performance of many kinds of not-for-profit services using the “production model”³ is problematic simply because the causal links between inputs, outputs and outcomes are difficult to establish in many of the services provided by not for profit organisations (see for example Rose-Ackerman, 1986; Mocan, 2002) . Such measures are likely to be useful only in those circumstances where the services being measured are highly specified and quality of each unit of service is very similar (see for example: Campbell, 2002, and pages 24 & 25 of this submission). Such systems of measurement rarely capture the unspecified but important elements of the services (“shadow services”), such as the informal chat, help with a government form, etc, that are delivered with, for example, a meals on wheels service.

Measuring the efficiency of a not for profit service is easier in that efficiency is a function of the relationship between inputs and outputs. However, measuring effectiveness in this way is a poor measure since it assumes that the measured outputs are causally linked to desired outcomes (McGuire, 2003).

In an increasingly professionalised services environment, most professionals in the not for profit sector recognise that the discretionary nature of many of the occasions of service they deliver mean that services are heterogeneous and not usefully aggregated in a production model (Flack, 2007).

The problem of heterogeneity of occasions of service provision is further complicated by the funding arrangements for many services. In practice the government funding from several government funded programs is “bundled” by the service provider so that a package of services are delivered to service users. The diagram on the next page illustrates the problem.

The consequences of this “bundling” are revealed in the following example from a recent study:

One case study organisation involved in providing a range of services to a refugee family in regional Victoria, reported that data related to services provided to one refugee family had to be entered into 5 different data collection systems. Much of the data was duplicated on these systems as most of the different systems did not “talk to each other”.

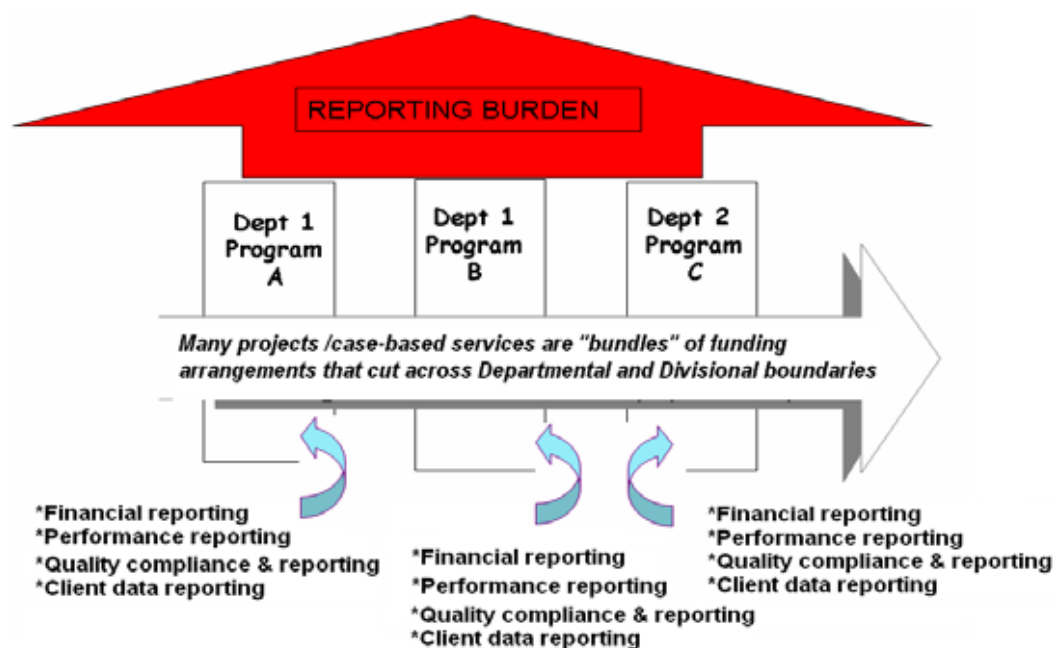
In cases where the bundled funding is sourced from multiple State and Commonwealth programs, the multiple and irreconcilable reporting streams can include:

³ The general framework reflects the service process through which service providers transform inputs into outputs and outcomes in order to achieve desired objectives (Review of Government Services (ROGS) 2009., p.1.12)

- financial acquittal against several non-comparable lines of account;
- evidence of compliance with several different service standards;
- requirements to collect similar but non-standardised client data in several different systems.

These multiple, irreconcilable accountability channels, based on schemes designed independently by different “stove pipe” bureaucracies, add complexity and duplication to the reporting burden of funded nonprofit organisations. The following diagram illustrates the problem:

Diagram: **Bundling of funding channels to provide client service packages**



As a consequence of this bundling of services into a whole-of-person or whole-of-family set of integrated services, the measurement of inputs, outputs and outcomes of any one of the elements of the specified services is unlikely to capture the true determinates of service performance.

Recommendations:

It is recommended that, in addition to recommendations A1 and A2:

D1. The use of the “production model” for measuring performance of not for profit organisations and their services be limited to those organisations and services where the nature of the occasions of service are homogenous and relatively easily quantified.

D2. That alternate models of performance evaluation be given greater priority, including the use of:

- Client feed-back loops;
- Peer evaluation of services;
- Accreditation of services;
- Certification of staff and volunteers, and
- Community Visitors.

D3. That the Australian Institute of Health and Welfare (or similar institution) be funded to develop a standardised data dictionary for use by nonprofit organisations that are required to report services data and/or client data to government funding Departments. AIHWS should also be given a brief to identifying ways to reduce duplication in reporting channels.

Key Focus E

Examine the changing nature of relationships between government, business and community organisations in recent times, their general impacts, and opportunities to enhance such relationships to optimise outcomes by the sector and its contribution to society;

or,

examine recent changes in the relationships between government, business and community organisations and whether there is scope to enhance these relationships so as to improve outcomes delivered by the not for profit sector.

Discussion

The nature of the relationships between government, business and community organisations are likely to vary greatly. The critical relations for the purpose of this inquiry are those between government and not-for-profit organisations and between business and not-for-profit organisations.

Relations between government and not-for-profit organisations.

The core irritants in relationships between government and not-for-profit organisations are to do with the way in which government funding agencies perceive their relationships with funded nonprofits. The issue can be simply put as a question – Are not-for-profit organisations to be treated as “agents of the state” or “partners in service delivery”?

The evidence suggests that in most cases the officials in the funding department perceive the funded non-profit organisations as sub-contractors or agents of government. They tend not to recognise that most nonprofit organisations have their own values, have other accountabilities and are subject to their own political pressures (see for example Flack, 2007).

Case study

Some years ago, a group of funded disability services providers were advised by the funding department that the program model under which these not for profit organisations had been funded for more that 20 years would no longer be recognised as an approved service model. The service providers were advised that they would need to “transit to the new model” (“deinstitutionalise” several homes on one site for 4-6 unrelated adults with severe physical disabilities) if they were to retain funding. The service provider nonprofit organisation had a long history of providing such group homes which had been established after years of advocacy and fundraising by the parents and families of the clients. When asked what could be done for residents, the department’s response was for the service provider to move the residents to rental accommodation or boarding houses. The relationship between the government funding department and these nonprofit organisations was badly damaged by the lack of appreciation for the political pressures on the board and employees of the organisation. This lead to intransigency on both sides, causing detriment to best outcomes for the clients served.

Recognising the often strained nature of the relationships, several governments have negotiated formal “compacts” between government and sector. Whether such compacts have assisted in ameliorating some of the recurring difficulties in relations will be tested over time.

The underlying philosophy of the funding Departments could perhaps be transformed for the better if based on the role of financial backer and services standards mentor, rather than on relationships more like that based on a combination of purchaser of service, auditor and regulator. If funding departments were to delegate the services standards guardian and inspector roles to industry based service standards bodies, relationships between government funder and funded nonprofit would have a chance to improve and more to the much talked about "partnership" relationship.

Relations between business and not-for-profit organisations.

The relationships between business and not-for-profit organisations vary on a spectrum between purely commercial relationships at one end of the spectrum to partnerships designed to further some common social objectives at the other (Galaskiewicz & Colman, 2006).

During good economic times, the capacity of commercial organisations to engage in relationships with nonprofit organisations on the social objectives end of the spectrum, tend to be greater. During the past 5-8 years there has been a sharp increase in the numbers of such relationships (see for example The Australian Centre for Corporate Social Responsibility (ACCSR))

During previous economic good times, corporate volunteering programs have become popular. Examples include employees being given one half day per month on full pay to engage with a nonprofit as volunteers. Such schemes have been widely recognised by business as having benefits for staff retention and morale, important during a period of full employment (see for example Volunteering Australia, 2006)

In the present difficult economic climate there has been a sharp decline in the value of corporate donations and sponsorships (Fundraising & Philanthropy Magazine, 2009) but a rise in approaches to nonprofits for commercial leveraging of the brand of high profile charities (see for example <http://www.cavill.com.au/default.asp>).

To what extent these fluctuations in support for strategic alliances are reflective of the prevailing economic conditions and to what extent they reflect changes in the underlying motivations and business philosophies, is difficult to determine. There is some evidence to suggest that philosophies that underpin Corporate Social Responsibility (CSR) and initiatives like the Corporate Responsibility Index (CRI), licensed to St James Ethics Centre for use in Australia and New Zealand, as a strategic management tool, have helped shape a new basis for the relationships between not for profit organisations and the business sector.

It is important to note that the relationship between small business and nonprofit organisations continues to be very important to many nonprofits at the local level. Local community services clubs like Lions and Rotary, sporting and recreation clubs and local licensed social and sporting clubs are often the links between small business communities and nonprofits. They provide important community networks that support many smaller nonprofits. The in-kind support provided by local business is often under-counted in assessments of the contributions this sector makes to nonprofit organisations in Australia.

Key Focus F

Examine the extent to which tax deductibility influences both decisions to donate and the overall pool of philanthropic funds; and examine the extent to which tax exemptions accessed by the commercial operations of not-for-profit organisations may affect the competitive neutrality of the market.

or.

Examine the impact of the taxation system on the ability of not for profit organisations to raise funds and the extent to which the tax treatment of the sector affects competitive neutrality.

In conducting the study, the Commission is to;

- adopt in its considerations a broad definition of the not for profit sector to encompass most categories of not for profit organisations, including Australian based international aid and development agencies;
- seek public submissions and consult widely with State and Territory Governments, government agencies, the community sector, business, and other interested parties;
- have regard to the Government Taxation Review headed by Dr Ken Henry and the Inquiry into the Definition of Charities and other organisations commissioned in 2002, but, other than as explicitly required by these terms of reference, not to examine in detail matters covered by those reviews; and
- have regard to any other relevant current or recent measurements and reviews conducted in Australia and internationally.

Discussion

Tax deductibility of gifts

There are two simple reasons why the tax deductibility of gifts should remain a corner stone of Australian philanthropy. First, the theoretical argument in favour of the continued tax-deductibility of gifts is based on the fundamentals of good tax policy. Good tax policy is based on the principle that wherever possible tax is levied on private gain (or put in economic terms – tax is best levied on private consumption). Using this principle, the exclusion of gifts to deductible gift recipients (DGRs) from the taxable income of a donor, is good tax policy. The gift was not available for private consumption and therefore not a part of the income for use as private gain and therefore a sound deduction from taxable income.

The relatively recent Treasury practice of constructing tax-deductibility of gifts to DGRs as a “tax expenditure”, as if the tax deductions are a subsidy, is conceptually flawed. The notion that because a group of transactions is not taxed, it is being subsidised to the value of the tax foregone, is not a sustainable argument. There are many transfers that take place inside families for example, that are not subject to income tax or GST – they are simply outside the taxable economy. To suggest that these too are “tax expenditures” is clearly an argument without credible support.

Even if the theoretical argument above were not to be relied upon, all the available evidence suggests that the tax-deductibility of gifts is tax efficient if taken to be a subsidy, i.e., the total value of gifts made by donors is likely to go up by more than the total value of the tax foregone, when the donations are tax deductible. This means that a policy objective based on an intent to encourage Australians to make altruistic transfers for social and community purposes, is effective. Although the hard evidence for this is not available in Australia, the

available evidence from the US and Australia does suggest that the efficacy of this policy approach is evident in Australia

A significant body of research over four decades in the United States indicates that tax deductions for such giving is ‘treasury efficient’. That is, on average, a decrease in \$1 in the cost of giving can be expected to result in more than \$1 being donated in personal philanthropy. Pelozo and Steel (2005) in a recent meta-analysis of research considering 69 datasets has confirmed the support for the hypothesis. In Australia it is impossible to replicate this research as it relies on access to cross-sectional panel data which follows the same group of taxpayer donors over time which is currently unavailable in Australia. (McGregor-Lowndes et al, 2006)

and more recently the “Good times and philanthropy report” (Madden & Scaife, 2008) supports the view that tax deductibility of gifts is a factor in the giving decisions of wealthier Australians. There is emerging evidence to support for the view that recent changes to tax laws designed to encourage philanthropy in Australia have resulted in a significant increase in giving (McGregor-Lowndes, et al. 2006; McGregor-Lowndes & Newton, 2009)

Tax exemptions and Competitive Neutrality

This issue was considered during the Industry Commission Inquiry into Charities (1995) and the Report concluded:

Income tax exemption does not compromise competitive neutrality between organisations. All organisations which, regardless of their taxation status, aim to maximise their surplus (profit), are unaffected in their business decisions by their tax or tax-exempt status.

CSWO commercial activities do have certain advantages over for-profit firms, such as better cash flows. However, for-profits also have certain advantages over CSWO commercial organisations. These include easier access to capital — both equity and debt, and the ability to personally benefit from profits. The overall situation is unclear (Industry Commission, 1995).

The economic argument remains unchanged since the Industry Commission report in 1995, however the legal issues surrounding the extent to which charities can engage in commercial activities before they endanger their legal standing as charities, have been further clarified by the “Word Case⁴” in late 2008. It now seems clear that there are no sound economic or legal reasons why the tax implications of the commercial activities of charities need to change. Whilst the activities of a charity in raising funds by commercial means may not be intrinsically charitable, they may still be charitable in character because they are carried out in furtherance of a charitable purpose.

The two alternative policies would be to treat all commercial activities of not for profit organisations as taxable or to tax only those activities that are deemed to be “unrelated” commercial activities.

The practical consequences of a change in the tax laws to make the profits from the unrelated commercial activities of charities taxable, as is done in other countries, would make no sense economically, over-turn accepted legal constructs of charitable activities in Australia and be

⁴ *Commissioner of Taxation of the Commonwealth of Australia v Word Investments Ltd [2008] HCA 55*

contrary to good tax policy, since such a tax would be a tax on charity. The difficulties of separating “related” and “unrelated” business activities are well documented in the US literature.

If all the commercial activities of charities were to be treated as taxable, the outcome would be to stimulate the creation of separate trading arms of charities that would simply donate their profits to their charity. Such an outcome would do nothing for competitive neutrality, do little for tax revenue and simply divert charitable resources to the creation and maintenance of separate trading entities.

The practical difficulties involved in separating “related” and “unrelated” commercial activities are provided by the following examples, some of which are typical of the commercial fundraising activities conducted by thousands of charities in Australia.

Perhaps the debate about the tax status of such activity is now less relevant. The boundaries between traditional notions of charity, government and social enterprise have blurred to the point where the nature of the economic activity is now less important and the purposes of the social enterprises are the focus (see for example, Miliband, E, 2007).

Example 1 Regular Community Markets

For many small to medium charities and other nonprofit community organisations “flea markets”, “trash and treasure markets”, “opportunity shops”, fetes, fairs, bazaars, and a bewildering array of “drives” are all important sources of fundraising income. Most would agree that such activities are incidental commercial trading activities of community organisations which should stand outside any reasonable definition of “commercial activities” for the purposes of competitive neutrality arguments.

Whilst these activities do not threaten any establish large commercial interests, they generate very few concerns about competitive neutrality for large corporations. Often unreported however, is that at a local level there is sometimes considerable discussion about these activities amongst local business. Local shop keepers are frequently concerned about such competition and lobby local government to limit or relocate charity cake shops, hamburger stalls, charitable merchandise stalls, second hand book stalls and opportunity shops. What seems clear is that many local business people do feel disadvantaged in a market where the charity stall or other nonprofit shop operators are often volunteers, tax free and, in the case of open air markets held on community facilities, rent free.

Despite their concerns, most local businesses take no public stand against such charitable fundraising activities because they prefer to support the social purposes that motivate these activities in their community. The issue is treated entirely differently by the representatives of and lobbyists for large corporations (Industry Commission, 1995).

It should be noted that concerns about competitive neutrality have previously been raised with the Commission in the context of the Gambling Inquiry in respect of the role played by the Office of Gaming Regulation in regulating both the Golden Casket Lotteries and charitable gambling products such as Lotteries, Bingo, Scratch-it type games, etc. In this context the competitive neutrality issue arises in respect of the competition between gambling activities conducted by a state sponsored agency that generate revenues for government and charitable gambling activities that generate revenue for charitable and community purposes.

Example 2 Businesses left to Charities as “going concerns”.

Occasionally, privately owned businesses are left to charities as bequests. In some cases the benefactor expressed the wish that the business be retained as a “going concern” in the will so as to provide an ongoing income stream for the charity. Such businesses are clearly part of a charitable bequest and are held for charitable purposes. To compel the sale or liquidation of such businesses in order to achieve “competitive neutrality” would be to over rule the provisions of a bequest and could not be warranted purely on the grounds of competitive neutrality.

Example 3 Business that arise from social enterprise opportunities

The following example arose in a large multi-service agency that included multiple health, aged care and disability employment services. An examination of the accounting records of the organisation revealed significant annual expenditure on the hire of fete stalls and other equipment used for regular fetes and fares at more than 26 internal locations annually. An opportunity was identified to create a fete supplies business that would provide employment opportunities for people with mild intellectual disabilities and have the potential to generate useful profits to cross subsidise other deficit producing welfare services. After the purchase of capital equipment and the selection and training of employees, the business commenced as an internal supplier but rapidly grew into a major competitor of the existing commercial suppliers. The business provided surpluses to the sponsoring organisation, employment and training for employees with disabilities and competition in a market that had previously been dominated by a small number of large suppliers.

These three examples provide evidence of the practical difficulties involved in separating the commercial and charitable purposes of the businesses conducted by income tax exempt charities.

Recommendations

F1. that the Commission recommend to government retention of the current system of tax deductions for donations to DGRs;

F2. that the Commission recommend the extension of concessionary tax treatment to new charitable remainder type instruments that would encourage older donors to transfer assets into funds from which they derive an income during their life-time but which revert to the charitable purpose after the donor is deceased;

F3. that the Commission recommend to government the maintenance of the current tax treatment of the profits from the commercial activities of charities.

APPENDIX A

The “drivers” of the data collection burden faced by not-for-profit organisations

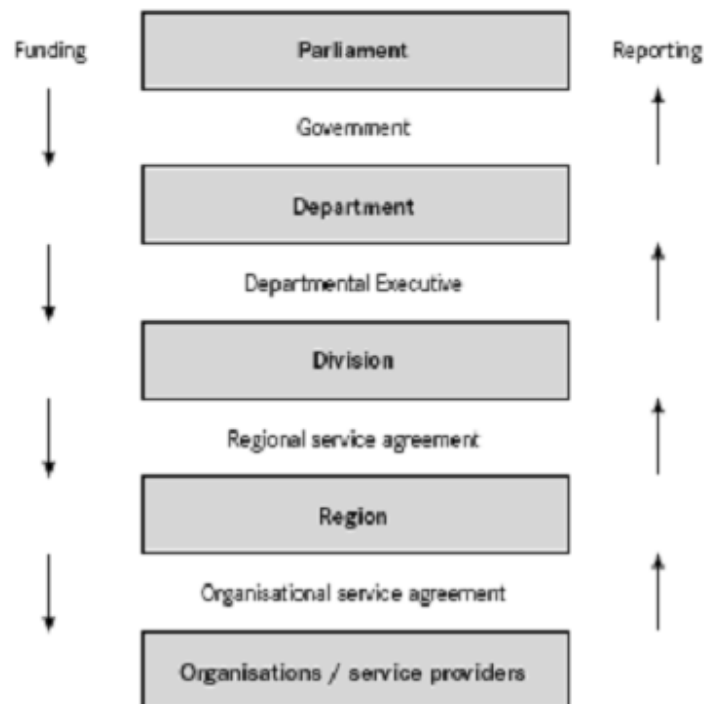
In a recent study of the accountability frameworks for government funded nonprofit organisations in Victoria, the “drivers” of the data collection burden in Victoria were identified as follows:

Accountability framework

Each DHS Division has published comprehensive Policy and Funding Plan documents that provide detailed explanations of the funding and accountability strategies adopted by the Department.

These plans are linked to the Budget Paper Number 3 output targets by the DHS Chart of Accounts described in the Policy and Plans documents as follows:

Figure 6A – Accountability for funded activities



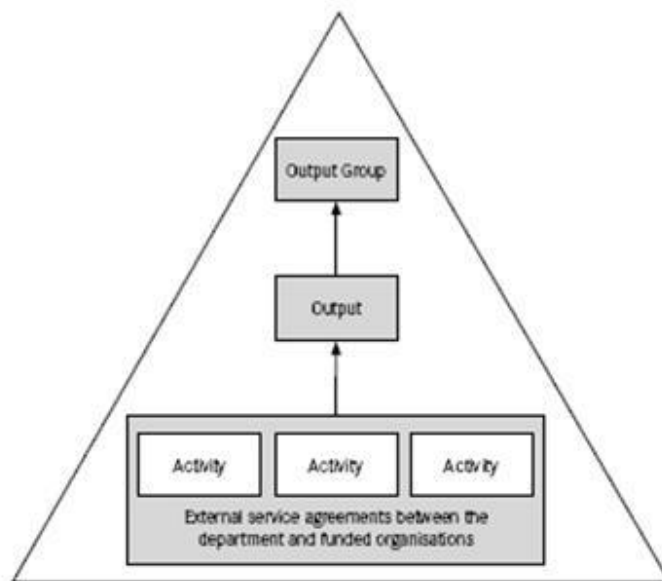
The overall outputs nominated in the Budget Papers are an aggregation of the outputs

produced in funded activities as described in the following diagram published in the DHS Divisional Policy and Plans documents:

Output Structure - Chart of Accounts

Like most organisations, the Department of Human Services allocates and monitors its resources using a chart of accounts. The chart of accounts includes a hierarchical structure, with Activities grouped to form Outputs within each Output Group. The Output Group, Output and Activity levels are the key levels used for RRHACS Division's budget management.

Figure 4B – Department of Human Services Chart of Accounts structure



Most financial reporting within the department and to the Department of Treasury and Finance takes place at the Output Group or Output level. The department allocates funds to agencies at the Activity level to provide services. The Activities for which agencies are funded are documented in service agreements. Within the organisational service agreement, related Activities are grouped together in service plans.

The Budget papers also contain summaries of the major outputs/deliverables in each program area. For example, the table below shows the major outputs/deliverables in the output group entitled "Homelessness Assistance".

| Major Outputs/Deliverables Performance Measures | Unit of Measure | 2006-07 Target | 2005-06 Expected Outcome | 2005-06 Target | 2004-05 Actual |
|---|-----------------|----------------------|--------------------------|----------------|----------------|
| Homelessness Assistance | | | | | |
| Supported Accommodation Assistance Program (SAAP) services to people who are homeless or at risk of homelessness and who are in crisis. Short-term crisis housing in emergency or crisis situations. Medium-term accommodation, linked to support services (particularly SAAP). | | | | | |
| Quantity | | | | | |
| SAAP support episodes (occasions of service) | number | 37 115 | 35 700 | 35 700 | 35 000 |
| Households assisted with crisis/transitional housing accommodation (occasions of service) | number | 13 000 | 13 000 | 13 000 | 12 700 |
| Housing information or referral assistance (occasions of service) | number | 81 300 | 81 300 | 81 300 | 81 300 |
| Households assisted with housing establishment assistance during year | number | 31 450 | 31 300 | 31 300 | 30 500 |
| Quality | | | | | |
| Clients in urgent housing need as a share of all assisted/new households | per cent | 100 | 100 | 100 | nm |
| Timeliness | | | | | |
| Number of SAAP support episodes where an accommodation need was unable to be met | per cent | 17 | 17 | 17 | 17 |
| Cost | | | | | |
| Total output cost | \$ million | 124.3 ^(a) | 115.2 ^(a) | 112.9 | 105.9 |

The administrative arrangements designed to monitor the quantity, quality, timeliness and cost of these deliverables are at the core of the accountability regime and are the essential elements of funding agreements between DHS and the not-for-profit organisations that deliver these services.

In response to these vertical accountability obligations, the DHS has developed a standardised service agreement that consist of a document with five schedules, which reflect the Department's "business context" as follows:

- *Schedule 1: signatory page and the terms and conditions, including the intent of the Partnership Agreement/Protocol.*
- *Schedule 2: a financial summary of the funding to be provided for the services outlined in Schedule 3 and the payment schedule for one financial year of the service agreement.*
- *Schedule 3: outlines services to be provided by the organisation, and the corresponding funding, service performance measures and targets, service standards and guidelines and data collection requirements (for performance reporting and other*

- data reporting*).
- Schedule 4: enables the department and organisation to:
 - document specific issues, concerns and actions about the relationship between the department and organisation
 - document specific actions that the organisation and the department will undertake that relate to the overall service agreement
 - specify additional requirements relating to individual service plans and activities (detailed in schedule 3).
 - Schedule 5: details financial accountability and reporting requirements."

Schedules 3 and 5 of the service agreements negotiated with funded not-for-profit tend to detail various combinations of four types of accountability mechanisms (depending on the type of activity) as follows:

- Financial reporting
- Service performance statistics reporting
- Compliance with service standards and guidelines reporting, and
- Client profile reporting

The major features of these accountability mechanisms are described and discussed in some detail in the next section.

Quantity

DHS has developed a comprehensive range of "activity" types that describe the range of human services funded by the Department. Each activity has a number and each numbered activity 'calls' a list of documents that describe the activity and document the applicable legislation, policy, quality standards, guidelines, data collection specifications, manuals and procedures with which service providers are required to comply.

Schedule 3 of the Standard Funding Agreement contains the Department's data collection requirements 'called' by the activity type. These include the data elements used by the Department in accounting for the outputs referred to in the budget papers. The number and type of quantitative data that must be reported to the Department by the funded not-for-profit organisation varies between funding programs but generally includes a range of data in addition to the outputs needed to acquit the requirements contained in the Budget Papers.

For example, under the Social Housing Advocacy and Support Program (SHASP), the Department requires funded service providers to report a range of additional data including the following:

Example of the data reporting requirements "called" by a particular activity:

Table 7 Social housing advocacy and support—performance measures and data collection requirements

| | |
|----------------------|--|
| Measure 1 | Number of occasions of advocacy |
| Unit of measure | Occasions. |
| Rationale | A measurement of quantitative performance against the budget. |
| Target | 3440 statewide. |
| Reporting cycle | Half yearly. |
| Measure 2 | Number of episodes of assistance for early housing |
| Unit of measure | Episodes. |
| Rationale | A measurement of quantitative performance against the budget. |
| Target | 1400 statewide. |
| Reporting cycle | Half yearly. |
| Measure 3 | Number of episodes to establish successful tenancies |
| Unit of measure | Episodes. |
| Rationale | A measurement of quantitative performance against the budget. |
| Target | 1460 statewide. |
| Reporting cycle | Half yearly. |
| Measure 4 | Number of episodes of assistance of intervention in existing tenancies |
| Unit of measure | Episodes. |
| Rationale | A measurement of quantitative performance against the budget. |
| Target | 820 |
| Reporting cycle | Half yearly. |
| Measure 5 | Number of episodes of legal services to social housing tenants in need of complex advice |
| Unit of measure | Episodes. |
| Rationale | A measurement of quantitative performance against the budget. |
| Target | 50 |
| Reporting cycle | Half yearly. |
| Special instructions | This measure relates to statewide resource service only. |
| Measure 6 | Number of episodes of secondary legal advice to SHASP providers |
| Unit of measure | Episodes. |
| Rationale | A measurement of quantitative performance against the budget. |
| Target | 150 |
| Reporting cycle | Half yearly. |
| Special Instructions | This measure relates to statewide resource service only. |

(Source: Policy and Funding Plan 2007-2009 DHS Housing and Community Building Division)

Where the program involves joint Commonwealth - State funding, the data elements required under the funding agreement also include the data required by the Commonwealth.

Quality

The Department uses both quantitative and qualitative measures of quality. The measures of quality referred to in the budget papers tend to be quantitative "proxy" measures of quality which are then reinforced by requiring the adoption of service specific quality standards and departmentally imposed quality guidelines for the delivery of the particular type of service. For example, among the SHASP requirements are the following standards and guidelines:

Table 8 Social housing advocacy and support—key documents

| Document name | For use by Department of Human Services (D) or funded sector (F) | For information (I) or compliance (c) |
|---|--|---------------------------------------|
| Department of Human Services—Information Privacy Policy 2002 | D F | C |
| Department of Human Services—Fire Risk Management Standard and/or Relevant Authorities Fire Risk Standard | F | I |
| Housing Act 1983 (as amended 2005) | D F | I |
| Insurance Guide for Non-Government Organisations 2001 | F | C |
| Language Services Policy | D F | C |
| OH&CB Housing Services Policy and Procedures Manuals | D F | I |
| OH&CB Housing Standards Policy Manual | D F | I |
| Public Housing Infrastructure Program Guidelines | F | C |
| Residential Tenancies Act 1997 | D F | I |

Schedule 3 of the standard service agreement details the service quality measures and standards that are to be applied by the funded not-for-profit organisation.

Timeliness

The Department uses both direct and "proxy" measures of timeliness. The timeliness measures referred to in the budget papers tend to be quantitative proxy measures, however these are supplemented by the application of service type specific quality standards and guidelines specified in Schedule 3 of the standard service agreement.

Cost

The cost referred to in the budget papers is the "output cost", or expressed in terms of the funding program, the funds made available to service providers (including not-for-profit organisations) for the delivery of the particular program. DHS's approach to requiring accountability from funded not-for-profit organisations for the input costs (as evidenced in the documents provided by the Department) is unique amongst the four Departments included in this research. The standardised service agreement requires that the funded organisation

provide an annual "Financial Accountability Report" (FAR) consisting an Annual Financial or Cash Indicators Statement, an Agency Certification and an Auditors Report. The formats of the elements of the FAR are reproduced at Appendix B. These requirements are unique in that they do not require the funded organisation to prepare detailed, line-by-line reports on the expenditure of the funds provided for the activity (a "special purpose financial report" at program level), but rather requires audited information about the overall financial position of the funded organisation ("general purpose financial report" at entity level).

Several of the conditions related to financial accountability of funding detailed in the standardised service agreement are also of interest. For example paragraphs 17.2 and 17.3 of the agreement state:

17.2 If the Organisation complies with the terms of this Agreement, the Organisation may retain all unexpended Funding.

17.3 If the Organisation does not comply with the terms of this Agreement, DHS may require the Organisation to return all unexpended funding.

(Source: Sample Non government organisation Service Agreement, Agreement No. 15642, DHS 2006)

In the context of the whole of the agreement, these conditions indicate that the funding is conditional on the delivery, at appropriate standards of quality, of the outputs rather than on the particular way in which the funding has been spent.

APPENDIX B

The current debate in Australia about the regulation of nonprofit organisations: The four inter-related questions.

The Background

In the last 25 years or so in Australia, the debate about whether we need to regulate nonprofit organisations more strictly or not has surfaced from time to time in the media and as a result the issue has attracted the attention of politicians.

Upon the election of a federal Labor government in late 2007, new life was breathed into the whole policy debate about the role of the nonprofit sector. The UK Labor government's focus on the "the third way" had set the agenda and the creation in the shadow Labor team of a shadow spokesperson on "social inclusion and the voluntary sector" signalled the incoming government's interest in the issues.

Ironically, it was the Australian Democrats party, in their last major contribution before political oblivion in the newly elected Senate, who initiated the next government inquiry with the new Labor government's referral to the Senate Economics Committee of an "Inquiry into Disclosure regimes for charities and not-for-profit organisations"⁵. The report in December 2008 made sweeping recommendations for the compulsory migration of all nonprofit organisations to a new legal form of incorporation, the establishment of a national regulator and the creation of national fundraising laws.

Arising from the Senate Economics Committee inquiry, it became clear that the lack of good data about the nonprofit sector significantly handicaps policy makers in Australia. The views of several academic researchers and other who have long been advocates for the routine collection of much better data about the activities and contribution of the nonprofit sector, contributed the dominant discourse in the inquiry. Apart from the imperative to have more data to inform policy and a consensus that the regulation of nonprofit organisations in Australia is untidy, there were few reasoned arguments given for the need for such radical reform.

Responding to the dominant discourse of early 2009 about the lack of data about nonprofit organisations, but rooted in much deeper philosophically attachment to communitarianism and the third way traditions of Blair and Clinton, the federal Labor government referred the issue to the Productivity Commission asking it to undertake a commissioned study on the contributions of the not for profit sector.

What becomes clear from a reading of the Productivity Commission's Issues Paper issued dated 7 April 2009 (<http://www.pc.gov.au/projects/study/not-for-profit>), is that all of the issues that might be seen to be a part of the nonprofit reform agenda will not be addressed in detail in the Inquiry. For example, there is no specific reference to an examination of the laws of charity, no reference to charitable gambling regulation in Australia and little to suggest that the Commission will address all aspects of the charity reform agenda.

⁵ http://www.aph.gov.au/senate/committee/economics_ctte/charities_08/report/index.htm

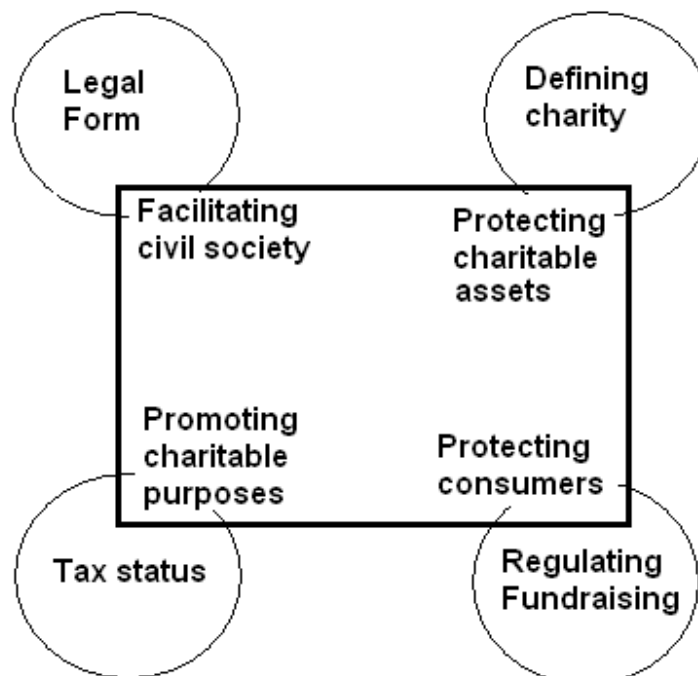
What are the big picture questions?

Before any meaningful regulatory reform of the sector can be attempted, the question – “What is the problem the government wishes to solve?” needs to be answered. Is it simply that the government wants to have more data about the contribution of the sector? Or is it interested in rationalising the “untidy” regulatory regime in which it currently operates and help to create efficiencies in the sector? The answers to these basic questions are likely to significantly impact on the price that governments are willing to pay for the reforms.

The structural issues raised by the matters discussed in this submission are fundamental to any comprehensive understanding of the contribution of the sector and the wider reform agenda for the nonprofit sector in Australia. In summary there appears to be four bundles of issues to be dealt with.

1. How should the state (Commonwealth and/or States) facilitate civil society by providing suitable forms of incorporation for civil society organisations?
2. Is there a need to modernise the definitions of what is charitable so as to vary the traditional set of purposes and activities that are provided special legal protection
3. What kinds of activities/purposes of nonprofit organisations should the state promote by using tax and other incentives/concessions?
4. What kinds of protection do consumers need to ensure that their altruistic and community minded instincts are not exploited by fraudulent “fundraisers”? Who best should regulate these activities?

The following diagram illustrates the four very different sets of perspectives :



Accountability questions

Much has been written and said about the need for a system of greater accountability for charities and other nonprofit organisations, but few have asked the key question – What can such systems achieve?

The Senate Economics Committee Inquiry Report recommended the establishment of a single national regulator and a public register for all nonprofit organisations. Although this would certainly provide the register that many commentators believe the public wants and it would certainly provide a national data set for statisticians and policy makers, there is little evidence that it would have any other medium or long term beneficial outcomes.

This is explained by two different kinds of arguments as follows. The first argument has as its central premise that systems of accountability based on the principle of transparency is that by making information available to the public on the alternate suppliers of charitable services, donors will use the data to make rational choices, and reward those suppliers who disclose information that is favourable to them by comparison to others. A publicly accessible charity register is one response. The economic rationale is that better informed markets are likely to facilitate donors making smart decisions about the allocation of their scarce donation dollars.

The problem with that theory's application in the market for donations is that the evidence suggests that most donors do not make rational choices between donation service suppliers⁶, but rather purchase their "warm inner glow" on psycho-social signals received from elsewhere.

Even if donors did use the register to inform their giving, the practical problems with such a market are that the mandatory disclosures create incentives for disclosing information that is "favourable to them by comparison". Unless the accuracy of these disclosures is very strictly policed, the outcome is a race for ever more creative accounting and "spin", or put more bluntly, deceptive practices. Claims such as "100% of your donation gets to the people who need it", or, "we spend only 4% on administration" probably simply covers the fact that the real costs are being shared out to other cost centres in the organisation. At this point it is worth reminding ourselves that, in Australia, we have no commonly accepted definition of "fundraising", "administration" or "services expenditure" and no accounting standards that would provide any level of confidence that the data disclosed on a charity register is in any way comparable. Even the audited balance sheets are unlikely to be comparable, with auditors in Australia having widely varying attitudes to the correct treatment of transactions involving restricted use assets, government grants received in advance and many other nonprofit accounting issues. As a result, donors are unlikely to obtain any meaningful financial data from the register for use in comparing alternatives (Flack, 2004; Hager, et al, 2004).

The second kind of argument used to support a charity register is that the mere existence of such a public register provides a measure of confidence to an increasingly sceptical public. This argument is likely to be supported by any research conducted immediately after the establishment of charity registers, as is the Singapore experience, although caution in drawing any conclusions is necessary because this result may well be based on a misconception in the minds of members of the public who responded to the surveys. The simple fact that donors become aware that there is a register or that a charity is on the charity register, may act as a signal of quality, even though the promoters of the register may make no claim that the presence of the charity on the register is indeed an assurance of quality. It is of course true that if a charity is removed from the register for some reason, the donor receives an

⁶ Andreoni & Petrie, (2004).

powerful quality signal, however, the removal may not necessarily be signalling poor quality charitable services and may simply reflect administrative compliance failure.

In support of the increased trust phenomenon following the introduction of a charity register, is the “market for lemons” theory first popularised by George Akerlof⁷ in which he demonstrates that when buyers in markets are very disadvantaged by a lack of information about the quality of the product or service they are buying, buyers look for signals of quality to reassure themselves about their purchases. In other words, the register may be a political device designed to respond to public perceptions rather than an effective means of creating a better informed market for donations.

Whichever of the two arguments or combinations of them are found to be most persuasive, the cost of establishing such a charity register and then dealing with the administration and policing of it is likely to be significant. The question must be asked - Is this a reasonable price to pay for the temporary reassurance that such a register will provide? And “temporary reassurance” it is likely to be - lasting only until the inevitable charity scandal in the future, that will expose the administrators of the register for their real lack of capacity to detect or prevent wrongdoing in charities.

These two arguments remind us of the economic theories about why we have nonprofit organisations in a mixed market economy anyway. Part of the theoretical reasons advanced by Hansman⁸ and others and summarised by Frumpkin⁹ for the need for a trusted “nonprofit intermediary” between the service recipient (the beneficiary) and the purchaser of the service (donor) is that the quality and quantity of many charitable services are very difficult for the donor to feel confident about. By removing the profit incentive, by engaging community leaders in the governance of these organisations and by inviting users to become involved in the affairs of the nonprofit organisation, stakeholders are able to feel a more confident in their investments of time and money. In the light of these economic theories and the institutional arrangements that have grown up to deal with these uncertainties, the provision of a charity register designed around one or two pages of summarised data, is unlikely to add much more assurance in the long run.

What then can be done to improve public accountability of nonprofit organisations?

First, we need to have a much clearer understanding of what we mean by “public accountability”. If what we mean is that the controllers of the affairs of nonprofit organisations ought to be made answerable to someone for their conduct, then there are much better ways of doing it than having them complete a form for a charity register. The characteristics of an effective system of public accountability based on this understanding of public accountability are:

- Board members (or controllers) who are required to disclose information to stakeholders;
- A forum where stakeholders can ask questions;
- A capacity for stakeholders to reward or sanction Board members (or controllers) based on stakeholder assessments of stewardship of the affairs of the nonprofit organisation.

This kind of public accountability tends to operate quite effectively in membership based

⁷ Akerlof, GA, The Market for "Lemons": Quality Uncertainty and the Market Mechanism, *The Quarterly Journal of Economics*, Vol. 84, No. 3. (Aug., 1970), pp. 488-500.

⁸ Hansmann, H. "The Role of Nonprofit Enterprise". *The Yale Law Journal*, Volume 89, Number 5 (1980): 835-902.

⁹ Frumkin, P, "On Being Nonprofit: A Conceptual And Policy Primer, Harvard University Press, 2005

nonprofits where the rules require the board members to be elected periodically by a reasonably numerous membership (more than 15 non-board members), annual general meetings are held and where membership is open to donors and other stakeholders¹⁰.

If by “more accountable”, is meant more information is made available to the public, then a simple expedient such as requiring all nonprofits over a certain size to publish on the World Wide Web a report of their activities, their annual financial statements and a list of controllers, would be much more comprehensive and nuanced than a charity register. It would also be a lot cheaper.

A combination of one or more of the following measures, which rely on the principle of “social audit”, may well be more effective than a charity register in “keeping them honest”:

- Require all non-charity nonprofit organisations (other than trusts) to have a membership structure of at least 15 unrelated, non-board-member parties, to hold annual general meetings and to have annual elections for at least 1/3 of the board membership;
- Require trustees (board members or controllers, whatever the structure) to call an annual meeting, open to the public and the press, to report to the community on their stewardship of the charity;
- Give donors of more than say \$100 to a particular charity the right to vote at the charity’s AGMs (or to speak and ask questions in public meetings);
- Require all public fundraising charities to be a member in good standing of an appropriate specialist sub-sector industry body which has an enforceable set of standards (including annual reporting standards). The industry body should have mechanism for dealing with complaints from the public and the means for sanctioning members found guilty of breaches of the standards.
- Appointment of honorary “Community Visitors” whose responsibility it would be to meet with complainants and to try to settle disputes or, where appropriate, refer them to the Disciplinary Tribunal of the industry body, to the relevant professional association or to the police in cases of suspected fraud, theft, etc.
- Encourage excellence in practice by rewarding those who actively participate in accreditation schemes and/or regular peer review.

Each of these measures are designed around the core principles of “public accountability”, ie. a relationship between an actor (the accountable person) and a forum (the annual general meeting or public stakeholder meeting) in which the actor is obliged to provide an account and submit to questioning from members of the forum, and that the forum has the capacity to reward or sanction the actor (Bovens, 2005¹¹).

¹⁰ See Flack, T. (2007) “The role of annual reports in a system of accountability for public fundraising charities”, doctoral thesis Queensland University of Technology, Brisbane Australia, available from <http://www.eprints.qut.edu.au/16362/>

¹¹ Bovens, M. (2005) Public accountability. In Ferlie, L Lynne & c Pollitt (Eds.), The Oxford Handbook of Public Management. Oxford, UK: Oxford University Press

The underlying wisdom of this type of arrangement is that wrong-doing is usually done in private. Most would-be wrong-doers are restrained by what others would think of them if their conduct was questioned and exposed in public (Braithwaite, & Drahos, 2000). This is a design feature common in many of our Western democratic institutional processes– from parliaments to court systems, in our professional associations and in our churches. It can also be a powerful way in which to influence the behaviour of those who run our nonprofit organisations.

APPENDIX C

Availability of Information about Australia's Largest Charities as adapted from the list published by *Choice Magazine*

| Charity/Aid Organisation | Availability of Annual Report |
|-------------------------------|---|
| Australian Red Cross | http://www.redcross.org.au/library_publications_annualreports.htm |
| World Vision Australia | http://www.worldvision.com.au/AboutUs/CorporateGovernance/AnnualReports.aspx |
| Salvation Army | http://www.salvos.org.au/about-us/annual-report-and-funding/ |
| Mission Australia | http://www.missionaustralia.com.au/about-mission-australia/48-pathways-for-life-annual-report-2007 |
| Vision Australia | http://www.visionaustralia.org.au/info.aspx?page=1055 |
| NSW Cancer Council | http://www.nswcc.org.au/editorial.asp?pageid=688 |
| Oxfam | http://www.oxfam.org.au/about/annual_report/ |
| Care Australia | http://www.careaustralia.org.au/Page.aspx?pid=341 |
| Smith Family | http://www.thesmithfamily.com.au/site/page.cfm?u=116 |
| Heart Foundations* | http://www.heartfoundation.org.au/About_Us/Information_About_Us/Annual_Reviews/Pages/default.aspx |
| St Vincent de Paul Societies* | http://122.201.70.166/annual-reports-national?link=607 |
| Medicins Sans Frontieres* | http://www.msf.org.au/about-msf/annual-reports/article/7-september-2008.html |
| Anglicare* | http://www.anglicare.org.au/about-us |
| Catholic Social Services* | http://catholicsocialservices.org.au/annualreports |
| Uniting Care Australia* | unavailable |
| * not listed by Choice | |

Comments:

1. With the exception of Uniting Care Australia, all of the major charities mentioned in the Choice article publish their annual report, including financial statements, on their web pages. Uniting Care Australia is in fact a network of independent organisations and therefore does not publish a single set of financial statements. The implication that might be drawn from the Choice article - that Australia's largest charities are not transparent - is clearly unfounded.
2. The problem from the researcher's point of view is that the financial statements in these annual reports are non-comparable in many ways, since the preparers of these accounts and the auditors interpret the accounting standards in different ways.
3. The problem of non-comparability is compounded by the reporting requirements driven by the requirements of State regulators (see for example the provisions of the NSW Charitable Fundraising Act and the Best Practice Guide issued by the Office of Liquor Gaming and Racing. http://www.olgr.nsw.gov.au/charitable_fund_publications.asp)

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