

29 May 2009

Not for Profit Sector
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Dear Commissioners

National Breast Cancer Foundation's (NBCF's) submission to the Productivity Commission's study into the contribution of the not for profit sector comments on four specific areas:

- The need for the non-financial measures to be included when measuring the contribution made to Australian society by the sector
- The current fragmentary regulation of the sector, especially in relation to fundraising
- Transparency and disclosure in relation to medical research institutions raising funds for their own research programs
- Competitive neutrality and the tax treatment of commercial activities undertaken by not for profit organisations.

Non-Financial Measures

NBCF is the leading Australian organisation that solely focuses on funding research for the prevention and cure of breast cancer. As such NBCF falls into the category of philanthropic intermediaries and, at one level, our contribution could be measured by the amount of research grant funding distributed in any given year. However, this would ignore important aspects of the contribution made by NBCF, including:

- The opportunity NBCF provides to all Australians to contribute to breast cancer research and through that to feel that they are personally making a difference towards the prevention and cure of the disease
- Funding of innovative research which would not receive funding from NHMRC because it is considered too speculative for Government support, e.g. NBCF funded Dr Anneke Blackburn for a pre-clinical study of a potentially new non-hormonal, non-toxic drug for preventing cancer. Our community funding base and independence from Government allows NBCF to do this

Research, business and the community – partnerships at work

Trustees The Hon Roslyn Kelly AO (Chair), Ms Fiona Balfour, Ms Sally Capp, Lady Jane Edwards AM, Mrs Elaine Henry OAM, Professor John Hopper OAM, Mr David Krasnostein, Mr Greg Paramor, Mr John Pollaers, Ms Mavis Robertson AM, Professor Wayne Tilley, Ms Margaret Wright

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- The multiplier effect of NBCF funding which enables researchers to obtain additional funding from other sources, e.g. Ms Carolyn Nickson, the recipient of 2003 Doctoral Training Scholarship has said the following:

“The flow-on benefits of NBCF funding for capacity-building in Australian breast cancer research cannot be underestimated. During the course of my studies I also obtained \$10,500 additional support funds from VicHealth and various University of Melbourne sources; most notably, the inaugural University of Melbourne Faculty of Medicine Richard Lovell Travelling Scholarship (\$5,000) to visit researchers in the Netherlands and the UK. From 2003-2007 I was also employed one day per week through BreastScreen Victoria funds to undertake a number of small R&D activities, including developing a protocol for a new study.

I’m now a Chief Investigator and researcher on that new study, which has been funded by the NHMRC (\$486,250). The study will assess the specific effect of screening on breast cancer mortality, by comparing the screening history of Victorian women who have died from breast cancer to those who have not. I have also sought funding to extend my PhD research further, and to conduct a study tour of various research groups abroad to develop new automated methods for measuring breast density for screening and research purposes, which I hope to develop back in Australia in collaboration with local physicists and computer programmers.”

These non-financial benefits are an important aspect of NBCF’s contribution to Australian society. We urge the Commission to include non-financial measures when measuring the contribution made by the sector as a whole.

Regulation

As noted in the issues paper the current regulation of the sector is complex and fragmented. The majority of NBCF’s fundraising appeals are national in nature, i.e. are not confined to a single State or Territory. In consequence NBCF is required to hold charity licences in ACT, NSW, QLD, SA, TAS, VIC and WA – a licence is not currently required in NT.

The red tape burden involved in renewing and maintaining our licences is considerable. However, of greater concern to NBCF is the burden of ensuring ongoing compliance with the many Acts and Regulations, especially as the various State and Territory Acts and Regulations vary markedly in the matters covered and the degree of detail with which they regulate fundraising. Some States, such as NSW, have very detailed legislation, whereas in others, such as Tasmania, the legislation is very broad.

Further, the legislation tends to be out of touch with modern trends in fundraising. For example the Charitable Fundraising Regulation 2003 (NSW) regulates fundraising using collection boxes for monetary donations, but is silent on the rapidly growing area of online fundraising and the use of online social networks, such as Facebook, for fundraising.

In some States and Territories, such as Victoria, the regulator is part of the Department of Consumer Affairs, whereas in others, such as NSW, it is part of a different department – in the case of NSW, the Department of Liquor, Gaming and Racing. NBCF’s experience is this leads to widely differing focus from the regulator in different jurisdictions. We would also comment that the quality of regulation varies markedly between States/ Territories.

Overall, our view is that the current State/ Territory system of regulation is fragmented, inefficient; fails to deal adequately with national fundraising appeals; fails to regulate modern trends in fundraising; and in consequence does not adequately protect the community from inappropriate or fraudulent fundraising activities. We would support the ceding of State and Territory powers to regulate charities to the Commonwealth and the establishment of a national charity regulator.

Transparency and Disclosure

There are a number of medical research institutions which fundraise for their own research programs. Unlike NBCF these programs are not necessarily subject to rigorous external peer review to assess the quality of the proposed research before funding commences. Nor is it always clear to the public what percentage of funds raised is ultimately directed to research rather than administrative expenses.

In considering the disclosure regime for charitable fundraising, we urge the Commission to consider transparent reporting and external scrutiny to ensure funds raised by the community are used in the most effective and efficient manner.

Competitive Neutrality

With regard to the competitive neutrality of commercial activities conducted by not for profits, we urge the Commission to recognise that not for profits engage in at least three distinct types of commercial activity:

- Provision of services which would otherwise be provided by Government or for profit organisations, e.g. aged care services
- Fundraising through merchandise sales where the consumer is well aware of the cause they are supporting, e.g. NBCF's Pink Ribbon merchandise
- Activities which are in direct competition with the for profit sector where the consumer may well be unaware of the use to which profits will be put, e.g. Sanitarium and the Seventh Day Adventist Church in Australia

Of these NBCF only engages in merchandise sales. For our fundraising supporters this is simply one of many different ways to support NBCF financially. Others include donations; participating in community activities, e.g. the Women in Super Mother's Day Classic; and tickets to gala events, e.g. Global Illumination. Different people choose to support NBCF financially in different ways. We are of the view that profits from merchandise sales should continue to be exempt from tax as they are essentially similar in nature to a donation made by an individual, i.e. the purchaser understands that the profits are their donation to the charity concerned.

We would be pleased to elaborate on these comments, if required.

Yours faithfully

Sue Murray
Chief Executive Officer