

Submission from

The Australian Catholic Bishops Conference

to

Productivity Commission Study

of the

Contribution of the Not for Profit Sector

Productivity Commission Study of the Contribution of the Not for Profit Sector

Introduction

Thank you for the opportunity to make a submission to the Commission's Study of the Contribution of the Not for Profit (NFP) Sector. NFPs make a significant contribution to society. Accordingly determining the contribution of NFPs is an appropriate matter for consideration.

Background and Context

Catholic Church agencies are major providers of services, especially in the areas of Education, Health and Community Services. The issues and needs in these different areas differ greatly from one another and, accordingly, the issues and needs of Catholic Church agencies providing services in these diverse areas differ greatly. This submission on behalf of the Australian Catholic Bishops Conference (ACBC) seeks to address a number of general issues of relevance to the Commission's Study.

The Australian Catholic Bishops Conference (ACBC) is a permanent institution and the instrumentality used by the Australian Catholic Bishops when acting nationally and to address issues of national significance.

A number of Catholic Church agencies will be making their own submissions to address the particular issues affecting each sector.

If there are problems they should be fixed. But, it is respectfully suggested, the Commission should firstly seek to understand the size, complexities and issues of the NFP sector and secondly to understand the different needs and issues of different parts of the sector prior to seeking to identify improvements that could be implemented. When seeking to identify improvements, a key issue for consideration by the Commission is whether particular proposed improvements are appropriate for all or only part of the NFP sector. It is likely that many proposed improvements could be appropriate for only some parts of the sector.

The NFP sector is often referred to as the Third Sector. The premise is that, in modern society, the other two sectors are the Government Sector and the Business Sector, with the NFPs the Third Sector. The roles and structures of the many different NFPs in society are complex and most provide important services. As

noted below, in recent years, roles and relations between these sectors have evolved, especially regarding the delivery of services to those in need. Accordingly, it is appropriate to consider the changing role of the NFP sector within the context of our modern society.

There is significant discussion among academics and with the NFP sector about regulatory reform. The ACBC would support well targeted reforms that simplify processes and enhance the capacity of NFPs to deliver services. Any requirements that add to the administrative overheads of NFPs will likely result in a reduction in funds available to provide community services. More importantly, a complex regulatory regime can have the effect of deterring some volunteers from undertaking governance roles, eg as treasurers, lest they find themselves at risk of non-compliance.

The Not for Profit (NFP) Sector in Australia is a vast, significant and diverse component of Australian Society.

The NFP Sector has been contributing to Australian Society for more than 200 years. Some NFP providers are small organisations delivering services in specific genres or locations. Others are large, using their economies of scale to optimise their resources to maximise delivery of services for the lowest practical cost. And there are a myriad of NFPs between these two extremes. The diversity of services provided by NFPs, and those who work with NFPs, are an integral part of the fabric of Australian Society, from lifesavers on the beaches to church based welfare agencies working with homeless people.

The NFP Sector largely provides valuable, cost-effective services. The Sector, with its largely community-based participants, is sensitive to overregulation. The impact of the engagement of community groups that come together for good should be affirmed. The view that only big organisations should be encouraged should be strongly resisted. If there are problems they should be fixed. But in such a diverse Sector, one change will not fit all. Regulation should not deter people from contributing time and resources to NFPs.

As with all other regulatory regimes, regulation of the NFP Sector needs to be commensurate with risk. The aim of such regulation should be to simplify and promote efficiency and effectiveness. Light touch regulation is preferable in such sensitive areas.

The aim of any initiatives to improve regulation or assessment of the contribution of NFPs should be better targeted regulation and measurement, not more. As noted, regulation and control of transactions and accounts should be relative to risk. Micro organisations pose little relative risk and, though their contribution is important in local communities, they make only a small proportion of the contribution of NFPs to society.

Size and Funding of NFP Sector

Valuable sources of information about the NFP Sector include the 2001 report of the *Inquiry into the Definition of Charities and Related Organisations* (CDI) and statistics from the Australian Bureau of Statistics regarding *Not-for-Profit Organisations 2006-07* (ABS/NFP). Both of these documents are valuable sources of information. But they also illustrate how statistics can appear to differ considerably regarding NFPs depending upon the definitions used.

A threshold question is: how many NFP organisations are there? The CDI report advises (Chapter 6) that there are 31,764 nonprofit entities. The CDI report also notes that another study estimated that there might be as many as 700,000 but advises “such an estimate should be treated with great caution. Most of these would not employ staff but would rely on volunteers”. The recently released ABS/NFP report advises that “at the end of June 2007, there were 40,976 not-for-profit organisations in Australia”. Therefore, based upon the CDI and ABS/NFP figures, one can accept that there are about 40,000 NFPs, of varying sizes, structures and purposes.

NFPs that do not employ staff are likely to be very small and, probably, very local. All significant NFPs employ staff. Thus employment of staff is one measure of the significance of particular parts of the NFP Sector. The CDI report advises (Ch 6) that the composition of employment in the NFP is:

- Education 34.8%
- Health 27.9%
- Community Services 31.3%
- Religion 4.3%
- Arts & Culture 1.3%
- Environmental Groups 0.3%
- Other 0.2%

(CDI Chapter 6)

The source of funding for NFPs is an important issue in considering the contribution and management of NFPs. For example, Government funding is always accompanied by substantial reporting requirements and services sold or provided for a fee are arguably self-regulated by the market.

The following is a summary from the ABSNFP of the percentage of funding from Government and Fees for Service or Sales for Education, Hospitals, Health and Social Services:

Service	From Government	Fees For Service or Sales	Total	From Other Sources
Education & Research	51.3%	33.4%	84.7%	15.3%
Hospitals	67%	27%	94%	6%
Health	65%	22%	87%	13%
Social Services	55%	30%	85%	15%

(ABS – 8106.0 Not-for-Profit Organisations, Australia 2006-07)

On one of the above measures, Education, Health and Community/Social Services make up 94% of the NFP sector. On the other measure, between 84% and 94% of funding is provided either by Government or fees for service or sales. That is, only between 6% and 15% is provided from other sources, such as donations or earnings from investments. ABSNFP advises that, for all NFPs, donations, sponsorships and fundraising accounts for 9.4% (\$7billion) of total income.

Most discussions about donations to NFPs refer to cash donations. The ABSNFP advises that \$7 billion is donated via donations, sponsorships and fundraising. But there is another, more substantial, source of donations to NFPs: volunteers. The 2001 CDI advises that a 1994-5 study estimated that 374 million hours per annum were donated via voluntary work, at an estimated value of \$7.5 billion (in 1995 figures).

A key question in assessing the contribution of the NFP Sector to society is whether Australian society is getting value for the hours and funds invested in the NFP sector.

It is important to note that about 90% of resources for NFPs come from either Government or Sales and Fees for Services. The remainder is divided about equally between donations etc and voluntary work, with the value of voluntary work being larger than the total of cash donations.

A Rationale for Social and Economic Policies

Today, the various Catholic welfare services provide a significant proportion of welfare services in Australia. There also are over 691,000 students in 1,700 Australian Catholic schools, employing 75,000 staff. Catholic Health services provide 9500 hospital beds, 19000 residential aged care beds, 6000 retirement units and 14000 aged care or community care packages.

The Catholic Church and its agencies have been involved in providing Education, Health and Community Services in Australia since the establishment of schools and hospitals in the early colony of New South Wales. Much has changed in the past century, especially in recent years, as to the roles of Government, the Private Sector and NFPs in the delivery of services to those in need. But the rationale for involvement remains the same.

Prior to seeking to assess the contribution of the NFP Sector to society, it is important to understand the rationale for NFP's involvement in such services. The rationale for the Catholic Church's involvement was described by the ACBC in its 1998 paper *Moral Reference Points for Tax Reform*¹. The rationale is very relevant to the issues being considered by the Commission. In summary there are three principles that should guide all policy developments in these matters:

1. The Common Good – “It is the proper function of public authorities to arbitrate, in the name of the common good, between various particular interests; but it should make accessible to each what is needed to lead a truly human life: food, clothing, health, work, education and culture, suitable information, the right to establish a family, and so on.” (Moral Reference Points for Tax Reform, p2)
2. Distributive Justice – Authorities have a responsibility to ensure that tax and other social systems, together with other economic mechanisms available to the Governments, are managed in a way that promotes the common good. This is not a matter of welfare or charity, but of justice.
3. Preferential Option for the Poor - The greater the needs of people, the greater the responsibility of authorities and those with a capacity to meet those needs. “The efficiency, effectiveness and justice of our taxation system are crucial to ensuring that Australia remains both a competitive and compassionate society... Many suggest, for the benefit and prosperity of the whole community, a simplification of the myriad of regulations governing the Australian tax system. The Bishops support the comprehensive evaluation and just reform of the taxation system..... Tax reform should promote the increased provision of such services to all the community, especially those in disadvantage.” (Moral Reference Points for Tax Reform, p3)

¹ (<http://www.acbc.catholic.org.au/about/pubpolicy.html>).

As noted, these three principles should be the yardsticks against which society in general and government in particular measure all social and economic policy, especially policy regarding taxation, transfers and the contribution of the NFP Sector.

Some Recent Changes That Have Affected the NFP Sector

For most of the 20th Century, there was a balance between the Government, Private and NFP sectors. The NFPs provided services across a range of areas. In caring for disadvantaged people, the Government provided most fundamental services with the NFPs providing assistance for those who fell through the cracks of Government services. In providing services for the disadvantaged, NFPs relied on their own sources of income as well as upon government funding. NFPs were often able to cross-subsidise high cost, under-funded, assistance for disadvantaged people from surpluses generated from other services. Without shareholders, any surplus funds were, and are, used to further assist disadvantaged people. The Common Good, Distributive Justice and a Preferential Option for the Poor were accepted benchmarks for such arrangements.

However, in the past 15 years the balance between the Government, Private and NFP sectors has changed. Any examination of arrangements for the NFP sector needs to examine and understand the reasons for and the significance of this change.

There were 2 primary, interrelated, reasons for this change in the balance between Government, Private and NFP Sectors. The first reason is that, with a freeing up of the economy and related changes in technology, Australian society became much less sensitive to those who, for a variety of reasons, have not benefited from the improved economic conditions. Terms such as “dole bludgers” and punitive programs such as the harshly titled “Work for the Dole” are indicators of a hardening of attitudes in society in general and Government in particular towards those less fortunate members of our society.

The second reason for this change in balance has been an enthusiasm by Governments to reduce costs. Outsourcing and an imperative to reduce costs saw many services, previously provided by the public service, outsourced to the private and NFP Sectors. An attraction to Government in outsourcing to the NFP Sector is that, with its generally lower salaries and cost bases, the NFP Sector has traditionally been able to provide services to disadvantaged clients at a much lower cost than Government. An additional situation also developed as for profit private providers have been able to “cherry pick” more lucrative services, leaving it to NFPs to carry additional burdens without the opportunities to cross subsidise that were previously available.

Any consideration of these changes should prompt questions such as:

- Is the shift of services, previously provided by government services, to the NFP Sector in order to save money for the Government, an appropriate use of the NFP Sector?
- Is cost saving by Governments a major contribution of the NFP Sector?
- Are the opportunity costs of such a change justified?

Consideration of different size NFPs

As noted above and in the CDI Report, the NFP Sector is complex, with a wide variety of organisations providing a wide range of different services with consequentially a wide range of organisational and control structures. It is arguable that the diversity of organisational and control structures is one of the strengths of the sector because of the subsequent ability of appropriate organisations to contribute to society by delivering appropriate services to very different clients. In a sector that is so complex, one size (including one measure of contribution) will not fit all.

It is suggested that, when considering the contribution of NFPs, it is appropriate to consider them in 3 different groups: large, medium and small NFPs. Defining whether a NFP is large, medium or small could be a matter of debate, depending upon definitions used.

Large NFPs provide most of the services in the NFP sector. They are particularly evident in the Education, Health, Community Service and Religion parts of the sector. The CDI Report advises that these parts of the sector employ 98.3% of people employed in the NFP sector. The ABSNFP advises that about 90% of income for the Education, Health and Community Services parts of the sector comes either from Government or from fees for services or sales. Significant controls and reporting accompanies government funding and the market controls fees for services and sales. The large organisations that provide most of the services in these parts of the sector have substantial internal control arrangements and are required to report to government about funding received. As the costs of such services are readily identifiable, a key question in assessing the contribution is whether such services are as cost-effective as alternative providers.

Medium size NFPs usually provide services in only one or a small number of locations and usually provide only one or a limited range of services. There is much diversity among such organisations regarding services provided, organisational structures and controls. There are at times suggestions that such organisations need greater controls and regulation. But such suggestions are often made by people who have a vested interest in the implementation of such controls and regulation. If there are problems, they should be fixed. But simply because there is a diversity of organisational arrangements, does not indicate that there is a problem.

As with large providers, a key question is whether the contribution is as cost-effective as alternative providers.

Small NFPs are numerous but make up only a very small component of the activity of the NFP Sector. They exist in every town and suburb of Australia, usually rely entirely upon volunteers, and usually make valuable contributions within their local communities. Any consideration of additional controls or regulation of small NFPs must be very considerate of the cost/benefits of any additional burden upon volunteers who contribute to these organisations.

With all NFPs, but especially with small NFPs, it is important to assess the social/community contributions of such organisations, as well as the economic contributions.

Consideration of Issues for the Study

It is noted that the Study's focus is on:

- improving the measurement of the sector's contributions;
- removing obstacles to maximising its contributions to society.

The following comments address a number of specific issues identified of particular interest to the study.

1. 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.

Measurements of the contribution of the NFP Sector will be either quantitative or qualitative. At both the micro and the macro levels, quantitative measurement is relatively straightforward, eg number of children in a particular school system, number of hospital patients or quantity of resources distributed or client contacts. But qualitative measurement is much more difficult and can be very subjective. For example, at the micro level, measuring the impact of welcoming a disadvantaged person into a community (in addition to feeding and clothing them) is very difficult. Similarly, at the macro level, the overall contribution that one or more NFPs in a community make in building up that community in a holistic way is difficult to measure accurately. For example, assessing the overall contribution of volunteers is difficult. Surveys and sampling are one means but can be imprecise.

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

If the purpose of a particular operation was merely the efficient dispensing of a particular service then standardisation, simplicity and economies of scale would be the optimum approach. As demonstrated in the commercial sector, this approach can be very efficient and profitable. If one adopts this approach then anyone for whom the particular service being delivered is not appropriate can go elsewhere or go without. But many of the clients of social welfare and other services have complex

needs. With their close involvement with communities and, diversified services, NFPs are often best able to address these complex needs. However particular government programs often have a narrow focus, insisting on standardisation of service delivered regardless of the diversity and complexity of the clients' needs. For example, one community agency in regional NSW, with only 30 staff, has to enter more than 25 different short term funding agreements (with differing reporting and control requirements) with state and federal government departments in order to fund its work for a year. Such situations are common for NFPs. Such complication of government funding is the major impediment to the efficient and effective operation of NFPs. Simplification of the number and diversity of such programs would significantly enhance the operation of NFPs.

There are a wide variety of types, sizes and objectives of NFPs. Some are single purpose (often local) organisations of a few individuals. Others are large national organisations delivering a range of services across the nation via local branches. A parents' group at a local school is an example of the former; the Catholic Church and Lifesaving are examples of the latter. There are many permutations between these opposite ends of the continuum.

Many NFPs rely completely or partly on unpaid volunteers. The motivations of such workers are different to most workers in for-profit organisations. The complexity of such motivations needs to be acknowledged and respected in any proposal to enhance the operation of an NFP. In addition, any impediment would be seen as unnecessary if it detracted from the ability of the NFP to deliver services without some significant overriding justification, such as safety or reasonable financial accountability.

Another issue which the Commission may wish to investigate is a simplified mechanism for the incorporation of NFPs. Many are able to operate very easily as unincorporated associations and this option ought to always be available. A change to liability law to protect office holders would enhance the use of unincorporated entities.

In some cases incorporation is a requirement for access to government funding programmes. Large and complex organisations ought to be able to incorporate, in a simplified fashion, the particular project that is relevant without needing to establish what is largely a fictitious 'membership' and separate governance structure.

Simplicity and flexibility ought to characterise any new regulatory regime for the establishment and governance of NFPs.

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

Governments have provided funds to some NFPs for many years, usually to supplement funding from other sources. Some NFPs have provided services in parallel to government provided services enabling a variety of services able to reach clients for whom the government provided services are either not practical or not preferred. As noted, in more recent years, many government services have been "outsourced" to either NFPs, to a combination of NFPs and for-profit providers or to for-profit providers. Most of the outsourced services that included NFPs have been

in the social welfare areas where NFPs have particular expertise, access and credibility.

The primary motivation for governments to outsource services has been economic, ie the belief that the outsourced service can be delivered at a lower cost than a government delivered service. In many cases, costs are much lower, especially as, for example, the salary and other cost structures of NFPs are lower than government. If cost reduction is the only motive, then such an arrangement is an abuse of the charitable motivations of employees and volunteers in NFPs. However, if the greater effectiveness of the NFPs, especially in reaching marginalised clients, is one of the reasons for outsourcing services then the management of such outsourcing by government is different to one in which the sole motivation is cost reduction and thus financial control. Government is then required to acknowledge many qualitative issues, in addition to the quantitative measures of financial control and numbers assisted. But as noted, qualitative measurement can be very difficult. Unfortunately, in the recent past, quantitative measurement has tended to dominate government management of such outsourced services and insufficient attention has been paid to qualitative assessment.

4. 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.

As noted, the motive for much of the outsourcing of government services to the NFP sector has been economic cost saving. However, the involvement of many NFPs within their local community and with their clients offer a particular opportunity to add value to the services delivered that are not readily available to government or for-profit service deliverers. Government managers of funding for services delivered by NFPs should endeavour to seek ways (and to fund) opportunities for NFPs to use their particular places in the community to add value to the service being provided.

As noted, a significant proportion of funding for NFPs comes from Government, often via a multiplicity of contracts from a multiplicity of Government agencies. These multiplicities of contracts often have different reporting and performance requirements, often for very similar services. One measure that could be taken by government to assist the sector would be to introduce common performance requirements and contracts, especially for similar services, regardless of the government agency providing the funding. Such an improvement would be beneficial if greater standardisation of contracts and performance requirements could be achieved across the Commonwealth Government. It would be particularly beneficial if greater standardisation and simplification could be achieved across all levels of Government.

In his 2007 report *Dropping Off The Edge*², Professor Tony Vinson found that many individuals and communities suffered from multiple disadvantages. He advocated a holistic approach to the needs of such individuals and communities rather than the traditional approach of separate agencies addressing separate (often overlapping)

² Vinson Prof Tony, *Dropping Off The Edge* – the distribution of disadvantage in Australia- Jesuit Social Services, Catholic Social Services 2007

needs. The Commonwealth Government has sought to address this need in its Social Inclusion policy. It is imperative that, in seeking to measure the contribution of NFPs (and of comparable providers) to society, one measures not only the impact of each individual service but the impact of the multiplicity of services (the sum of the parts). Such qualitative measures are not simple but are essential for genuine measurement of the contribution of such services and agencies.

5. 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.

As *Australia's Future Tax System Consultation Paper*³ noted "The tax concessions for the NFP Sector are complex and applied unevenly". Tax concessions for the NFP sector are in two categories: concessions for donors to the NFP and concessions for the NFP either directly or indirectly.

Tax concessions for donors impact on an NFP organisation's ability to raise funds. While such tax deductibility is not critical to the operation of the NFP, in certain areas it does make a significant difference. If such tax deductibility was removed, most NFPs would survive but would suffer a shortfall in income. For existing services to be maintained, it would be necessary for government to make up the shortfall. There would be thus a transfer of cost within government from tax concession to direct grant. It is arguable that encouraging donations to NFPs (via tax concessions) is a valuable means of encouraging greater community involvement with the work of NFPs.

The 1995 Industry Commission Report⁴ found "Income tax exemption (for NFPs) 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.

(NFP) commercial activities do have certain advantages over for-profit firms, such as better cash flows. However for-profits also have certain advantages over (NFP) commercial organisations. These include easier access to capital – both equity and debt, and the ability to personally benefit from profits."

The Industry Commission also noted⁵ that the dividend imputation system for corporations had reduced any competitive advantage that NFPs had over for profit firms. The Commission also found that exemption from other taxes that relate to cost of services may be relevant to an analysis of competitive neutrality but, given the amounts involved, when compared to the cost of materials and labour, they are only marginally significant.

³ Australia's future tax system Consultation paper December 2008- Ch 7, page 161

⁴ Industry Commission-Charitable Organisations in Australia - 1995, (attachment K, p K5)

⁵ op cit p K4

Conclusion

Thank you again for the opportunity to discuss these important issues. Various Catholic Church Agencies will be making submissions to the Study addressing a range of issues, some specific to their particular sphere of operations. The diversity of submissions from Catholic Church Agencies illustrates both the range of activities in which Catholic Church Agencies operate and the diversity and complexity of many of the issues being considered.

We look forward to discussing these important issues further with the Commission as the Study progresses.

We wish the Commission well in this important Study.

Australian Catholic Bishops Conference

May 2009