



10 June 2009

Mr Robert Fitzgerald
Commissioner
Productivity Commission
PO Box 1428
CANBERRA CITY ACT 2601

Dear Mr Fitzgerald,

Review into Contribution of the Not-for-Profit Sector

Associations Forum Pty Ltd is a privately owned for-profit entity that provides services to associations and charities. Our mission is “bringing associations and charities together to boost performance”. Over 350 not-for-profit organisations subscribe annually to our education and information services, and hundreds more organisations participate in these events or are involved in other projects.

Our response focuses on paying tribute to and makes comments on the huge contribution of associations and charities to Australia.

We note that this review duplicates issues recently addressed in the Senate’s Inquiry into Disclosure Regimes and currently being considered by the Henry Review of Taxation. We trust that this further review will not delay decisions and action in response to the Senate Inquiry.

Thank you for your interest in this submission.

Yours sincerely,

John Peacock
General Manager

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Productivity Commission
Contribution of the Not for Profit Sector
Commissioned study - Terms of reference

Background

“The Australian Government is committed to an active policy of social inclusion oriented to ensuring the economic and social participation of all Australians irrespective of their circumstances. Community (not-for-profit) organisations play an important role in combating social exclusion and enhancing the economic, social, cultural and environmental well-being of society.

The Government is committed to finding the best solutions to problems of social exclusion by ensuring the not-for-profit, private and government sectors work together effectively, and by using evidence-based programs and policies. In this context, measurement of the contributions of community organisations, and identification of ways to enhance those contributions, are important.

Further, the Government acknowledges the changing relationships between government, business and community organisations, and wants to explore their impacts and future opportunities for optimising such relationships to further the well-being of society.

The not-for-profit sector has evolved considerably since past examinations, including the Report of the former Industry Commission in 1995 on Charitable Organisations in Australia and the Australian Bureau of Statistics' work in 2002 within the national accounting framework, Non-Profit Institutions Satellite Account.

Scope of study

The Productivity Commission is requested to undertake a research study on the contributions of the not-for-profit sector with a focus on improving the measurement of its contributions and on removing obstacles to maximising its contributions to society. In undertaking the study, the Commission is to:

1. 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
2. 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
3. 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

4. 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
5. 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
6. examine the extent to which tax deductibility influences both decisions to donate and the overall pool of philanthropic funds
7. 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.

(The numbering has been added by Associations Forum to facilitate ease of reference to the matters listed.)

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's 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
- have regard to any other relevant current or recent measurements and reviews conducted in Australia and internationally.

The Commission is to produce and publish a draft report and final report by the end of 2009.

Chris Bowen
Assistant Treasurer
17 March 2009.”

CONTRIBUTION OF THE NOT-FOR-PROFIT SECTOR

Submission by Associations Forum Pty Ltd

1 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

2 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

These Terms of Reference have been restated by the Productivity Commission as “assess measures of the contribution of the not for profit sector and how these can be used to improve government policy and programs and optimise the sector’s contribution”.

Measuring the number of associations and charities

Associations Forum believes measurement of the huge contribution of the not-for-profit sector is difficult as much of the contribution is qualitative.

A step forward would be clear measurement of the number of incorporated not-for-profit organisations in Australia. The Issues Paper quotes data from 1996 on numbers of NFPs. We believe that current data should be provided at an agreed time each year.

Investigations as to why some associations and charities have commenced operations and why others have folded would be valuable.

The contribution of associations

As many of the members of Associations Forum are associations, we offer a generic list of what professional, artistic, sports, industry, spiritual and community associations may contribute:

- Education through conferences, workshops and seminars
- Accreditation of individual professionals, businesses or sports players to agreed standards
- Codes of conduct and disciplinary procedures if codes are breached
- Career guidance to people considering entering a profession, industry, sport or artistic field
- Job opportunities though sport, profession, art or industry specific websites
- Development of policies to advance the particular cause

- Advocacy for changes to improve the operations of an industry, profession or cause such as a sport
- Bulk purchasing of standard industry or profession products or services to lower costs
- Opportunities for suppliers to market their services
- Information through journals, newsletters and websites
- Research projects
- Donations to external parties for purposes to advance a mission, or for other benevolent purposes
- Governance and leadership experience for volunteers who work their way up to Board positions
- International contacts for Australia through international alliances, exchange and competition
- Accumulation of equity to be spent on the cause during periods of economic downturn
- Jobs for employees and work for suppliers and contractors
- Friendships, fellowship and collegiality

The Productivity Commission’s Issue paper for this review says “Not for profit organisations may also provide benefits to members which, while essentially private in nature, have spillover benefits to the wider community (for example, social and community clubs).”

This statement is an example of the lack of acknowledgement of the significant contribution of associations with members and which advance a cause. To refer to the contributions above as “spillover benefits” underestimates the contribution associations make to the infrastructure of the Australian nation.

The contribution of charities

The list of the contribution by associations is matched by the type of contributions of charities, which we assume other submissions to this review will offer. Instead of listing the type of contribution of charities, we instead list some charities whose contribution is apparent by their name and presence:

- Adults Surviving Child Abuse
- Macular Degeneration Foundation
- Association for Wellbeing of Children in Healthcare
- Cystic Fibrosis Australia
- Pregnancy Help Australia
- National SIDS Council

These organisations are all members of Associations Forum and their variety of causes indicates their importance and impact.

Whilst we believe that many of the contributions above cannot be measured, they must be acknowledged, understood and lauded.

Often government does not need to be involved

As to the questions of “possible uses of such measurements in helping shape government policy and programs”, we add that many associations and charities operate independently of government and do not need nor seek government involvement.

The ability of people to associate and incorporate a legal entity to advance a cause is a foundation of the power of associations and charities. The fact that people of goodwill volunteer their time in the formation or operations means that governments often do not the need to develop policy or programs in this area as independent bodies have emerged to take on this responsibility.

Measuring volunteer contribution

We add another point regarding the huge contribution of associations and charities to Australia that could be measured: volunteer time and expertise.

By their nature, associations and charities are formed by volunteers. Even as organisations develop to the stage where they have paid staff, the need for governance and technical expertise means that associations and charities continue to have a significant input from volunteers.

This contribution would be millions of hours of unpaid assistance and efforts should be made to measure this. Associations Forum believes that most associations and charities would be willing to make an annual estimation of the time contribution of volunteers.

We think participation should be optional to avoid burdensome compliance, but it may be popular as a new core measure of the contribution of the associations and charities sector.

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| 3 | 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 |
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This Term of Reference has been restated by the Productivity Commission as “identify unnecessary impediments to the efficient and effective operation of not for profit organisations and measures to improve their contributions”.

Community organisations or not-for-profit organisations?

This Term or Reference said “community organisations” whereas the Productivity Commission said “not-for-profit organisations”. We note this subtle yet significant alteration of terminology.

The Productivity Commission Issues paper says “Enhancing the efficiency and effectiveness of the sector will focus on the workforce and its capabilities, funding, research and innovation and regulatory issues confronting the sector. This aspect of the study will be less relevant for organisations which have chosen not to incorporate and have avoided the associated regulatory burden; *for smaller organisations which exist for, and are resourced by, members; organisations which offer specialised services to members such as professional associations; and organisations which are subject to unique regulatory arrangements such as political parties*” (the italics are ours).

We disagree that this aspect of the study on unnecessary burdens or impediments is be less relevant to smaller organisations that exist for or are resourced by members or professional associations. Such organisations are vital to our community and their interests in this area should be addressed.

Duplication with other Inquiries

The Productivity Commission Issues paper says “Consistent with the forward-looking nature of this study, the intention is not to replicate the work of these inquiries. Rather it is to identify those issues raised which have current relevance for the policy framework and the performance of not for profit organisations, and to explore emerging issues for consideration.”

We comment that it would seem that the Productivity Commission review in fact does closely replicate the Senate Inquiry into Disclosure Regimes.

This report was commissioned by the Assistant Treasurer, in March 2009, only four months after the Senate Economics Committee produced its December 2008 report into ‘Disclosure regimes for charities and not-for-profit organisations’. However, no specific mention of this extensive and valuable Senate Inquiry was mentioned in the Terms of Reference whilst the less relevant Henry Tax review and a 2002 review were referred to specifically. The Terms of Reference state that “The not-for-profit sector has evolved considerably since past examinations...” We do not believe the not-for-profit sector has evolved considerably since the December 2008 Inquiry.

We hope the advent of the 2009 Productivity Commission review will not delay the Government’s response to the 2008 Senate Inquiry.

Rather than replicate our considered response to the Senate Inquiry, Associations Forum’s 29 August 2008 submission to the Senate is attached to this submission as an appendix.

How Associations Forum is assisting to improve productivity

On the matter of efficient and effective operation of the not-for-profit sector, Associations Forum is assisting by human resources training. We were founded in 2004 with the purpose of “bringing associations and charities together to boost performance.” We receive no government funding yet provide thousands of hours of practical governance, operations and management training and information that allows participating organisations to do a better job.

We add that our activities both promote and commend innovation. As in commercial organisations and government departments, case studies of successful operations and significant positive change will inspire participants and raise the level of competency by all.

Whilst significant funding has been given to academic centres that examine parts of the not-for-profit sector, funding should also be granted for practical courses and events that have an immediate impact on the productivity of the sector.

4 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

This Term of Reference has been restated by the Productivity Commission as “consider ways in which the delivery and outcomes of government funded services by not for profit organisations could be improved”.

Government funded services

Associations Forum supports the principle of competitive tendering and outsourcing of government services. We are supportive because of the nature of charities and associations to achieve quality outcomes at less expense than government departments. We suggest this happens because of the specific focus of charities and associations, their greater transparency, their limited funds and the more bureaucratic nature of government organisations.

Our specific suggestions on improving the delivery of government-funded services relates to the differences between the ways government departments monitor grants. We have received anecdotal evidence that some departments are overly strict in monitoring grants, whereas others are perhaps too relaxed. Standards and consistency in this area are required and should be followed by all government departments and associations and charities. We commend the work by the Queensland University of Technology’s Centre for Philanthropy and Nonprofit Studies in this area.

Our client experience also indicates that the simple bookkeeping and accounting for grants is a practical area that needs greater clarity and assistance.

This Term of Reference seems closely aligned with the purpose of this Productivity Commission review. The Assistant Treasurer’s Media Release announcing this Review mentions “social inclusion” or “social exclusion” three times in the opening two paragraphs. It initially focuses on “community organisations” which are, somewhat confusingly, also called “community (not-for-profit) organisations”.

Governments can often leave issues to the NFP sector to solve

Politicians and public servants need ongoing feedback that associations and charities can often provide a community needs solution or perform a service with little or no government involvement. This is an exciting aspect of our democratic system with freedom of association.

Parallel to this, associations and charities should be aware that they have the right to implement solutions that do not need the imprimatur of government. For example, wise associations understand that they should self-regulate their area of expertise or trade lest the government may step in and directly regulate when the public benefit is not being met.

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| 5 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 |
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This Term of Reference has been restated by the Productivity Commission as “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 sector”.

This Term of Reference and its restatement by the Productivity Commission both refer to “community organisations”. We will make comment on the relationships between government, business and not-for-profit organisations, not just community organisations.

Associations Forum believes there has been a stronger relationship between government and the associations and charities sector since the 2007 election of the Rudd Government. The Commonwealth Government’s appointment of Senator Ursula Stephens as Parliamentary Secretary for Social Inclusion and the Voluntary Sector impressed associations and charities, and Senator Stephens’ interest, involvement and approachability has reinforced this decision.

We see no major shift in relationships between the not-for-profit sector and the business sector, which work together as and when they needs to. Associations and charities get their message across depending on the skills of their representatives, the strength of their brand or the circumstances of the era.

There should be an increased appreciation of the role and knowledge of groups such as Associations Forum and the National Roundtable of Nonprofit Organisations in the sector.

6 Examine the extent to which tax deductibility influences both decisions to donate and the overall pool of philanthropic funds

7 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.

These Terms of Reference have been restated by the Productivity Commission as “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.”

Taxation matters covered by Henry Review

The Commonwealth Government’s review of the Australian Tax System (the Henry Review), currently underway, looks at many matters relating to tax in Australia, including not-for-profit organisations: “Not-for-profit (NFP) organisations perform a valuable role in Australian society. They are eligible for a range of tax concessions and receive direct government funding in support of their philanthropic and community-based activities. The tax concessions for the NFP sector are complex and applied unevenly. Gifts are an important source of funding for NFP organisations. The current gift deductibility arrangements impose compliance costs on individuals and provide higher income donors with a greater taxation benefit than lower income donors.” Two specific questions are then asked relating to taxation of associations and charities.

With the Henry Review already examining taxation matters, we believe that having it addressed by the Productivity Commission review is duplication.

With public funds, greater scrutiny

It should be stated that associations and charities raise funds in many ways. Many associations are able to raise funds from member-based activities and therefore do not need nor seek government funds.

For organisations that generate income for their own worthy causes, there are not many impediments that apply and these are usually the same as for any business enterprise. For organisations that rely on public, government or philanthropic funding, they are subject to higher forms of accountability and this approach is also correct. These issues have been addressed in the 2008 Senate Inquiry into Disclosure Regimes of Charities and Not-for-Profit Organisations.

Trends

As to trends in the not-for-profit sector, we suggest the following:

- There appears to be increasing public interest in the community and charity spectrum of the not-for-profit sector, as people recognise that community organisations and charities are good causes and when ‘good news’ stories are required in the balance of news coverage
- Some people who have had successful corporate careers and are interested in a career change are willing to accept lower wages to work for a not-for-profit organisation
- The internet means that associations and charities are able to publicise their existence and cause better than ever before
- Some associations are resilient to the current economic downturn as they do not have share prices at all, and they tend to be conservative and build up reserves
- Charities that rely on public or corporate giving are more likely to be hurt by the economic downturn, as well as those not-for-profits with significant share holding whose value has plummeted
- Mergers of associations and charities are common but should happen more often. We note that the commercial incentive to merge or be taken over that exists in for-profits does not exist in associations and charities, and that many should merge to build scale
- Although data is not readily available on the accumulated equity of not-for-profit organisations, we believe the sector is getting wealthier each year as most organisations strive to make profits (commonly called surpluses) and there is no distribution to shareholders.
- Provided an appropriate amount of money is spent to advance the relevant cause, increasing accumulated equity is good for Australia especially in difficult times

Conclusion

The Productivity Commission review, entitled “Contribution of the Not-for-Profit Sector”, also considers “impediments”, “delivery”, “relationships” and “tax”. Whilst we have concerns that this review duplicates matters in recent and current reviews, it is a positive development that the not-for-profit sector is receiving attention with a view to reforms.

The contribution of the not-for-profit sector to Australia is enormous yet, due to variety of ways in which the sector assists our nation, this contribution is hard to measure. We encourage more measurement where possible, and ask that a broad definition of not-for-profits be applied, and not just those community based organisations that receive government funding.

As a business that believes in the importance of the sector, we have been pleased to make these observations and welcome the opportunity to discuss aspects of this submission in more detail.

John Peacock
General Manager
Associations Forum Pty Ltd.