

NATIONAL SECRETARIAT

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**Trustee
Corporations
Association
of Australia**

23 November 2009

Contribution of the Not for Profit Sector
Productivity Commission
GPO Box 1428
CANBERRA CITY ACT 2601

Dear Sir / Madam

The TCA is pleased to offer comments in relation to the Commission's draft report on the Contribution of the Not for Profit Sector.

Measuring the contribution of NFPs

We agree that it is a very difficult matter to objectively measure the contribution of the NFP sector and to be able to usefully compare the performance of the various elements within that sector in terms of 'outputs', 'outcomes' or 'impacts'.

Accordingly, we support the recommendation that the Government should fund the establishment of a *Centre for Community Service Effectiveness* to promote 'best practice' approaches to evaluation.

Legal form of NFPs

While a single legal structure for NFPs operating across jurisdictions or wishing to be incorporated at the national level might be desirable, we do not see that such an approach is necessary, provided an appropriate reporting regime is applied to the sector.

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National regulation of NFPs

We welcome the Commission's recommendation that a national *Registrar for Charitable and Community Purpose Organisations* should be established.

We agree that there would be efficiencies in such a body registering and endorsing the taxation status of NFPs, and in maintaining a national portal for the collection of corporate and financial public record information.

The Registrar would also appear to offer benefits by regulating NFPs incorporated under Commonwealth law, although not all NFPs would be obliged to seek Commonwealth incorporation.

As regards a move to full national regulation of the sector, the Commission notes that it is "*proposing a journey which can lead to a very effective consolidated national home for regulatory matters, improving public accountability and transparency while streamlining reporting requirements.*"

We are concerned about how long that journey might take and would have liked to see the draft report contain a stronger push for a faster move to full Commonwealth responsibility in this area, at least in relation to fundraising by charities.

The Commission indicates that it is attracted to a national fundraising Act as an "*ultimate destination*", but favours waiting for the States and Territories to develop a harmonised set of legislation that would form the basis of a national Act.

In this regard, the Commission points to some positive developments in relation to revamping NFP regulation in Victoria.

However, we would caution that, while there have been many instances of the States and Territories committing to harmonisation of laws in particular areas, the final outcomes have often been inconsistent – for example, long-running efforts to bring in uniform succession and legal profession laws.

Definition of charitable purposes

We agree that Government should adopt a statutory definition of charitable purposes in accordance with the recommendations of the 2001 *Inquiry into the Definition of Charities and Related Organisations*.

Clarity and consistency with respect to the interpretation of the definition of charitable and related organisations within both the law and administrative practice would be desirable.

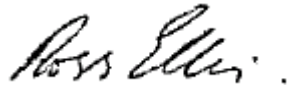
Gift deductibility

We agree that the Government should consider widening the scope for gift deductibility to include all charitable institutions and charitable funds as endorsed by the proposed national Registrar.

Office for Not-For-Profit Sector Engagement

We agree that the Government should establish an Office for NFP Sector Engagement within the Prime Minister's portfolio, with its role to include implementing sector regulatory and other reform, and overseeing the establishment of the proposed *Centre for Community Service Effectiveness*.

Yours faithfully

A handwritten signature in black ink, appearing to read "Ross Ellis".

Ross Ellis
Executive Director