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Contribution of the Not-for-Profit Sector
Productivity Commission
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SUBMISSION ON THE PRODUCTIVITY COMMISSION STUDY INTO THE CONTRIBUTION OF THE NOT-FOR-PROFIT SECTOR

Dear Ms Horsfall

The Heart Foundation welcomes the opportunity to comment on the Productivity Commission's draft report on the contribution of the not-for-profit sector.

In particular, we applaud the Commission's conclusion that "there is a need for wide-ranging reforms and a reduction in compliance costs faced by the not-for-profit sector".

The Heart Foundation strongly supports reform to the regulatory environment in which charities and not-for-profit organisations operate.

This submission responds to a number of the key points raised in the Productivity Commission's draft report, as follows.

Regulatory architecture

PC draft report: *The current regulatory architecture does not serve the sector well:*

- *Regulatory reporting can be disproportionate, complex and costly.*
- *Some legal forms are unsuited to purpose, especially for national organisations, with no coordinated central regulatory oversight to support transparency.*
- *Fundraising legislation is inconsistent across jurisdictions and has yet to be harmonised.*
- *The 'standard chart of accounts', which would allow for robust comparison, has not been adopted nationally.*
- *There is a perceived conflict for the Australian Taxation Office (ATO) in assessing eligibility for some tax concessions.*
- *There is no central body to drive badly needed reforms*

Heart Foundation response: The Heart Foundation supports reform of the regulatory regime facing the not-for-profit sector. In particular, the Heart Foundation calls for:

1. Creation of a single regulator for the charitable and not-for-profit sector across Australia with the goal of simplifying the existing, complex regulatory regime into a single, uniform system.

A single, national regulator should have the aim of providing appropriate regulation of the not-for-profit sector that:

- establishes a single disclosure/transparency arrangement that is straight-forward, fair and publicly accessible;
- eliminates unnecessary red tape;
- ensures regulation is proportional to risk;
- recognises and accommodates diversity;
- treats all charities equally;
- supports self-regulation where possible and appropriate;
- protects the right of charities to advocate; and
- provides support to charities to enhance performance.

In the absence of a single, national regulator, the Heart Foundation calls for:

2. Harmonisation of all state, territory and federal legislation governing the operation and registration of charities and not-for-profit organisations.
3. Review and reduction of unnecessary red tape on charities and the not-for-profit sector, particularly for organisations operating across more than one jurisdiction.
4. Creation of an Australian Fundraising Standards Board – along the lines of Britain’s National Fundraising Standards Board – to:
 - establish clear and consistent standards of accountability and reporting for charities and not-for-profit organisations;
 - provide support and assistance to enhance the efficiency and performance of charities;
 - enhance transparency and provide donors with a single reference point to assess whether or not a charity may be conforming with the high standards set by the Board;
 - monitor and report progress towards harmonisation of regulations applying to the not-for-profit sector; and
 - create procedures for hearing and acting on complaints from members of the public.
5. Development of uniform accounting standards for the non-government sector across Australia.
6. Measures to protect the legitimate right of charities and not-for-profit organisations to take part in advocacy and public debate.

A single, national regulator should operate and apply – as far as possible – a single set of national laws governing the operation and reporting requirements of all Australian charities and not-for-profit organisations.

A single regulator should be well-placed to apply the principle of ‘light-touch’ regulation. This should facilitate and encourage self-regulation where appropriate, and where regulation is needed, it should ensure it is proportional to risk.

When considering models for regulatory architecture, the Commission should consider the operations of the UK Fundraising Standards Board, a new and innovative body established with government support. It aims to enhance public confidence in fundraising and ensuring appropriate accountability and transparency. Member charities must adhere to the Institute of

Fundraising's 'Codes of Fundraising Practice' and the Fundraising Standards Board's 'Fundraising Promise'.

The system is backed up by a self-regulatory scheme – established after wide consultation – which deals with public complaints about fundraising activity. Importantly, it is also intended to help the public give with confidence to member charities.

Charities and organisations that display the scheme's logo are demonstrating that they have signed up to the highest fundraising standards.

For example, members of the Fundraising Standards Board scheme must:

- Adhere to the Institute of Fundraising's Codes of Fundraising Practice and the Fundraising Promise, which together represent the highest standards of good practice in fundraising.
- Have procedures in place to deal with public complaints. They should also offer a complaints 'safety net', whereby members of the public can contact the Board if they are not satisfied with the charity's response.
- Demonstrate that they are members of the Fundraising Standards Board scheme by displaying the scheme logo on their fundraising materials.

The 12 members of the Fundraising Standards Board are responsible for making final adjudications on public complaints about fundraising. In order to represent a balance of interests, the Board members include representatives from the voluntary, consumer protection and charity law sectors, plus five lay Board members.

The Fundraising Standards Board's operational team consists of just six members of staff and a chief executive. The cost of running the Charities Commission is about \$60m a year.

Tax Concessions

PC draft report: *Governments provide considerable indirect support to some types of organisations in the sector through tax concessions on giving, input and income taxes:*

- a) Deductible gift recipient (DGR) arrangements have a positive inducement effect on philanthropy. The limited scope of DGR eligibility may distort giving behaviour.*
- b) Input tax concessions do not reflect potential benefits, and some, notably the payroll tax and fringe benefits tax concessions, are costly and complex to implement and administer, and raise valid competitive neutrality concerns in some areas, for example, hospitals.*
- c) Competitive neutrality issues also arise from the concessionary treatment of gaming revenue in registered clubs relative to other operators.*

Heart Foundation response: The Heart Foundation supports the recommendations of the Fundraising Institute of Australia made in its submission to the Australian Tax Office inquiry into the future of the tax system. These include:

- Facilitate financial accounting and reporting for charities by developing an appropriate accounting and reporting standard;
- Remove barriers to compliance by streamlining compliance and removing interdepartmental reporting contradictions
- Assist charities with the cost of compliance by waiving licence and statutory fees
- Assist charities by ensuring that the taxation system recognises that they produce surplus for the public benefit, rather than profit for members; specifically by:
 - Maintaining income tax exempt status
 - Improve tax deductible status for all DGRs
 - Allow FBT deductions to apply to all DGRs

- Provide direct financial support to charities, while maintaining existing concessions, to enable the NFP sector to grow.

The Heart Foundation also calls for the current imputation system to be maintained as it directly increases the level of support the Foundation and many other charitable organisations can make to the community.

Measurement

PC draft report: *While measurement of overall sector activity is important, it is the evaluation of specific NFP activities that best informs ways to improve effectiveness and the allocation of resources over time. A nationally agreed measurement and evaluation framework would add significantly to a greater understanding of the outcomes and impacts of the sector and underpin enhanced evaluation within the sector.*

Heart Foundation response: As an evidence-based organisation with a strong commitment to evaluation, the Heart Foundation is likely to support a recommendation that a nationally agreed measurement and evaluation framework be created in order to assist better understanding of the outcomes and impacts of the NFP sector.

Such a system would need to be sufficiently flexible to allow – for example – assessment of the impact on population health resulting from the marked reduction in salt content of food, driven by the Heart Foundation’s Tick program, or the significant improvement in prevention, treatment and care of people with, or at risk of cardiovascular disease, resulting from the \$200m the Heart Foundation has invested in medical research over the past 50 years.

This investment in research has provided significant returns to the nation, not only by making a highly significant contribution to declining death rates, but also by nurturing Australian researchers (through our fellowships and scholarships program) and helping to stem the medical research brain drain. It has been estimated that up to 50% of the health gains the nation has enjoyed over the past few decades can be attributed to medical research.

Government grants

PC draft report: *Governments have sought to increase accountability in relation to direct funding, (grants and purchasing arrangements) to ensure agreed outcomes are being met. However, with some exceptions, reporting requirements associated with grants have become disproportionately more onerous without commensurate benefit.*

The Heart Foundation agrees that – in general - government reporting requirements have become more onerous overtime without commensurate benefit to government or the community. Also, grants and other funding programs sometimes lack a consistent, clear and evidence-based framework, meaning funding is not always directed to the area of most need or the area where most impact can be achieved.

Further comment

The need to protect the right of charities to advocate for their cause

The Heart Foundation believes that there is a need to protect the ability of charities to speak out and engage in public debate – should they choose do so – and completely rejects the idea that this important function should be regulated or controlled beyond the laws that currently apply to public speech.

The Heart Foundation strongly supports the need for all charities to be accountable to their donors, whether individual members of the public, companies, philanthropic entities or governments and their agencies. At the same time, the Heart Foundation rejects the notion that advocacy/lobbying by charities is at odds with the donating public's expectations of charities. Advocacy is often, by its very nature, a public activity, and is, therefore, abundantly apparent to the public. This is particularly true where charities challenge government on particular policy issues.

The Institute of Public Affairs has advanced the generalised view that:

Australian donors do not know if their investment in altruism is wise. They do not have the information to judge whether their donations are put to best use. Measures of performance are available for investors in the corporate sector, and for voters in the government sector. They should be available for donors who support the charity sector.¹

It argued that the key principle of charity reform is whether charities inform their donors sufficiently well of their activities. In advocating for a stronger disclosure regime, the Institute also questions the use of advocacy/lobbying by charities as a legitimate means of achieving their stated mission.

The Heart Foundation believes that it is important for charities to disclose to its donors the advocacy activities they undertake. But it would be the exceptional charity that advocates for its cause – whether it's ending poverty or ending heart disease – without advertising the fact to the public. Advocacy – by its very nature – is a public undertaking.

About the Heart Foundation

The Heart Foundation was founded in 1959. Its mission, stated succinctly is: "To improve the cardiovascular health of all Australians and to reduce disability and death from heart disease and stroke." With heart, stroke and vascular disease (cardiovascular disease) still accounting for 34% of all deaths in Australia and almost 20% of the total burden of disease and injury, our work is far from done.

The Heart Foundation is a federation of related entities operating together under the provisions of a Memorandum of Understanding. Those entities are:

- the National Heart Foundation of Australia (the "national company"), a company registered under the Corporations Act 2001; and
- the separate Heart Foundation entities operating in each of the states and territories of Australia. Of the eight state member Foundations, four are companies incorporated under state law, three are associations incorporated under state law and one is a company registered under the Corporations Act.

The national company's annual reports and audited financial statements are published each year.

The Heart Foundation's income is drawn almost entirely from public donations and bequests. This income is used to pursue our mission of reducing suffering and death from heart, stroke and blood vessel disease. We aim to achieve these through:

Research: The Heart Foundation research program has provided more than \$200m for research into cardiovascular disease since 1959 and this year is providing funding of more than \$12m to support quality research into the cause, diagnosis, treatment and prevention of Australia's biggest killer.

Supporting and informing: Comprehensive information and guidance on how to minimise risk is developed and disseminated to help people with, and at risk of, cardiovascular disease.

¹ Johns G, *Charities Reform in Australia*, Agenda, Vol 11, No 4, 2004

Partnerships: The Heart Foundation supports and works with all levels of government, other health organisations and professional associations, the media and community groups to implement policies and programs that improve the cardiovascular health of Australians.

Improving care: To ensure that people diagnosed with cardiovascular disease receive the best possible care, the Heart Foundation assesses the latest research and creates practical treatment tools, such as clinical guidelines, for health practitioners. The Heart Foundation's vision is for Australians to have the best cardiovascular health in the world, regardless of their income, heritage or address. The Heart Foundation works to bridge gaps in care and treatment through programs specifically targeting those Australians at higher risk of cardiovascular disease.

Programs: The Heart Foundation runs a number of programs, such as Heart Foundation *Walking* and *Heartmoves* that help Australians improve their cardiovascular health.

Building healthy communities: The Heart Foundation works with local government and planners to change neighbourhoods to create healthier communities.

Promoting awareness: Through community education campaigns and media activities, the Heart Foundation promotes lifestyle changes to improve the heart health of Australians.

Advocacy: The Heart Foundation works with governments across Australia to promote actions and programs that will improve the cardiovascular health of all Australians.

Summary

Thank you for the opportunity of making a submission on the Productivity Commission's draft report of its study on the contribution of the not-for-profit sector. This is an important study that, we feel, has significant potential to improve the sometimes very difficult and uncertain environment in which many not-for-profit organisations toil for the greater good of the community.

We wish you well in your remaining deliberations and look forward to reading the final report.

Yours sincerely



Dr Lyn Roberts AM
CEO - National