



31 January 2019

Mr Jason Lange
Executive Director
Office of Best Practice Regulation
Department of the Prime Minister and Cabinet
1 National Circuit
BARTON ACT 2600
helpdesk-obpr@pmc.gov.au

Dear Mr Lange

AUSTRALIAN CHARITIES AND NOT-FOR-PROFITS COMMISSION (ACNC) LEGISLATION REVIEW 2018 – REGULATION IMPACT STATEMENT

This letter certifies that the independent review into the ACNC legislation (ACNC legislation review), which was required by legislation, and the review panel's final report *Strengthening for purpose: Australian Charities and Not-for-profits Commission Legislation Review 2018* (the final report) satisfy the requirement to undertake a process equivalent to that for a Regulation Impact Statement (RIS) as set out in the *Australian Government Guide to Regulation*.

ACNC legislation review and the final report

On 20 December 2017, the former Assistant Minister to the Treasurer, the Hon Michael Sukkar MP, commissioned a review of the legislation regulating the ACNC. The review panel was asked to inquire into, and make recommendations on, appropriate reforms to ensure: the regulatory environment established by the ACNC legislation continues to remain contemporary; the ACNC legislation delivers on its policy objectives; and the ACNC legislation does not impair the work of the ACNC to deliver on its statutory objects.

The review panel's final report included 30 recommendations, which were categorised into four parts: objects, functions and powers; regulatory framework; red tape reduction; and additional amendments. The final report of the review panel was made public after being tabled in both Houses of Parliament on 22 August 2018.

Addressing the RIS questions

I consider that the ACNC legislation review and the review panel's final report together address the matters required to be covered by a RIS.

- *The problem* – The regulation of charities needs to be effective and appropriate to: ensure donations from the public are not misused; meet public expectations of transparency, accountability and governance; and ensure charities are not subject to over-regulation.
- *The need for government action* – The ACNC is the independent national regulator of charities, and was established by Commonwealth legislation in 2012. It is critical that the legislative framework continues to support the proper functioning of the ACNC and allows the regulator to oversee charities and take action where appropriate.
- *Policy options* – The panel considered a broad range of policy options on a number of themes, including reducing red tape for charities, engendering trust and confidence in the charity sector and supporting the ACNC to continue to regulate charities effectively. The Government will implement a

number of recommendations taken from the final report of which the following have a regulatory impact.

- *Reduce reporting requirements for small charities* – Small registered charities that use cash accounting will be given a new option of providing a statement of resources in their Annual Information Statements, instead of a simplified balance sheet.
- *Enhance disclosure requirements* – All medium and large registered charities will be required to disclose related party transactions, and large registered charities will also need to disclose aggregated remuneration paid to responsible persons and senior executives. These measures will commence following a review of the reporting thresholds, which will provide charities with time to prepare for the enhanced disclosure requirements.
- *Collect personal details of responsible persons* – The ACNC Commissioner will have greater powers to collect the personal details of responsible persons involved in unlawful activity. This will assist the ACNC in determining whether a registered charity has complied with its governance standards.
- *Disqualify responsible persons with criminal convictions* – A person will be disqualified from being a responsible person if he or she has a conviction for terrorism, terrorism financing, money laundering, fraud, importation or distribution of illicit drugs or a child sexual offence under an Australian law.
- *Consultation* – The panel received 172 submissions and met with 215 stakeholders in consultations and roundtables. The panel took counsel from leading academics, service providers and consulted with the Religious Freedoms Review and the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) review team on overlapping issues. The panel also consulted with Commonwealth and state members of parliament.
- *Implementation* – The panel identified implementation challenges, including constitutional limitations, possible costs and broad impacts of the recommendations it made. It also identified regulations, policies and reviews that intersect with its recommendations, including regulations that would need repealing.

Regulatory costing material

Average annual regulatory costs (from business as usual)				
Change in costs	Charities	Community organisations	Individuals	Total change in cost
Requiring medium and large registered charities to disclose related party transactions	\$453,000 Administrative costs faced by medium and large registered charities to identify and disclose related party information in their financial reports	\$0	\$0	\$453,000
Reducing financial reporting for small registered charities	(\$460,000) Administrative savings to small registered charities which elect to provide a statement of resources instead of a simplified balance sheet in their annual information statement	\$0	\$0	(\$460,000)
Requiring large registered charities to disclose aggregated remuneration	\$170,000 Administrative costs faced by large registered charities to identify and disclose remuneration information in their annual information statements	\$0	\$0	\$170,000
ACNC authorised to collect personal details of responsible persons and disqualification from being a responsible person	\$774,000 Administrative costs associated with doing increased background check on responsible persons	\$0	\$0	\$774,000
Total, by sector	\$937,000	\$0	\$0	\$937,000

Using the Regulatory Burden Measurement framework, we have estimated the package will increase compliance costs by \$937,000 per annum. OBPR has agreed the regulatory burden for the package will remain under \$2 million per annum and, as such, Treasury can determine the estimated regulatory cost.

A regulatory offset has not been identified. However, Treasury is seeking to pursue net reductions in compliance costs and will work with affected stakeholders and across Government to identify regulatory burden reductions where appropriate. The Government is consulting with the states and territories on additional measures from the final report, to be pursued going forward, to reduce the regulatory burden on charities and preserve public trust and confidence in the charity sector. Given the significance of these reforms, this will more than offset the increase in regulatory burden outlined above.

Yours sincerely


Paul McCullough
A/g Deputy Secretary
Revenue Group