



# Australian Council of Social Service

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To whom it may concern,

## **Re: Review of the Australian Charities and Not-for-profits Commission Legislation**

The Australian Council of Social Service (ACOSS) is a national advocate for action to reduce poverty and inequality and the peak body for the community services sector in Australia. Our vision is for a fair, inclusive and sustainable Australia where all individuals and communities can participate in and benefit from social and economic life.

ACOSS, along with our Council of Social Service network partners has previously made a submission to the review of the ACNC Legislation, and today makes this supplementary submission, focused on two issues that arose from the roundtables held by the Review Panel: the proposal to exempt small charities from reporting and governance standards, and the proposal to streamline fundraising legislation.

### **Proposed Exemption for Small Charities**

ACOSS is opposed to the proposal made by some participants to extend a range of reporting and governance exemptions to small charities, in the same way that Basic Religious Charities are exempt from these provisions. All charities, but particularly small charities, benefit from the trust engendered in the sector by virtue of the fact that it is regulated. Reducing the oversight that the ACNC has over these charities risks not only the trust that the public has in smaller charities, but indeed the trust that it has in all charities.

In addition, it is clear from ACNC reports on investigations and compliance that smaller charities form a significant proportion of the compliance workload for the ACNC, indicating that smaller charities are no less likely to see misconduct in their organisations than larger charities. Providing exemptions from the ACNC's regulatory functions risks this misconduct going unreported and not dealt with.

As the national peak body for the community services sector in Australia, ACOSS regularly engages with both small and large charities, through our own membership, and via the network of Councils of Social Service that operate in each state and territory. ACOSS has not seen any evidence or heard any reports that small charities have not coped well with the existing regulatory regime that the ACNC has put in place. Indeed we would argue the opposite – the vast bulk of small charities strongly support the work of the ACNC and the trust its regulation of the sector engenders in all charities.



### **Streamlining of Fundraising Legislation**

The second issue that has been raised in roundtable discussions is the issue of fundraising reform. ACOSS strongly supports measures to reduce red tape and streamline regulation of fundraising. The current system is outdated and requires national charities to register their fundraising activities in each state and territory. In addition, fundraising is already partly regulated by the Australian Consumer Law.

The impact of the disjointed, state based regulatory regimes is significant. Millions of dollars and thousands of staff hours are spent complying with the different approaches to regulation taken in each state or territory. Donors expect sensible regulation of fundraising, but equally expect that the cost of fundraising, including the cost of complying with systems that are different in each state without any real policy logic, not impinge significantly on their donation. Reform of fundraising regulation would make a significant difference to the red tape burden experienced by a large number of charities, particularly those operating in multiple states.

We are aware that the ACNC legislation does not directly regulate funding raising in Australia. However, part of the mandate of the ACNC is to promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector.. The need for reform of fundraising regulation was raised in the ACNC Review Panel's roundtables. ACOSS recommends that the Commonwealth, in partnership with the states and territories, work to repeal state fundraising laws and replace them with amendments to the Australian Consumer Law (ACL) that create a national regulatory regime for fundraising. ACOSS has been involved in ongoing efforts to reform outdated fundraising regulations in Australia as part of the #fix fundraising campaign. Our reform agenda includes

- Referral of any necessary or desirable legislative powers to the Commonwealth to ensure there is a robust national regime for regulating fundraising.
- The creation of a short, simple mandatory fundraising code to be contained within the ACL, which would supplement existing core provisions in the ACL, in exchange for States and Territories repealing their existing legislation and regulations on fundraising. It would need to address fundraising via face-to-face and telephone/text means, as this appears to be where most complaints derive from.
- Repeal of all licensing requirements. Reporting can be achieved through information in the Annual Information Statement (AIS), and the questions in the AIS could be tailored to cover a broader range of issues, such as third party fundraising, face-to-face fundraising and telephone fundraising.

We would be happy to provide the Review Panel with further information upon request.

Yours sincerely,

Dr. Cassandra Goldie  
ACOSS CEO