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25<sup>th</sup> January 2012

Dear Sir or Madam

We are writing in response to the Australian Charities and Not-for-profit Commission Bill, (the Bill). Anglicare Australia is a network of 43 member agencies across Australia. These members together support one in forty Australians of all ages, operate 1,545 sites, employ over 31,000 staff and volunteers and have a combined budget of over a billion dollars. They have a diversity of size and service offering and are present in every type of community across Australia. They have been supporting their communities for over 150 years and are deeply embedded in the communities which they serve.

Anglicare Australia has supported the idea of a Charities Commission to several enquiries over many years including to the Productivity Commission report into the Contribution of the Not for Profit Sector. The comments upon the current Bill should be read with that general support in mind.

We recognise that when an issue is codified into law the intent often becomes hard to remember. The enabling, supportive intent based on the high degree of trust in the sector that the PC report found, as well as Government announcements certainly seems to be missing in some of the language of the Bill. The very Objects of the Bill are worded (with the exception of 2-5 (2) a ii) as if to protect the public from the sector, rather than to support the sector to support the community.

We are concerned about the clauses dealing with the powers given to the ACNC with regard particularly to the potential revocation of registration if the continuing registration "*may cause harm to, or jeopardise, the public trust and confidence*" 10-55 1 (e). This would seem at best to be arbitrary and requires clarification. The codification of the promotion of public trust and confidence is unusual and it is difficult to see which category of the Legislative powers of the Parliament the first object of the Bill to "promote public trust and confidence" bests fits. It will require significant clarification to avoid uncertainty for the sector and costly legal test cases.

It is difficult to fully assess the impact of the later stages of the Bill eg Division 143, Suspension and renewal of Responsible persons; of the whole of 4 – 2 Reviews and Appeals which are still to drafted. The latter section will be of importance given the current wide ranging powers.

We have made very similar comments in our submission to the Consultation Paper on the Review of NFP governance arrangements with regard to the importance of avoidance of increased red tape and duplication. The Bill must give the ACNC the powers to remove duplicated clauses from Commonwealth Department funding agreements. That is, where a clause of the ACNC Bill duplicates a clause in a funding agreement (for example on reporting arrangements) the passage of the Bill must make the latter null and void. Without these powers the presence of the Commission will add levels of complexity and red tape to an already complex environment and fail the one object of the Bill which does support the sector – that is 2-5 (2)a ii “*Minimise regulatory duplication and simplify such entities’ interaction with governments*”.

Of course it is also hoped that some harmonisation with the State and Territories will occur and we encourage the Commonwealth government to continue to try to achieve this.

We recognise that this is an exposure draft and look forward through the consultations in February and through the Not-for-profit Sector Reform Council to further input towards implementation.

Yours sincerely



Kasy Chambers  
Executive Director