



IRCa

Indigenous Remote
Communications Association

Discussion Paper: Tax Deductible Gift
Recipient Reform Opportunities

Response of the Indigenous Remote
Communications Association

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Indigenous Remote Communications Association
2/70 Elder Street, Alice Springs NT 0870
PO Box 2731, Alice Springs NT 0871
Ph 08 8952 6465
F 08 8992 9669
E manager@irca.net.au
W www.irca.net.au

1 About the Indigenous Remote Communications Association

The Indigenous Remote Communications Association (IRCA) is the peak body for Indigenous media and communications. It was founded in 2001 as the peak body for remote Indigenous media and communications. In late 2016 it transitioned to the national peak body for Aboriginal and Torres Strait Islander broadcasting, media and communications.

Up to 105 Remote Indigenous Broadcasting Services (RIBS), 33 additional licensed retransmission sites across Australia, 8 Remote Indigenous Media Organisations (RIMOs) and 28 urban and regional Aboriginal and Torres Strait Islander radio services are eligible for representation by IRCA.

2 About the Aboriginal and Torres Strait Islander broadcasting and media sector

Aboriginal and Torres Strait Islander broadcasters are not-for-profit community organisations providing a primary and essential service to their communities. They reach nearly 50% of the Australian Aboriginal and Torres Strait Islander population, but are prevented from providing a primary radio service to all Aboriginal and Torres Strait Islander peoples due to a lack of funding.

Aboriginal and Torres Strait Islander broadcasters and media producers also connect non-Indigenous communities with Aboriginal and Torres Strait Islander people and culture, developing greater understanding and building stronger relationships.

The sector:

- Comprises:
 - Radio services able to reach around 320,000 Aboriginal and Torres Strait Islander persons, including around 100,000 very hard to reach people in remote Indigenous communities, or approximately 47% of the Australian Aboriginal and Torres Strait Islander population.

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- A regional satellite TV service reaching 240,000 remote households and a free to air national TV service.
 - Over 230 radio broadcast sites across Australia.
 - Is a multimillion dollar industry with over 35 Aboriginal and Torres Strait Islander community owned and managed not for profit media organisations.
 - Holds the capacity to be a preferred supplier for all government messaging to our communities.
 - Is the most relevant and appropriate service with the highest listenership, community engagement and local ownership of all media services.
 - Is delivered in the first language of many remote peoples.
 - In remote communities, is the most reliable and ubiquitous radio and media services.

3 Disclaimer

This submission is made by the Indigenous Remote Communications Association (IRCA) in its own right. It is expected that some radio services. RIBS and RIMOs will make individual submissions in which case the IRCA Submission should not be taken to displace those submissions.

4 Submission

4.1 Introductory remarks

The Indigenous Remote Communications Association (IRCA) welcomes the opportunity to respond to the discussion paper “Tax Deductible Gift Recipient Reform Opportunities”. As the peak body for the Aboriginal and Torres Strait Islander community broadcasting and media organisations, this discussion paper is of importance to the many organisations in the sector who have DGR and charity status. Both DGR and charity registration are important factors in the viability of many of our member organisations. In addition, the registration recognises the important benefits that the organisations provide in their communities.

4.2 Response to Consultation Question 1

1. What are stakeholders’ views on a requirement for a DGR (other than government entity DGR) to be a registered charity in order for it to be eligible for DGR status. What issues could arise?

Organisations in our sector are all not-for-profit organisations and are predominantly formed under the CATSI Act, or as ASIC registered companies limited by guarantee. There are some registered under State or Territory Associations Acts, which however are transitioning to registration under the CATSI Act as a consequence of Australian Government funding requirements.

DGR organisations in our sector tend to also be registered charities. As such we have no concerns with the proposal in Consultation question 1, especially given the Discussion Paper’s statement that *“The ACNC’s registration team would work with existing DGR organisations to help them apply for charity registration status. They would engage with applicants to ensure that only organisations that are genuine charities are registered”*.

4.3 Response to Consultation Questions 4 and 5

4. Should the ACNC (that is the Australian Charities and Not-for-profit Commission) require additional information from all registered charities about their advocacy activities?

5. Is the Annual Information Statement the appropriate vehicle for collecting this information?

IRCA as a peak body is by its nature an advocacy body. This is a legitimate activity, is conducted according to the needs of its members and is carried out lawfully. The Australian Government recognises the legitimate role of the Indigenous Remote Communications Association and provides funding for its operation.

Aboriginal and Torres Strait Islander members organisations also have an important role in advocating for their communities and producing news and information that is important for their communities. They are already highly regulated under the Broadcasting Act 1992.

The current Charities Act provision with regard to Political Advocacy already sets appropriate boundaries for what advocacy activities by charities are acceptable, supported by helpful ACNC guidance. IRCA has no difficulties in understanding its advocacy role, and community broadcasters are already bound by the Broadcasting Act in relation to their broadcasting content. Indeed, their role in a democratic society is a highly valuable one necessary to free and informed exchange on matters of public importance.

We strongly oppose the proposal to increase regulation of advocacy activities of charities additional to the existing arrangements that already ensure that activities are lawful. This represents an unacceptable intrusion on the purpose of and role of charities in a democratic society. There are sufficient checks and balances in place already, and the suggestion does not appear to be based in good public policy making processes. Instead the proposal risks an erosion of the rights of charitable organisations to advocate as appropriate to their role and purpose.

4.4 Response to Consultation Questions 7 and 8

7. What are stakeholders' views on the proposal to transfer the administration of the four DGR Registers to the ATO? Are there any specific issues that need consideration?

8. What are stakeholders' views on the proposal to remove the public fund requirements for charities and allow organisations to be endorsed in multiple DGR categories? Are regulatory compliance savings likely to arise for charities who are also DGRs?

As a general comment with regard to reducing complexity, the framing principle for these consultation questions, we appreciate the reduction in red tape that has already been effected. Allowing annual reporting under the CATSI Act to the Office of the Registrar of Indigenous Organisations to be used for the purposes of AIS and financial reporting under the Charities Act has been appreciated. We encourage the speeding up of processes that would enable a similar arrangement for the ASIC registered companies limited by guarantee.

The process of gaining DGR status is overly complex and time consuming, especially for small community organisations. IRCA welcomes any reforms that will reduce complexity whilst maintaining the integrity of the DGR process.

We welcome the removal of the public fund requirement and the allowance for endorsement in multiple DGR categories.

4.5 Response to Consultation Question 9 and 10

9. What are stakeholders' views on the introduction of a formal rolling review program and the proposals to require DGRs to make annual certifications? Are there other approaches that could be considered?

10. What are stakeholders' views on who should be reviewed in the first instance? What should be considered when determining this?

DGR status is an important source of funds for charitable purposes. Generally, these purposes do not disappear after a few years unfortunately and we support arrangements for DGR status to have same duration as the legal entity duration of a charity, including for specifically listed DGRs.

We understand however, that a level of assurance of the need for, and continued operation of a DGR is desirable given the implications for the Australian Government's tax collection regime. We encourage the investigation of interdepartmental arrangements whereby reporting for example to the Office of the Registrar for Indigenous Corporations or ASIC would include a section for those organisations that hold DGR status to certify that a need for the DGR remains and for a summary of the uses for which any raised funds have been used. We would expect that non-compliance with reporting requirements with the ACNC, or through other agreed government agencies, would be the trigger for a review, rather than an ongoing formal rolling review.

The requirement for separate annual certification of DGR seems to be at odds with reducing complexity that is the subject of other parts of the Discussion Paper. We would also not support any detailed level of specification as to how funds from a DGR are to be used, other than that the use of the funds is to be lawful and align with the purposes of the charity.

Thank you again for the opportunity to respond to the Discussion Paper and we look forward to being kept informed of further consultations.

Daniel Featherstone
General Manager
Indigenous Remote Communications Association