

28 February 2018

The Review Panel

Review of the ACNC legislation

The Treasury, Canberra

ACNCReview@treasury.gov.au

Submission to the Review of the Australian Charities and Not-for-profits Commission legislation

Research Australia is pleased to have the opportunity to make this submission to the Review.

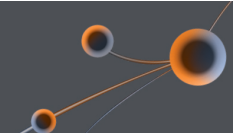
We note that the Review has been triggered by a statutory obligation to review the Act rather than any specific concerns within the Government about the operation of the legislation or the ACNC.

The Objects of the ACNC Act

Research Australia supports the existing objects of the Australian Charities and Not-for-profit Commission Act:

- a) to maintain, protect and enhance public trust and confidence in the Australian not-for-profit sector; and
- b) to support and sustain a robust, vibrant, independent and innovative Australian not-for-profit sector; and
- c) to promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector.

The underlying philosophy of the existing legislation is to ensure that existing and potential donors are able to find reliable, useful and up to date information about charities that will assist them to make informed decisions about where to donate and who to support. It also seeks to encourage independence and innovation in the sector and to promote the reduction of unnecessary red tape.



Research Australia is aware of the submission by the ACNC Commissioner, The Honorable Dr Gary Johns, in which he has recommended the Review:

‘Consider adding the following objects in s15-5 of the ACNC Act:

- (a) To promote the effective use of the resources of not-for-profit entities;
and
- (b) To enhance the accountability of not-for-profit entities to donors, beneficiaries and the public.’

Research Australia submits that there is no reason to amend the objects of the Act in the manner proposed by the Commissioner, and that to do so will be detrimental to the ACNC Act’s existing Objects.

Effective use of resources

Research Australia submits that an object to promote the effective use of resources will act in a manner that is contrary to the other objects. Such an object will place the Commissioner in a position to make determinations about how a charity uses its resources. This will inevitably stifle innovation in the sector and restrict charities’ independence, placing the object in direct conflict with the objects of promoting innovation and independence.

Not only is such an object undesirable, in a sector as diverse as the charities sector, it is unnecessary and highly impractical. Research Australia’s members that are charities, provide funding for and/or undertake health and medical research. As would be expected and in line with good governance, these charities are governed by expert committees with detailed knowledge of their own organisations, the diseases and health issues they are seeking to address and the current state of research in this area. They draw on this expertise to determine what types of research to support, which individual researchers and research teams to support, and the form this support should take. They also understand their donor and supporter bases, and what motivates them to support the organisation.

Research Australia does not believe the ACNC has nor should have the necessary expertise to assess whether the programs implemented by a charity in this regard, are effective, or could be more effective. While it might theoretically possible for the ACNC to acquire to a point, a greater degree of expertise in all the areas that charities operate, Research Australia submits that this would require significant new resources and would direct ACNC resources away from its existing activities

Research Australia strongly submits that the ACNC Act should not be amended to include an additional object to promote the effective use of the resources of not-for-profit entities.

Enhanced accountability

An object 'to enhance the accountability of not-for-profit entities to donors, beneficiaries and the public' is redundant when considered together with the existing objects, particularly the object to 'maintain, protect and enhance public trust and confidence'.

Research Australia submits that enhancing accountability is a means of maintaining, protecting and enhancing public trust and confidence, **which is already an object of the Act** and is not therefore required as a separate object.

Furthermore, Section 15.10 specifies of the ACNC Act specifies that the Commissioner must have regard for the transparency and accountability of the not-for-profit sector to the public in exercising his or her powers.

Research Australia submits that increased transparency and accountability of the not-for-profit sector are a means of achieving the existing object of enhancing public trust and confidence in the not-for-profit sector and that enhancing 'the accountability of not-for-profit entities to donors, beneficiaries and the public' should not be made an additional object of the ACNC Act.

Further amendments

While the ACNC has been in existence since December 2012, its continued existence was under a cloud for much of this period. It was only in March 2016 that the Minister for Human Services, the Honorable Christian Porter, confirmed that the Government no longer intended to abolish the ACNC, ending two years of uncertainty.

This was a period of uncertainty not only for the ACNC but for the organisations that it regulates.

Research Australia is of the view that a period of policy and regulatory stability is desirable, and that the existing legislation should be given a further period within which to test its operation and any limitations before consideration is given to significantly amending the legislation.

Research Australia recognises that there are some minor amendments that would improve the operation of the ACNC Act. In this regard we support the recommendations made by Philanthropy Australia in its submission to the Review.

Research Australia is willing to contribute further information and use its convening power in the health and medical research and innovation sector to respond to any further questions the Review Panel may have.

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About Research Australia

We are the national peak body representing the whole of the health and medical research pipeline.

Our vision: Research Australia envisions a world where Australia unlocks the full potential of its world-leading health and medical research sector to deliver the best possible healthcare and global leadership in health innovation.

Our mission: To use our unique convening power to position health and medical research as a significant driver of a healthy population and contributor to a healthy economy.

Our goals:

Engage

Australia in a conversation about the health benefits and economic value of its investment in health and medical research.

Connect

researchers, funders and consumers to increase investment in health and medical research from all sources.

Influence

government policies that support effective health and medical research and its routine translation into evidence-based practices and better health outcomes.

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