

Spotlight on the Australian not-for-profit sector

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Ten years ago, the Australian Johns Hopkins project lamented the under-development of the not-for-profit sector - evidenced by piecemeal government policies, lack of coordination between organisations, and lack of recognition for the outcomes the sector generates.¹ Not much has changed. Last year the sector – whose operating expenses exceed A\$580bn was subjected to what The Australian called “a controversial and political hot potato” – an inquiry into whether (and how) charities and not-for-profit organisations should publicly account for their funds.² When the Inquiry was announced, commentators called for a Charities Commission (similar to New Zealand’s), enforcement of a set of accounting standards, and extension of the Banking Act to not-for-profit bodies that raise money from members and the public.

Following weeks of public hearings in each State and over 178 written submissions, the Senate Standing Committee on Economics (SSCOE) released a final report into disclosure regimes for charities and not-for-profit organisations in December 2008. Some of the key recommendations from the inquiry are reproduced below as well as an update on government reaction to this latest inquiry.

Establishing a Charities Commission or similar

Nearly all the submissions called for a single national regulator, due to the problems created by the plethora of different not-for-profit legal entities operating in Australia. These include state-based incorporated associations and co-operatives, companies limited by guarantee and organisations (including many religious organisations) incorporated under special statute. Each type of entity has different reporting and regulatory requirements. These differences are blamed for the perceived lack of accountability and transparency of not-for-profit organisations. Fundraising organisations also want a single regulator as fundraising regulations vary by state and are usually administered by totally different departments to those administering the reporting regulations.

It was predictable therefore, that the SSCOE recommended a single independent national regulator be established similar to charity regulators overseas. Unlike the equivalent in New Zealand (the Charities Commission), they recommended that this register would be for all not-for-profit organisations and it would be compulsory for organisations (incorporated and unincorporated) to register. The SSCOE said the new regulator should also ensure that not-for-profit organisations comply with regulation, provide annual information that can be searched by the public, and also develop best practice standards, investigate complaints and educate the public about not-for-profit organisations.

¹ Lyons, M. (1988). Defining the nonprofit sector: Australia. Working Paper of the Johns Hopkins Comparative Nonprofit Sector Project number 30. Edited by Lester Salamon and Helmut K. Anheier, Baltimore. : Johns Hopkins Institute for Policy Studies.

² Ferguson, A. (2008, 21 July). A Senate Committee will receive submissions on tax disclosure for charities and non-profit bodies.

Mandating a single organisational type

The regulator's task may be helped by another recommendation, that a single, mandatory, specialist legal structure be adopted for not-for-profit organisations through a referral of state and territory powers. A number of submissions disagreed with this particular recommendation as, if implemented, it would create a huge administrative burden for all incorporated not-for-profits in ensuring constitutions or similar foundation documents were meeting the requirements of the new specialist legal structure. If this proposal progresses it is likely to attract significant opposition.

The accounting regime

The SSCOE further recommended that a tiered reporting system be established for organisations formed under this new legal structure and that tiers be assigned to organisations based on total annual revenue. Given that it is doubtful a specialist legal structure will be achieved at all it what is the likely outcome for differential reporting? The Australian Accounting Standards Board recently sought feedback on a suite of standards [IFRS for non-publicly accountable entities (NPAEs)] and it appears private sector not-for-profits will have three choices 1.full IFRS; 2.IFRS for NPAEs; or 3.full IFRS recognition and measurement requirements with limited specified disclosures as specified by legislative bodies. These requirements assume that not-for-profit organisations are publicly accountable and yet how many will consider themselves not to be publically accountable? NSW, Qld and Victoria have all recently passed legislation to introduce tiered reporting in respect of incorporated associations so it appears tiered reporting will become more widely used in the future.

A further recommendation of the SSCOE was that not-for-profit organisations be required to disclose narrative and numeric data as well as financial, in acknowledgement that the sector's stakeholders want different information to that of shareholders in the business sector. It appears unlikely that this will be mandatory, although initiatives such as the Price Waterhouse transparency awards and the Institute of Chartered Accountants in Australia best practice publication "The essential tool for transparent reporting" should boost voluntary reporting in this area.

One recommendation of the SSCOE that is being taken up, is the implementation of a standard chart of accounts for use by all government departments and not-for-profit organisations. It appears the main thrust of this recommendation is to introduce more standardised reporting in respect of government agencies that define and request information in a variety of ways and follows on from initial work undertaken by the Centre of Philanthropy and Non-Profit Studies at Queensland University of Technology.

Other system adjustments

Simplification of taxation of not-for-profit organisations was also something that submitters were keen to see. The SSCOE recommended that the Henry Review examine taxation in the sector to reduce confusion and cost of compliance for these organisations. Subsequently, the

Henry Review has released a consultation paper, Section 7 of which considers the main tax concessions available to not-for-profit organisations.³

Given the plethora of Fundraising Regulations, the SSCOE's recommendation that a National Fundraising Act be developed following a referral of powers from states and territories to the Commonwealth appears to be a sensible suggestion and is being taken up by the Council of Australian Government (COAG).

A further SSCOE recommendation was that the Government establish a unit within the Department of Prime Minister and Cabinet specifically to manage issues arising for Not-For-Profit Organisations. The unit should report to a Minister for the Third Sector. As Australia already has a Parliamentary Secretary for Social Inclusion and the Voluntary Sector (Senator Ursula Stephens), it is probably unsurprising that this has gained little traction.

The SSCOE also recommended that COAG be the lead party in putting together a Taskforce to implement the recommendations of their report. A Taskforce has not been established but the Business Regulation Working Group of COAG has been tasked with preparing a standard chart of accounts for not-for-profits and a nationally consistent approach to fundraising.

The recommendations of this Senate inquiry are ambitious and will require hard work and co-operation between the Commonwealth and State Governments. It is early days but the response to the recommendations to date has been minimal. It is to be hoped that more will be achieved than was achieved by the 2001 inquiry into the definition of charities and related organisations which made 27 recommendations - none of which have been implemented.

³ Submissions to this report closed on 1st May 2009. The report can be downloaded from http://www.taxreview.treasury.gov.au/Content/Content.aspx?doc=html/pubs_reports.htm