

RSM Bird Cameron

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20 July 2012

Committee Secretary
 Standing Committee on Economics
 PO Box 6021
 Parliament House
 CANBERRA ACT 2600

By email: economics.reps@aph.gov.au

Dear Sir / Madam

Exposure Draft: Australian Charities and Not-for-profit Commission Bill 2012

RSM Bird Cameron appreciates the opportunity to make this submission to the Committee as part of the process of public consultation on an exposure draft of legislation to establish the Australian Charities and Not-for-profits Commission (ACNC) ("the exposure draft") and a national regulatory framework for the not-for-profit sector.

We firmly support measures to reform the not-for-profit sector, including the establishment of the ACNC. We are also pleased to see that a number of issues raised by constituents in the previous round of consultation have been addressed in this ED, particularly the extended start date for financial reporting requirements and the extended deadline for lodgement of financial reports. With respect to the exposure draft we do have some concerns with the proposals in Part 3.2 regarding record-keeping and reporting which we believe may require further consideration.

Annual information statements

As the contents of information statements are yet to be finalised we do not have specific comments but do recommend that any requirements be considered in light of whether they would be onerous, particularly for small entities who are not required to prepare financial statements.

Annual financial reports

We support the introduction of a tiered reporting framework which is consistent with that currently applied to companies limited by guarantee under the *Corporations Act 2001*. We also support the delayed implementation for the first financial reports under the framework to allow registered entities time to adapt to the new requirements. We encourage, and look forward to, further consultation regarding the content of financial reports, particularly with respect to the application of accounting standards.

Audit Requirements

We support the audit framework which is consistent with that currently applied to companies limited by guarantee under the *Corporations Act 2001*. However we do have some concerns with the drafting of the legislation in this section, as follows:

1. In 60-30(3) the auditor is required to form an opinion about 4 aspects. This does not include whether the financial report gives a true and fair view in accordance with the legislation / accounting standards.

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2. 60-30(4) duplicates this requirement for reviews. However in the case of a review, the reviewer would form a conclusion expressed in the negative. Our suggested wording would be:

In the case of a review, the reviewer must form a conclusion about:

(a) Whether the reviewer has become aware of any matter that causes the reviewer to believe that the financial report does not satisfy the requirements of this Division

3. As noted in 1. above, there should also be consideration as to whether the reviewer has become aware of any matter that causes the reviewer to believe that the financial report does not give a true and fair view in accordance with the legislation / accounting standards.
4. The matters noted above would also extend to 60-45 and 60-50, so that:
- a. 60-45 would also refer to an opinion as to whether the financial report gives a true and fair view in accordance with the legislation / accounting standards; and
 - b. 60-50 would be drafted as: *(1) A reviewer's report must contain a statement from the reviewer as to whether the reviewer has become aware of any matter that causes the reviewer to believe that the financial report has not been prepared in accordance with this Division.*

5. A further area of concern however is the requirement in 60-45(3)(a) for the audit report to describe "any defect or irregularity in the financial report". We believe this is a very broad requirement which could be construed as a requirement to report on matters which would not normally be included in an audit report under Australian Auditing Standards where the auditor forms the view that the defect or irregularity is material.

We would recommend consideration of replacing this requirement with an obligation similar to that imposed on auditors under s311 of the *Corporations Act 2001*. Under Section 311 the auditor will be required to report to the regulator where they have reasonable grounds to suspect a contravention of the Act, and it is significant, or they have reasonable grounds to suspect a contravention of the Act, that is not significant but will not be adequately dealt with by commenting on it in the auditor's report or bringing it to the attention of the directors (or responsible individual).

6. We note that small registered entities with deductible gift recipient status (DGRs) will not be required to have at least a review of their financial reports. Whilst we support reducing the burden on small entities, we are concerned that this is inconsistent with the current requirements for small companies limited by guarantee who are DGRs, under the *Corporations Act 2001*.

Other comments

We have particular concerns about the possibility of duplication of reporting requirements for registered entities who currently operate as associations under state-based legislation. If constitutional issues are not addressed within the required timeframe, charitable entities that currently report outside of the *Corporations Act 2001* will have another layer of reporting requirements added for the 30 June 2014 financial year. Similarly, it is not clear how the duplication of reporting for entities with grant acquittal reporting obligations will be addressed.

Yours sincerely

Jane Meade
National Technical Partner.