

**Senate Economics Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Supplementary Budget Estimates

2016 - 2017

**Division/Agency:** Australian Charities and Not-for-profits Commission (ACNC)

**Question No:** 127

**Topic:** Harmonising Rules

**Reference:** Written

**Senator:** Ketter, Chris

**Question:**

- 1) What, if any, communications has the ACNC had in the last 12 months with state and territory governments about harmonising or coordinating state-based charities rules to achieve a more seamless national approach?
- 2) What, if any, communications has the ACNC had in the last 12 months with the federal government about harmonising or coordinating state-based charities rules to achieve a more seamless national approach?
- 3) What work has the ACNC been doing to inform and engage the sector about the benefits of harmonising charities rules?
- 4) Could you outline the regulatory process for a charity setting up an online donations platform?
- 5) How close are we to harmonising fundraising law across States and Territories?

**Answer:**

1. The ACNC's communication and work with state and territory governments to reduce red tape and harmonise regulation is detailed in the *ACNC 2015-16 Annual Report*: pages 89-92.

Work towards harmonisation and alignment is undertaken through multilateral and bilateral processes.

Multilateral:

- In 2015, Consumer Affairs Australia New Zealand (CAANZ) members approved the formation of a working group under the guidance of the Policy and Research Advisory Committee (PRAC) to identify opportunities for alignment of incorporated associations and fundraising reporting requirements with the ACNC. ACNC was a key member of this group, which was chaired by Consumer and Business Services South Australia.
- In 2016, the formation of the Fundraising Regulatory Reform Working Group (FRRWG) was formed in response to a request from consumer affairs commissioners that senior officers develop options to reduce the burden from state and territory regulation of not-for-profit fundraising. The ACNC has been an observer on this working group. A paper on options for fundraising regulation reform was presented to consumer affairs commissioners in July 2016.
- The ACNC gained agreement from the State Revenue Office (SRO) Commissioners to form the SRO-ACNC Working Group to consider opportunities for alignment of

ACNC and SRO charity registration and application processes. The ACNC is the Chair of this working group.

- An ACNC paper proposing a common charity definition across all Australian jurisdictions was launched July 2016 at the Annual States' Taxation Conference.

Bilateral communication:

The ACNC, through the Executive and senior officials, has met numerous times with commissioners and senior officials from all states and territories. These meetings have been supported by identification and mapping of business processes to inform options for alignment with the ACNC. The ACNC continues to regularly meet with state and territory officials.

The ACNC has also made policy submissions proposing harmonisation of charity regulation; for example, the Australian Consumer Law Review and the NSW Fair Trading review of the Associations Incorporation Act and NSW Charitable Fundraising Review.

2. The ACNC's communication and work with the federal government to reduce red tape and harmonise regulation is detailed in the *ACNC 2015-16 Annual Report*: pages 89-92.
  - Direct engagement with the federal government policymakers
    - Regular briefings: since the Government's March 2016 commitment to retain the ACNC, the ACNC has been working with government agencies to put ongoing feedback mechanisms in place. These include regular meetings with Treasury, the Australian Taxation Office, and the Department of Social Services.
    - Working with Treasury: despite 2015-16 meetings with policy departments being less systematic than they are now, the ACNC nevertheless worked effectively with policy departments to discuss regulatory framework and opportunities for reform. For example, with Treasury the ACNC facilitated sector consultation as part of the Post Implementation Review of the Statutory Definition of Charity. The ACNC also worked with Treasury to secure the extension of the Commissioner's discretion to accept reports lodged with other government agencies.
    - Prime Minister's Community Business Partnership: the ACNC continued to develop a productive working relationship with the Prime Minister's Community Business Partnership, including hosting a meeting in April 2016. Senior members from the ACNC met with the members of the Partnership to address a number of key issues, such as charity tax concessions, efficiency and transparency in the sector, volunteering in Australia, and duplicative reporting requirements. The partnership voiced their support for the announcement to retain the ACNC by stating their continued commitment to the shared goals, in particular the pursuit of reducing unnecessary red tape and other barriers to a strong and thriving charitable sector. In May 2016, Tony Stuart, who is a member of the Prime Minister's Community Business Partnership, was appointed as the second ACNC Advisory Board Chair.

- Regulation Reform Agenda: the ACNC contributed significantly to the Australian Government's regulation reform agenda in 2015-16. The ACNC contributed \$8 million of annual deregulation savings during 2015–16. The ACNC has continued to brief the Treasury Regulation Reform Unit on opportunities to harmonise Commonwealth and state and territory regulation of charities. In particular, the ACNC briefed Treasury on the Cutting Red Tape Report.

Further information about the ACNC's communication and work to harmonise Commonwealth, state and territory regulation of charities is provided in the response to *SBE 127(1)*.

3. The ACNC's work to inform and engage the sector about the benefits of harmonising charity rules is outlined in the *ACNC 2015-16 Annual Report*. Further information is provided here.
  - Over the past 12 months, the ACNC has informed and engaged the sector about various matters, including the benefits of harmonising charity rules, through a range of mechanisms:
    - the ACNC website
    - stakeholder groups
    - fundraising forums
    - consultation and education sessions
    - research papers
    - sector communication (social media, Commissioner's Column, ACNC Quarterly – see Annual Report).
  - ACNC website
    - Extensive information about charity regulatory requirements and the ACNC's work to reduce red tape is available on the ACNC website. See, for example: [acnc.gov.au/redtapereduction](http://acnc.gov.au/redtapereduction)
  - Stakeholder groups
    - In 2015–16, we hosted four Professional User Group and four Sector User Group meetings. We updated these groups on red tape reduction strategy and progress at each of these meetings.
  - Fundraising forums
    - In February 2016 we hosted an International Fundraising Forum in Sydney. The forum brought together charities, academics, and third-party fundraising service providers from different countries to discuss regulatory issues. The forum was repeated in Melbourne in May 2016 and in Brisbane in June 2016.
  - Education: Ask ACNC sessions
    - From August to November 2016, the ACNC has conducted open 'Ask ACNC' education sessions for charities in conjunction with state and territory regulators. Options for alignment of regulatory frameworks was a common matter discussed.
  - Consultation on the 2016 and 2017 Annual Information Statements

- In each of these consultations, the ACNC consulted charities on the proposal to collect information and reports on behalf of state and territory regulators in order to eliminate duplicated reporting.
  - Research papers
    - *Cutting Red Tape Report* ([acnc.gov.au/cuttingredtapereport](http://acnc.gov.au/cuttingredtapereport)): the ACNC commissioned Deloitte Access Economics to undertake a research project to identify options available to align regulatory obligations between the ACNC and the states and territories. The report, released in February 2016, is a companion piece to an earlier publication the ACNC commissioned Ernst & Young to research, which focused on the reporting burden for charities from the Commonwealth perspective. Both research projects directly engaged stakeholders to ascertain the extent of current regulatory burden and to inform options for reform.
    - *Australian Charities Report 2014* and charity sub-report *Australian Charities and Red Tape*: provided information to the sector about the extent of duplication and inconsistency across current regulatory frameworks. This evidence is critical in making the case for reform and harmonisation.
    - Common charity definition: an ACNC paper proposing a common charity definition across all Australian jurisdictions was launched July 2016 at the Annual States' Taxation Conference.
4. As the ACNC does not currently regulate fundraising (it is regulated by states and territories), the ACNC has not here outlined the regulatory process for a charity setting up an online donations platform.
5. The ACNC's achievements in reducing red tape are detailed in the *ACNC 2015-16 Annual Report* (pages 89-92); and the response to *SBE 127(1)*.

While it is not possible to give an accurate estimate as to 'how close we are to harmonising fundraising law', the following summary gives a good indication:

- Duplicated annual reporting has been eliminated for ACNC-registered charities in relation to South Australia and Tasmania incorporated associations and fundraising reporting (reports need only be lodged with the ACNC).
- ACNC-registered charities are allowed to fundraise in South Australia upon notification to SA Consumer and Business Services (CBS). Charities intending to fundraise in Tasmania need only apply for permission to do so from the Tasmanian regulator; separate annual reports are not required.
- The Australian Capital Territory (ACT) has, following confirmation of the future of the ACNC, confirmed its intention to work with the ACNC to accept ACNC reports in place of ACT incorporated association and charitable collections reports, and to allow ACNC-registered charities to conduct charitable collections in the ACT. The ACNC hopes that it will be possible for a solution to be implemented by the end of the 2016-17 financial year.

- Work is advanced with two further jurisdictions to accept ACNC reports in place of state reports for the 2017 reporting period; and is progressing well with remaining jurisdictions for alignment in the short to medium term (2018 reporting year most likely).
- More comprehensive harmonisation will occur when the Consumer Affairs Australia New Zealand (CAANZ) delivers its Australian Consumer Law (ACL) Review report.

The ACNC will continue to bilaterally and multilaterally promote the harmonisation of fundraising regulation in Australia.