



**Parliamentary Joint Committee on Corporations and  
Financial Services**

*Inquiry into Corporate Responsibility*

**Submission by**

**The Australian Council of Social Service (ACOSS)**

## Background

### *About ACOSS*

The Australian Council of Social Service (ACOSS) is the peak body of the community services and welfare sector and the national voice of people affected by poverty and inequality.

The membership of ACOSS comprises most of the major community service and welfare providers and the peak bodies across the non-government community services and welfare sector. ACOSS is interested and expert in providing input on the corporate responsibilities of nonprofit organisations within this sector.

In addition to a concern for the community services and welfare sector and the organisations that comprise it, ACOSS has membership from among consumer organisations and has a mission that seeks to ensure that the interests of those disadvantaged in the community are heard and acted upon.

Together with other major peak bodies, ACOSS is a member of the National Roundtable of Nonprofit Organisations, the peak body for the nonprofit sector as a whole.

ACOSS has a long history of engagement with the for-profit corporate sector. ACOSS meets, as a peer, with peak business bodies and, together with these and other entities, engages in discourse regarding public, corporate and other policies including for the purpose of informing community views.

ACOSS has direct relations with a number of for-profit corporate entities that support the work of ACOSS. Corporate collaborations that are current at the time of writing and that are declared here include the HESTA Super Fund, Commonwealth Bank of Australia, Telstra, Gilbert and Tobin Solicitors, Webit Group, Microsoft Australia and the Community Sector Banking (an affiliate of Bendigo Bank). These relationships both enhance the resources of ACOSS and inform, in a practical way, an understanding of corporate Australia and its social responsibilities.

Recent research and other activities that ACOSS has engaged in related to corporate responsibility include:

- Management of the *Giving Australia* project funded by the Prime Minister's Community Business Partnership. This work included conduct of a national survey of business giving in Australia, based on a representative sample of 2,705 businesses and including the conduct of focus groups and in-depth interviews with businesspeople and personnel from nonprofit organisations. This project has also included the conduct of a non-random sample survey completed by

around 500 nonprofit organisations regarding their fundraising, volunteering, commercial ventures and relations with business<sup>1</sup>.

- Participation as a member of the Social Impact research group for the Reputex Social Responsibility Ratings 2003; this included a review of the corporate responsibility activities of the top 100 companies in Australia.
- Membership of the Advisory Groups for the Australian Business Foundation Sustainable Development Research Project and the St James Ethics Centre Corporate Responsibility Index.

### *Scope of this submission*

In relation to corporate responsibility and triple bottom line reporting, comments provided here are largely confined to issues of corporate *social* responsibility. Detailed discussion of environmental matters is not provided as such expertise resides more substantially with other organisations. However, ACOSS is supportive of the need to ensure that for-profit and nonprofit entities, as well as governments, work to ensure sustainability and, through this, inter-generational equity. Similarly, governance issues regarding for-profit entities are largely outside the scope of this submission and the expertise of ACOSS, although some discussion is provided of these issues in relation to nonprofit entities.

As the Terms of Reference for the Inquiry include consideration of the corporate responsibilities of nonprofit entities, and as a peak body in the nonprofit sector, it is worth being clear that ACOSS does not present itself as representative of the entire nonprofit sector.

The National Roundtable of Nonprofit Organisations (2003) estimates that there are 700,000 nonprofit organisations in Australia, most of which are small and many depend on voluntary commitment. About half are incorporated and about 35,000 employ staff. There are approximately 20,000 organisations with Deductible Gift Recipient status in Australia. For 1999-2000 the Australian Bureau of Statistics (ABS, 2002a) estimated the nonprofit sector's total revenue at \$33.5 billion.

The membership of ACOSS does span much of the nonprofit community services and welfare sector. However, a number of issues relevant to the broader nonprofit sector that are pertinent to the community services and welfare field, are raised within this submission.

The ABS (2001) has estimated that at the end of June 2000 there were 9,287 employing businesses and organisations involved in the provision of community services. The

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<sup>1</sup> It is relevant to note that this research, while not publicly available at the time of writing, is likely to be available prior to hearings. If this is the case and should ACOSS be invited to address these hearings, then this research and its relevance to the terms of reference for the Inquiry may be addressed.

9,287 businesses and organisations comprised 2,800 'for profit' organisations, 5,938 'not for profit' organisations and 548 government organisations. While the number of government organisations has remained virtually the same since June 1996, the number of 'for profit' and 'not for profit' organisations has increased by 32% and 10% respectively.

According to the ABS, direct community services expenditure by these organisations has increased by 28% since 1995-96. Increases were different by sector, with expenditure by 'for-profit' organisations increasing by 16% (to \$2.1 billion), 'not for profit' organisations by 47% (to \$7.1 billion) and government organisations by 6% (to \$3.4 billion).

The 2001 Population Census shows 237,000 people employed in community service occupations in Australia (including but not restricted to community service industries), an increase of 27% over the number in 1996. This growth was substantially higher than the total growth in all occupations over the period (8.7%).

### *Context for corporate responsibility measures*

There are many good reasons for corporations to be responsible – good governance underpins credibility among shareholders and stakeholders alike; corporate social responsibility can be motivated by altruism, as well as providing a mechanism to reinforce customer or employee loyalty – altruism and business interest are not necessarily mutually exclusive. Socially responsible engagement in the community by corporations can help to address a range of issues and needs in the community. Goldsmith and Samson (2005), assessing the related practices of sustainable development, argue that long term financial benefits to business are likely to result.

At a broader level, ensuring that corporations act, and are seen to act responsibly will address important public perceptions.

Chart 1 that follows is drawn from a survey by the School of Social Research at the Australian National University in 2003 (Australian Survey of Social Attitudes, 2004). People were asked how much confidence they have in different types of institutions. Interestingly government entities, mostly statutory bodies, such as Universities and the ABC, are ranked highly as are the Armed Forces and charities. These four institutions enjoy quite a lot of the confidence of a majority of Australians. Notably major Australian companies and the Federal Parliament and other institutions, including churches, do not enjoy such majority confidence.

Chart 2 maps the public perceptions over time of the ethics and honesty of various professions in the community (Roy Morgan Research, 2004). Three broad groupings about honesty and ethics emerge over time from this data. Generally, human and social service professionals rank more highly on honesty and ethics than others. These perceptions have remained high over time.

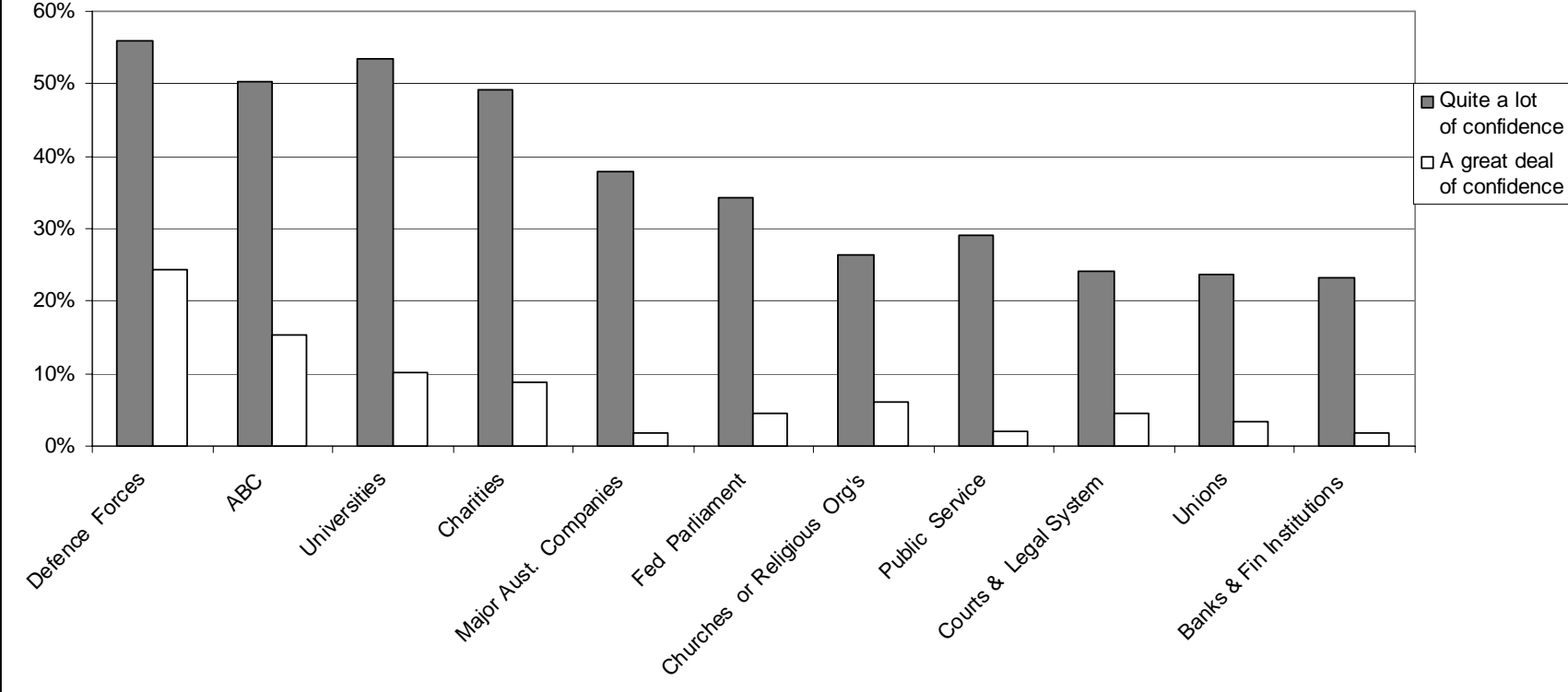
Some professionals are perceived to have low levels of honesty and ethics and consistently so over time. This group includes business executives, politicians and

journalists. The professions of bank managers and lawyers, once well regarded, have declined over time. This suggests that business leaders, as well as those responsible for legislating business and those who report on its activities are not well regarded in the community. Similarly those responsible for the financing of business, and those who provide it with legal advice, are now not highly regarded.

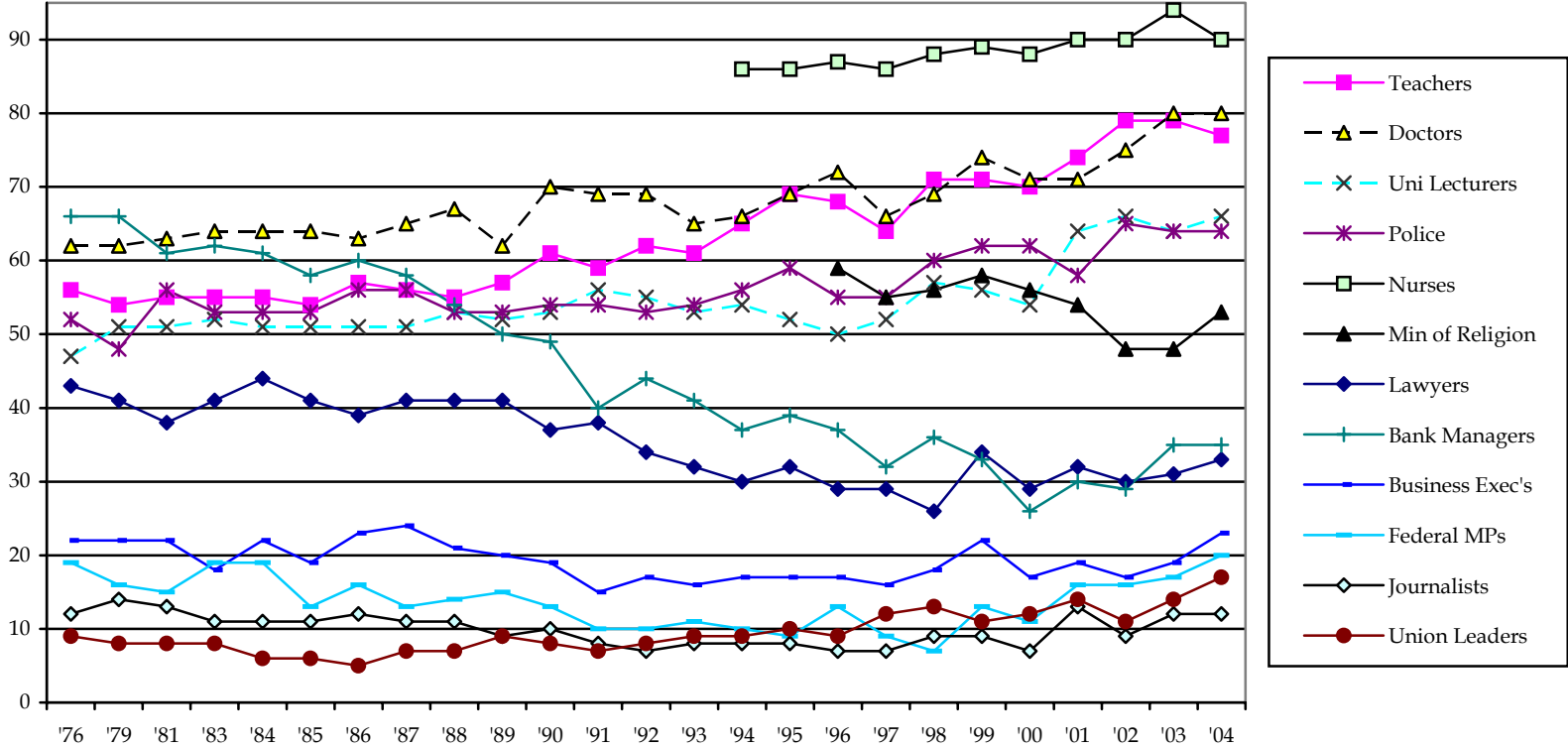
In short, corporate responsibility and the need to ensure this, is in part, a need arising from low, and in some instances, declining confidence in corporations and those who work within and with them.

The issues of perceived confidence, ethics and honesty are no less important, possibly more so, for nonprofit entities. Many nonprofit organisations rely on donations by individuals and business as well as volunteer input – trust is an important condition for such contributions.

**Chart 1: Confidence in Organisations  
(Australian Survey of Social Attitudes 2003)**



**Chart 2: Honesty and Ethics of Various Professions**



Source: Roy Morgan Research (2004)

## **Existing and reasonable corporate regard for the interests of community and stakeholders.**

Most existing requirements for corporate responsibility go to the need to meet basic human rights, ensuring minimum standards of good governance, environmental protection and to ensure other commonly accepted community standards or norms are met.

Various laws of the Australian and State/Territory Governments cover a range of issues related to corporate responsibility, some or parts of these go to matters beyond the scope of ACOSS expertise and policy. Generally these areas will not be covered in detail, which is not to suggest that they are unimportant; rather that other entities and submissions to the Inquiry are likely to cover these with more authority. These areas, and some notes regarding each, include:

### **Workplace matters**

#### *Minimum Wages*

An aspect of industrial relations policy about which ACOSS does have a long history and considerable concern to advance and protect is the setting of minimum wages. ACOSS strongly supports the retention of a National Wage Case setting such minimum wages through an independent arbiter, whose primary purpose is to ensure that such wages are fair (ACOSS 2005a). Such a mechanism should be legislated for and should form a minimum standard by which corporations are judged to be responsible.

#### *Equal, Employment Opportunity and discrimination in employment.*

EEO requirements and anti-discrimination laws regarding employment and workplace matters are important both for protecting people's basic human rights and for facilitating access to employment of jobless people, many of whom face discrimination. While generally unemployment rates have fallen, falls in long term unemployment have been slower (ACOSS, 2005c; forthcoming). Many long term unemployed people have low levels of education, have a disability or live in a region of high unemployment. It is relevant to note that the Australian Government's proposed welfare to work measures will impose on many thousands of jobless people with disabilities and sole parents the obligation to engage in activities, some of which are associated with seeking employment and some, such as participation in work of the dole programs are not. However, active measures to address known discrimination by employers against people with disabilities and sole parents, including indirect discrimination through failures to adjust workplaces, have not been enacted by the government. The benchmark by which employing organisations are measured through their employment practices should, in the context of high long term unemployment and harsh penalties for growing numbers of jobless people, be set higher.



*Other employment related law and responsibilities.*

Key among these are occupational health and safety measures, legislated at State/Territory and other levels of government. These are important minimum standards of corporate responsibility ensuring the health and safety of employees, customers and visitors to workplaces.

**Sex, race, disability and other discrimination related laws.**

These laws, enacted at national and State/Territory levels, are important. Their relevance to workplace matters has been touched upon above. It should be noted that these laws are also important for protecting the rights of customers, service users, visitors and others in their dealings with corporations. Once again these are important, and inherent characteristics of corporate responsibility. It is important that enforcement of such laws be the responsibility of an independent statutory authority, which has powers to initiate investigations and impose penalties for breaches of these laws (ACOSS, 2003).

**Protection of the environment.**

National as well as State/Territory laws govern protection of the environment. Again these are important legislated protections, and inherent minimum requirements for good corporate conduct. It is expected that other submissions to the Inquiry will address these and other environment related expectations or requirements with greater authority than can ACOSS.

**Other**

A number of other legislated requirements are expected of corporations, these include consumer protection, fair trading and competition laws as well as privacy provisions. For nonprofit entities an array of taxation law can apply regarding Public Benevolent Institutional status, Deductible Gift Recipient status, Income Tax Exempt status or status as a charity under common law. In addition State and Territory governments legislate in relation to nonprofit entities for fundraising purposes.

## The legal framework governing directors' duties

Several issues are suggested for consideration here by the inquiry. These are:

- **No bar to engagement.** The Corporations Act might usefully include a statement that it is not unlawful for corporations to engage in activities that promote corporate responsibility. 'Corporate conservatives' tend to argue that the sole or primary responsibility of Directors and corporations is to maximise profits and shareholder returns. A clear statement in law that other corporate responsibilities are not unlawful (as has been the case in some jurisdictions in the US) would be a gesture that might clarify this particular issue without creating compliance.
- **Explicit protection for and requirements of Directors.** The UK Government's Company Law Reform White Paper (Department of Trade and Industry, 2005: 29) proposes, as part of a provision on directors' duties to 'promote the success of the company for the benefits of its members' (similar to the requirement in Australia of a duty to act in the best interests of the company), a requirement 'to take account of...any need of the company...to consider the impact of its operations on the community and the environment'. Such a provision would be unlikely to create a major imposition on most corporate behaviour. However, it could provide a shield for directors who take a broad, proactive approach to corporate responsibility, as well as providing a basis for sanctions against directors who act with blatant disregard for community/environmental impacts in a manner that is ultimately damaging to the company's interests.
- **Australian entities operating overseas.** In its submission to the Inquiry, the Brotherhood of St. Laurence (2005), and earlier work by the Public Interest Advocacy Centre (2000), point to the need to monitor and regulate Australian companies that operate overseas, often in poorer countries where labour force, human rights, environmental and other standards are different and often lower than in Australia. Given the disadvantage that many such countries labour under in terms of their capacity to regulate and influence, rather than be influenced by, trans-national corporations, it would seem reasonable to expect Australian entities to behave overseas to a standard the same as that which applies to their operations within Australia.

Across the nonprofit community services and welfare sector most directors or management committee members of nonprofit entities are unpaid or voluntary, yet they can face considerable risks associated with these roles. ACOSS (2005) has found through a survey of 831 community service agencies that people are presenting to services with more complex needs than in the past and the rate at which people are turned away is high. Insurance and some other risks and costs faced by agencies are high and have been rising. In considering requirements or facilitating improved corporate responsibility activities of nonprofit entities, the need for resources and supports to facilitate this should be taken into consideration.

## **Towards an enabling legal framework**

Corporations contribute in areas of social responsibility for a range of reasons spanning from altruism through to securing profile, to enhance marketing and customer loyalty as well as for employee development and retention (Giving Australia, 2005). The outcomes of such activities tend to reflect this bundle of interests and are not necessarily based on identified or measured community need. For example, support for policy and advocacy activities by corporations (with the possible exception of donations by business to political parties) often seems modest. While research has shown high unmet demand for housing and emergency relief services (ACOSS, 2005) these services do not seem to be the beneficiaries very often of corporate support. Corporate funding is often project based and while some larger corporations seem interested in some longer term funding, this is not always for core activities. These patterns or preferences for support for social responsibility activities, highlight the need to ensure that community needs are defined and met through by other, complementary mechanisms, especially public funding.

It is suggested that several key factors are relevant to understanding different forms and degrees of corporate responsibility engagement. For example, the size of organisations is a critical issue in determining the capacity to comply with requirements or even to meet expectations of engagement in corporate social responsibility.

As part of the ACOSS work on RepuTex (2003) it was evident that some industry and place in the 'marketing chain' of the large businesses were also a factor. For example of the 11 major corporations ranked at the highest ratings of 'AAA' or 'AA' – eight were engaged in industries or parts of industry engaged in provision of goods or services to the public. Not surprisingly these companies, who by the nature of their place in business or industry are sensitive to public perceptions of them, tend to work most on being responsible. The RepuTex non-rated or low rating companies seem to often be operating within monopoly or near monopoly markets or have no direct relationship with the public through the of supply of goods or services.

The terms of reference for this Inquiry are inclusive of corporate responsibilities for for-profit and nonprofit organisations. Logically standards applying to one should apply to others. Similarly, it might reasonably be expected that such standards be extended to include public sector entities of Australian, State/Territory and local governments. Each sector – private for-profit, public and private nonprofit – are different. However, some standards are minimum standards and should apply regardless of differences. These minimum standards of corporate responsibility are listed above.

Of course the realities of private for-profit, nonprofit and government entities are very different and it would be expected that enabling legal frameworks would reflect this difference. For example, Woodward (2004) argues that the multitude of different mechanisms for nonprofits to secure legal status as entities – across incorporated association, cooperative and corporations laws, at State/Territory and national levels, detracts greatly from the desire to ensure a sound framework from which transparency and accountability can flow. For-profit corporations enjoy the benefits of a nationally consistent, known and unified corporation's law.

Transparency and accountability issues are key governance matters for nonprofit organisations as significant amounts of income can be derived from donations and philanthropic sources – sources that in turn rely on trust (Giving Australia, 2005). Movement toward a common accounting standard for nonprofits would be a help in ensuring needed community trust.

The mission of nonprofit community and welfare service organisations are inherently related to social responsibilities, often defined within particular areas (eg services types, needs of specific groups in the community etc.). Discrimination legislation in different ways at national and State/Territory levels, allows for, for example, positions for employment to be designated for employment by persons of particular race, gender, age etc., where a case for doing so is justified. A similar such logic might apply to the social responsibilities of community and welfare services.

## **Voluntary and Reporting requirements**

There exist a number of frameworks for collecting information to allow for assessments of corporate responsibilities activities. At an international level the UN Global Compact, the Global Reporting Initiative and OECD Guidelines for Multinational Enterprises are among these. At a national level within Australia no government sanctioned mechanisms exist, but the RepuTex and St James Ethics Centre Corporate Responsibility Index have been developed and applied. Most of these frameworks have, in practice, been applied to or by larger corporations. The ABS (2002) has conducted a survey of business 'generosity', that does provide some basic information about a sample of all business in Australia. The *Giving Australia* initiative noted above will soon be releasing updated information having used a similar survey tool.

There would be considerable benefit in having some consistent definitions of terms, eg for sponsorship, donations, affirmative action employment practices, employee giving, employee volunteering and other forms of support for social, environmental and other activities. Better still, agreed methods for accounting for such activities would assist as well as programs that assist smaller entities to contribute. As nonprofit organisations tend to be small, they too could benefit from such support.

## **Regulatory, legislative or other policy approaches in other countries**

Reference was made above to some of the proposed legislative initiatives in the UK. ACOSS does not have a capacity or substantial role for the conduct of comparative analysis in this area.

## References

- Australian Bureau of Statistics (2001) *Community Services* Cat No 8696.0. Canberra: Australian Bureau of Statistics
- Australian Bureau of Statistics (2002a) *Non-Profit Institutions Satellite Account* Cat No 5256.0. Canberra: Australian Bureau of Statistics
- Australian Bureau of Statistics (2002b) *Generosity of Australian Business* Cat No 8157.0. Canberra: Australian Bureau of Statistics
- Australian Council of Social Service (2003) *Submission to the Senate Legal and Constitutional Committee Inquiry into the provisions of the Australian Human Rights Commission Legislation Bill 2003* Sydney: ACOSS.
- Australian Council of Social Service (2005a) *ACOSS Submission to the Australian Industrial Relations Commission* (ACOSS Information Paper 368) Sydney: ACOSS.
- Australian Council of Social Service (2005b) *The Australian Community Sector Survey 2005* (ACOSS Paper 138) Sydney: ACOSS.
- Australian Council of Social Service (2005c, forthcoming) *Measuring Long Term Unemployment in Australia* (ACOSS Information 379) Sydney: ACOSS
- Australian Survey of Social Attitudes (2004), *Australian Survey of Social Attitudes 2003* <http://assda.anu.edu.au/>
- Brotherhood of St. Laurence (2005) *Submission to the Parliamentary Joint Committee on Corporations and Financial Services Corporate responsibility and triple bottom line reporting* Melbourne: BSL.
- Department of Trade and Industry (2005) *Company Law Reform White Paper* London: Department of Trade and Industry (<http://www.dti.gov.uk/cld/WhitePaper.htm>).
- Giving Australia (2004) *Summary of Key Data* Sydney: The Australian Government Department of Family and Community Services and ACOSS.
- Giving Australia (2005) *Summary of Preliminary Qualitative Findings* Sydney: The Australian Government Department of Family and Community Services and ACOSS.
- Goldsmith, S and Samson, D. (2005) *Sustainable Development and Business Success* Sydney: Australian Business Foundation
- National Roundtable of Nonprofit Organisations (2003) *The Nonprofit Sector in Australia* Melbourne: Philanthropy Australia.

Public Interest Advocacy Centre (2000) *Submission from the Public interest Advocacy Centre to the Parliamentary Joint Statutory Committee on Corporations and Securities on the Provisions of the Corporate Code of Conduct Bill 2000*. Sydney: PIAC.

Reputex (2003) *Social Responsibility Ratings 2003* Melbourne: Reputex.

Roy Morgan Research (2004) *Health Professionals Continue to be Considered Most Ethical and Honest* Finding No. 370 January 8 2004; Melbourne: Roy Morgan Research.

Woodward, S 'Get the regulatory framework right and good things will follow' in *Impact (Summer 2004)* Sydney: ACOSS.

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