

Submission to:

**SENATE STANDING COMMITTEE ON
ECONOMICS**

**INQUIRY INTO THE DISCLOSURE REGIMES
FOR CHARITIES
AND NOT-FOR-PROFIT-ORGANISATIONS**

A DONOR'S PERSPECTIVE

**Richard Stradwick
3 September 2008**

The Disclosure Regimes for Charities and Not-for-profit Organisations: A Donor's Perspective

Introduction

This submission is primarily concerned with charities and related organisations, and does not seek to cover the situation of other bodies (such as trade unions and employer organisations) that do not solicit donations from the general public.

As a regular donor to a number of charities and related organisations I have been concerned for some time that there is very little information available about many of these organisations and the work that they do. I am aware that some organisations operate on small budgets; but many also operate with some direct taxpayer funding and even more of them have indirect taxpayer funding to the extent that the donations they obtain from the public are tax-deductible. Organisations seeking direct taxpayer funding or those seeking donations from the public have an obligation to provide the Government and existing and prospective donors with basic information.

Were the managers of businesses to provide the people who finance them with as little information as some of these organisations give to Government and their donors, they would, quite properly, soon become ex-managers.

As a donor I am extremely grateful to the Senate for setting up this timely inquiry. I am also grateful to the staff who prepared the background paper for, in my view, it addresses the key issues. For this reason I have not traversed the material already covered so well in the background paper.

As well as the background paper, the contents on this submission have been drawn from personal experience, the Choice report, information provided by Givewell to its subscribers and the material made available by the Australian Taxation Office.

The opinions in the submission are those of the author.

Contents of the submission

The Submission is divided into three sections.

- The information that I need to make an informed decision as a donor.
- The governance of charities and other not-for-profit organisations.
- Related issues.

Appendix A contains some details about the author of this submission.

Information required to make a decision on donations

There is a clear distinction between, at one extreme, large charitable and related organisations that solicit donations through the press and, at the other extreme, ones that operate on a local or regional basis or that are focussed on narrow issues. My concern as a donor is with the former. I am less concerned with small single issue organisations that raise money locally and whose domain is readily comprehended both by their supporters and by the people that they serve. Shortly put, I do not need to undertake any research before deciding to buy a cake from stall set up to support the local old peoples' home.

At the moment there is limited information readily available about organisations seeking donations from the public. For many donors the information is restricted to advertisements in the paper, and these are naturally designed to maximise the appeal of the organisation seeking donations.

Prospective donors who want to find out more about an organisation have to search that organisation's website or write, phone or use email to get in touch with it; or they may subscribe to Givewell and use the reports that it provides.

Most prospective donors do not have the time or resources to conduct the necessary research and, even if they did, the information is just not readily available. Even if a donor subscribes to "Givewell", that organisation cannot compel a charity to provide the necessary information nor ensure that what it does provide is in a standard form so that the donor can compare it with the information provided by other organisations.

Importantly, the Australian Taxation Office's statistical information shows that many donors seeking a tax deduction give relatively small amounts, and it is clear that other donors who give small amounts do not claim them on their tax returns. The cost that these people would incur in undertaking research would be better spent supporting their chosen charities anyway.

The fact that donors may choose not to seek the information is not significant. At least it is available and anyone who wants to see it should be able to do so. Moreover if this information is available, the organisation can be held to account for its achievements and failures.

Donors need to know the answers to five questions

1. What are the objectives of the organisation?
2. How does the organisation intend to achieve these objectives?
3. Who are the people responsible for the governance of the organisation?
4. Where do the organisation's funds come from?
5. Where are the funds used?

Donors also need to know that the organisation has supplied accounts set out in a specified form to the Government within a designated period and that the accounts have been audited by a qualified auditor; but they do not need the fine detail of the accounts.

The answers to the five questions need to be given in a form which is simple and can be readily understood by the average person. (In other words prospective donors must not be confronted with a document resembling a prospectus and designed to cover every eventuality: instead they need a concise statement confined to key points.)

There is no reason why such a document should be any longer than a couple of A4 pages.

What are the objectives of the organisation?

Organisations seeking favourable taxation status should be required to provide a short statement of the organisation's objectives. This needs to be more than a generalised statement such as "To support wildlife". In such a case donors are entitled to know the ways in which it does it or intends to do this. Does it buy wildlife reserves, support wildlife trauma bodies, set up a research body into threats to wildlife or does it seek to "raise awareness", whatever that means.

An example of a statement of objectives might read

"The ABC Wildlife Trust has been set up to meet the following three objectives.

- Purchase land to be set up as reserves for Australian wildlife.
- Eliminate feral animals from these reserves.
- Provide financial support for research programmes on diseases affecting Australian wildlife.

How does the organisation intend to achieve its objectives?

Once an organisation has specified its objectives, donors are entitled to know how it intends to achieve them.

Extending the example used above, the way the organisation intends to achieve its objectives might read as follows.

The ABC Trust for Australian Wildlife will achieve its objectives by

- Paying the balance of \$278,000 owing on a property at XXX in Eastern Victoria during 2008-2009.
- Starting a programme to fence the XXX property at an estimated cost of \$450,000.
- Instituting a programme to eliminate feral animals from the property at an estimated cost of \$320,000.
- Providing \$150,000 a year for five years to the XYZ University to set up a study to investigate the causes of and cures for diseases currently affecting the reproductive system of koalas."

Who are the people responsible for the governance of the organisation?

Donors are entitled to know who is responsible for the governance of an organisation seeking funds. There may be a board or a committee of management; but someone must be responsible and accountable. For example, if it has a board, who is on that board? If it is managed by a committee, who is on that committee? There must also be an employee charged with the day to day management of the organisation: the counterpart of a “chief executive” in business.

A list of these people and their basic qualifications for their role should be readily available to donors.

It may be argued that the salaries of the most highly paid employees should also be disclosed: but this will not mean much to the average donor and it will add to the basic information sought, and increase the complexity of the document.

Where do the organisation’s funds come from?

This need not involve a detailed analysis, but it should at least show how much money is derived from each of the following sources

1. Direct taxpayer funding. How much money is provided by taxpayers directly through governments?
2. Donations from business and private individuals.
3. Funds raised from business and private individuals through social events, raffles and lotteries.
4. Income from investments.
5. Income from the sale of services. For example if a charity charges for its services, money raised through these charges should be shown, even if the amount charged is a long way short of the full cost.
6. Commercial activities. Many organisations operate commercial activities, for example by selling items like cards and calendars or surplus stock (such as where an organisation set up to revegetate land sells plants it has grown that it does not need). There is nothing inherently wrong with this, but a donor is entitled to know how much is being raised in this way.

Note that I have specified how much money is received in “direct taxpayer funding”. This is a far preferable term to “Government funding”, “Government funding” has connotations of money raised without effort from undefined sources. It also leads to complaints of “inadequate government funding”, which is an emotive term. “Inadequate taxpayer funding’ does not attract quite the same mindless support for an increase.

Where are the funds used?

Once an organisation has set down its objectives, and the ways in which it intends to achieve them then it should provide a statement as to where the funds are used. This

means that it will have to specify how much goes on each of its objectives. Just as importantly it must show how much money goes on administration, funds used for social events etc., fundraising and funds used for commercial activities. It should also be required to specify how much of its money goes on “raising awareness” and on lobbying. (Clearly many donors would be concerned to find that an organisation they were supporting because of the work it did with the homeless was actually using ninety per cent of the funds obtained for lobbying activity.)

Each of these heads needs clear definition and these definitions must be the same for each organisation. For example, “fundraising” need not include the marketing group, for they have wider responsibilities in presenting the organisation to the community; but it should certainly include costs such as those incurred for telephone canvassers, advertising, mail outs and door-to-door canvassers.

On this point, as far as fundraising costs are concerned, some organisations feel that, provided they raise more than the cost of raising that money, this is legitimate. That is their view; but what is important is that the donor has the information on the fundraising cost, and can base decisions on this information.

Donors who find that over forty per cent of funds raised by a particular charity are consumed in fund raising may well be rather less enthusiastic about supporting that charity than they were previously.

How should the information be presented?

The information for prospective donors must meet three criteria

1. It must be accurate.
2. It must be concise and easily understood.
3. It must be readily available.

This suggests that information must be held in one place; preferably by a government body, and it must be in a standard form. The Government has the power to grant special taxation status, even if this is delegated to a department of state or other body, and this grant must be conditional on the charity or not-for-profit organisation providing this basic information. No information – no special taxation status!

If the information is to be valuable to donors, then it must be maintained in a register, and the register must be kept up to date. In particular, the register must be maintained in a form that will enable it to be accessed using the internet.

In these circumstances the cost of maintaining the information must be met by the government body that maintains it, and not by the organisations that are required to submit it; although they will, of course, have to meet the cost of providing it.

The governance of charities and other not-for-profit organisations

As a donor, my primary concern is that information about each charity must be readily available in a standard form. For this reason the submission does not deal with questions of governance in detail. However some points stand out.

The need for a single regulatory body

The overall governance of charities and related organisations should be vested with the Australian Government. Many charities operate across State and Territory boundaries. They solicit and obtain donations from a range of donors and do not seek to limit them to one State or Territory.

The situation is similar to that of business and there should be no incentive for not-for-profit organisations to shop around to find a regulatory environment that suits them best.

This is not to denigrate local organisations, and there is a lot of value in those that operate closely to the people that they serve, indeed many may need to work with State, Territory and local government bodies; but if there is to be a regimen for all charities and related organisations, then this control should be with the Commonwealth Government.

From the donor's point of view, the Commonwealth provides taxation relief to taxpayers who donate to approved organisations, and the revenue is reduced to that extent.

To provide additional layers of regulation, for example, by imposing different requirements in different States and Territories is to increase the costs for the bodies regulated without improving the outcome for either the organisations concerned or the potential donors.

Where bodies use social functions to raise money or conduct lotteries or raffles the regulation of these should properly be a matter for States and Territories. Some of these events involve health and safety considerations, and others are subject to gambling controls. Other minor events (such as raffling meat trays at country hotels in support of the local hospital) are generally ignored, and that is how it should be.

The form of the regulatory body

This submission does not address itself to the administrative arrangements to apply to any body established to oversee the governance of not-for-profit organisations. There are however strong arguments for the regulation of such organisations to be separated from the body responsible for collecting information from not-for-profit organisations and making it available to potential donors.

On this point there would seem to be considerable merit in former Senator Andrew Murray's proposal to establish a Registrar of Incorporated Organisations to administer the new arrangements, and it should be set up in a form that ensures that it is perceived as independent. To pick up on one point that he discusses, the organisation does not need to be perceived as particularly "user friendly to the not-for-profit sector". The essential is that it protect Government revenue and the information needs of donors.

Related issues

As a donor some issues stand out, and these are briefly discussed

Religious missionary activities

In Australia we have religious freedom; but this should not extend to providing tax-free status to religious bodies using taxpayer or donor funding to conduct missionary activities abroad.

There can be no more justification for providing taxpayer money for, say, a Christian sect to seek converts to its beliefs in Saudi Arabia than there is for a Muslim sect to seek converts in the Vatican. It is an affront to these sovereign states, and taxpayer funds should not be used to support it.

Donors need to be assured that this is not being done with the tax-deductible donations that they make.

Commercial activities

Some organisations raise money through so-called commercial activities. These may be as simple as distributing calendars and diaries, through to selling a wide range of clothing and other merchandise.

In addition to showing the amount received from these activities, and their costs, there is clearly a case to quarantine them from the normal tax concession regimen. This means that they should be conducted at arm's length from the not-for-profit organisation on whose behalf they are being conducted.

If such commercial activities result in a profit, after paying the rates, payroll tax, fringe benefits tax and goods and services tax that a normal business would incur then well and good; but there can be no justification for providing favourable treatment for such endeavours. There are two reasons for taking this view.

1. To do this is to provide a competitive advantage to a not-for-profit organisation's business at the expense of the competing commercial businesses that meet all the normal taxes and charges.

2. Not-for profit organisations already receive favourable taxation treatment for their core non-commercial activities and donors and this effectively results in lower government revenue that would otherwise be received. The shortfall must effectively be recovered by either reducing money spent on other activities, by raising taxes or by not reducing taxes.

It might be argued that to treat part of an organisation's activities in a different way to the core activities would create administrative difficulties, but many ordinary taxpayers who operate a home office or a business from home are familiar with the principles involved and handle the situation without undue difficulty.

Donations used abroad

Some organisations receive funds on the basis that the funds that they provide will be used abroad, and there can be no objection to this. For example, many organisations have given money for disaster relief abroad.

Where donors may well have legitimate concerns is in situations where funds raised in Australia are sent abroad to be used in such ways as some overseas authority may decide, or even to be invested abroad. If a charity or related organisation sends money abroad it must specify how the money is to be used and it must provide this information for donors. If it cannot or will not do this then there is no reason why deductions to the organisation should be tax-deductible.

-ooOOoo-