



11 September 2008

Senator Annette Hurley  
Chair  
Senate Economics Committee  
C/o Committee Secretary  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Senator Hurley,

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

Thank you for the opportunity to comment on the above Inquiry being conducted by the Senate Standing Committee on Economics. Red Cross welcomes the Inquiry and is particularly pleased at the focus of the inquiry on the broader not for profit sector.

Red Cross is participating in this Inquiry as it strongly believes in the importance of the not for profit sector and its invaluable contribution to society. Red Cross however supports the view reflected in many submissions forwarded to your committee that the time has come for significant reform of the sector. Red Cross agrees that issues such as accountability and transparency need to be addressed but would also call for a stronger government focus on supporting and strengthening the sector to enable it to effectively, efficiently and innovatively respond to the complex social and humanitarian issues we face in the 21<sup>st</sup> Century.

If you have any questions or would like further information on any of the issues raised in this submission, please do not hesitate to contact me on 03 9345 1800.

Yours sincerely,

ROBERT TICKNER  
Chief Executive Officer

## 1. Introduction

Australian Red Cross is part of the International Red Cross and Red Crescent Movement, the largest humanitarian organisation in the world. The vision of Red Cross is to improve the lives of vulnerable people by mobilising the power of humanity. Red Cross Societies operate without any political, religious or cultural affiliation. All services are underpinned by seven Fundamental Principles: Humanity, Impartiality, Neutrality, Independence, Voluntary Service, Unity and Universality.

Since 1914, Red Cross has been responding to the needs of people of all ages in suburbs and towns right across the country. Through the delivery of a wide range of support services throughout Australia and an extensive international development programme, Red Cross provides a variety of support to the vulnerable and disadvantaged.

Red Cross has 863 branches, 100 offices, 30,000 members, 29,000 volunteers and 2000 staff spread throughout Australia.

Importantly we enjoy excellent relations with all governments and all political parties represented in Parliaments of Australia.

## 2. Red Cross incorporation status

Australian Red Cross was formed in 1914 as a branch of the British Red Cross. The Australian Red Cross was formally recognised as an autonomous National Society, and was incorporated by Royal Charter in 1941. Its official name became The Australian Red Cross Society.

The Board of Australian Red Cross has strongly supported the retention of the Royal Charter as underpinning our incorporation. The organisation is however currently undertaking a major review of the Royal Charter under the guidance of Allen Cameron (Chairman, Cameron Ralph Pty Ltd), the former Chairman of the Australian Securities and Investments Commission (ASIC). The Board recognises that the provisions of the Royal Charter and rules need to be substantially overhauled to introduce contemporary language and principles which reflect Red Cross in the new millennium.

## 3. Current regulatory requirements applying to Red Cross

Red Cross is a national organisation with services and activities occurring in each State and Territory in Australia. We also operate very substantial programs overseas and deliver the Blood Service for the people of Australia.

A Nonprofit Roundtable report<sup>1</sup> identified that there are 15 Commonwealth Acts and 163 State and Territory Acts under which entitlement to a benefit or some other legal outcome turns on the charitable purpose or status of an organisation. While Red Cross has not counted the number of Acts it, as a national, charitable body must comply with, it would not surprise us to find it is the full suite of 178 Acts listed in the Nonprofit Roundtable's report. We are well aware that in relation to fundraising alone Red Cross must comply with seven disparate sets of fundraising legislation.

As a way of dealing with variability in state based legislation, Red Cross often makes internal decisions to have all States and Territories comply with the most stringent legislation or guideline for Australia wide activities such as fundraising. In the case of fundraising legislation this means complying with the NSW

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<sup>1</sup> National Roundtable of Nonprofit Organisations 'The assessment of charitable status in Australia, Current practice and recommendations for improvement' November 2007



*Charitable Fundraising Act 1991*. On one hand, having states and territories comply with this Act as much as possible saves time by ensuring the greatest level of detailed data is obtained. On the other hand, it means that data is collected at a far more detailed level than may be warranted by some states with less stringent fundraising legislation.

Uniform fundraising regulations would streamline our administrative processes, record keeping systems and reporting as well as reducing resources required to adhere to these regulations. If similar standardisation occurred across other pieces of legislation considerable resources could be saved and redirected to delivering services to the most vulnerable in our society. It would also enable Australia to achieve nation wide best practice in not for profit legislation.

A constant issue faced by Red Cross is a lack of consistent definitions. Red Cross willingly participated in the Choice article referred to by the Inquiry because of our ongoing commitment to share and disclose financial information. The difficulty in responding to the Choice request, as with many other requests, relates to definitions. What information is really wanted, in what format and for what purpose? Having standard definitions to enable transparent and accurate comparison of financial information should be easy and the norm, rather than the confusing minefield it currently is.

Red Cross would concur with the findings of a Queensland University of Technology<sup>2</sup> study that found grant documentation from 24 government departments identified 129 different revenue line items and 836 different expense line items with vast differences in descriptions and accounting treatments for the same kind of expenses. Red Cross receives grants to run programs and is awarded tenders to deliver services on behalf of government. Presently, we have 135 separate funding contracts with 38 federal, state or local government authorities. Red Cross is currently preparing 120 independent audit certificates to acquit these funds. The level of inconsistency just described is certainly contained within our 120 acquittals being prepared.

Uniform accounting and reporting standards, backed up by agreed definitions used by both the not for profit sector and government authorities, would greatly assist organisations like Red Cross to ensure transparency, accountability and consistency. In turn, uniform accounting and reporting standards would increase efficiency and productivity and would free up valuable resources that could be used for service delivery rather than administration.

Uniform accounting and reporting standards would also enable the production of consistent and comparable sector wide data. Comparable sector wide data would enable the setting of benchmarks for efficiency (for example) and would provide information to inform the development of a robust national policy framework for the sector. Comparable sector wide data could also be used to enable the development of a proper understanding of the sector, its role and its contribution to society. Having a proper understanding of the sector, its role and its contribution to society would (hopefully) build greater understanding and trust in the general public of the sector. This trust and understanding is vital in sustaining and encouraging ongoing financial support for the critical services that many in the sector provide to the vulnerable. It is essential given increased donor demand for consistent and accountable information when attempting to determine donation priorities and to enable the servicing of the growing social community needs of the disadvantaged and the vulnerable, which many in the sector help to provide.

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<sup>2</sup> Queensland University of Technology, Centre of Philanthropy and Nonprofit Studies 'NPO Chart Of Accounts Project' January 2006 Downloaded from: <http://www.treasury.qld.gov.au/office/knowledge/docs/nonprofit-organisations/chart-of-accounts-project.pdf> 14 August 2008

## 4. Response to Background paper questions

Red Cross is pleased to see reference in the background paper to the 2001 Inquiry into the Definition of Charities and Related Organisations. This previous Inquiry produced an incredibly detailed report and a comprehensive set of recommendations that have not yet been implemented. Red Cross would also like to draw the Committee's attention to the 1995 Industry Commission inquiry report, Charitable Organisations in Australia<sup>3</sup>. This inquiry also considered a wide range of issues relating to accountability, taxation and fundraising, many of which are still relevant today.

Red Cross would also like to acknowledge a number of related bodies of work that have a bearing on the not for profit sector including the current Taxation Review, the current consultations on a National Compact and the acknowledgement of the role of the Community Sector in the current Social Inclusion Agenda of the government. We believe that the important role of the not for profit sector is recognised by all political parties represented in the parliament and we warmly and strongly welcome that fact. Red Cross encourages the Committee and any subsequent Government consultations to ensure this Inquiry's findings are integrated with the findings and discussions from these related bodies of work rather than being viewed in isolation.

Red Cross offers the following in relation to the key questions posed in the background paper provided by the Committee.

### **i. Are the current disclosure regimes for not for profit organisations adequate?**

Red Cross believes that disclosure should occur and should occur for the benefit of the public. Disclosure regimes should not only measure the efficiency of an organisation, but should also capture measures of effectiveness.

Disclosure regimes should take into consideration the needs of the stakeholders of the not for profit sector. They also need to recognise that the not for profit sector has a greater number of stakeholders than your average Corporation. In the not for profit sector, stakeholders may be members, volunteers, donors (public and private), government and general public, as well as the individuals and communities we seek to serve.

As current disclosure regimes do not address the above requirements, Red Cross believes that they are not adequate.

### **ii. Does there need to be regulatory reform of the not for profit sector?**

Yes, Red Cross believes there does need to be regulatory reform of the not for profit sector. Regulation should occur on a national level in order to remove the layers of state based regulation that currently exists. Regulatory reform should not create additional reporting and administrative burden on not for profit organisations.

### **iii. Should there be a single national regulator for the not for profit sector?**

Yes, Red Cross believes there should be a single national regulator for the not for profit sector. A single national regulator should replace the current state based regulatory requirements. Red Cross would recommend that a model along the lines of the Charities Commission in the UK is replicated in Australia. This body should be independent of government and independent of existing organisations such as ASIC and the ATO.

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<sup>3</sup>Available from: <http://www.pc.gov.au/ic/inquiry/45charit>



Having a single national regulator should reduce red tape and compliance costs. Regulation should be structured on the turnover of an organisation with small and large organisations having differing reporting requirements. An unsatisfactory outcome of this inquiry would be to have additional national level of reporting and regulation on top of existing state based systems.

A single national regulator should also be a resource to both large and small organisations. The inclusion of an advisory and support role within the regulator to assist organisations (especially smaller ones) with issues such as auditing, taxation, legal and governance advice, would provide a valued service and would make a valuable contribution to the development of the sector.

#### iv. Should there be a single, specialist, legal structure for the not for profit sector?

Based on current information Red Cross would not call for a single, specialist, legal structure for the not for profit sector. Red Cross believes the current diversity in legal structures would be difficult to rationalise and the resultant single structure may not be appropriate for all not for profit organisations.

Red Cross is in a unique position as part of an international movement that is universally recognised by all governments as auxiliaries to public authorities in the humanitarian field. Red Cross would be concerned if this unique status and the strong connection between Red Cross and the four Geneva Conventions were in anyway compromised.

Any future regulatory regime should recognise that some not for profits will continue to be incorporated under the Incorporations Law or, as in special cases such as the Red Cross, by Royal Charter.

## 5. Recommendations

In relation to the variety of issues raised in the Inquiry's background paper, Red Cross makes the following recommendations.

1. The Federal government establish a mechanism to consider the evidence presented in this inquiry, the 2001 Inquiry into the Definition of Charities and Related Organisations, the 1995 Charitable Organisations in Australia Inquiry, the current Taxation Review, the current consultations on a National Compact and any other evidence pertinent to conducting a comprehensive review of the not for profit sector and making recommendations for **significant national reform** of the not for profit sector and the regulations that govern it.
2. Reform of the not for profit sector is undertaken in partnership with representatives of the not for profit sector.
3. International best practice and experience from overseas bodies such as the Charities Commission (or equivalent) in the UK, New Zealand and USA is taken into consideration.
4. Reform should (as a minimum) cover the following areas:
  - Accounting standards
  - Fundraising laws
  - Corporate structures
  - Disclosure
  - Taxation
  - Definitions of not for profits / charities
  - Ways to tailor regulatory requirements to the differing sizes and purposes of organisations



5. Establishment of a separate regulator specifically for the not for profit sector with a focus on regulation and accountability as well as strengthening of the sector and educating the general public about the sector. This regulator to be independent from ASIC and the ATO.
6. As a first step in a larger reform process, there is significant streamlining of existing processes through the introduction of mutual recognition or harmonisation of legislation across state and federal jurisdictions.