



29 August 2008

Mr John Hawkins  
Committee Secretary  
Senate Economics Committee  
Department of the Senate  
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Dear Mr Hawkins,

**Senate Inquiry into Disclosure Regimes for  
Charities and Not-for-Profit Organisations**

The National Roundtable of Nonprofit Organisations appreciates the opportunity to provide input to the Committee's Inquiry into the disclosure regimes for charities and other nonprofit organisations and other issues relating to regulatory arrangements for nonprofit organisations and their governance and management. As the Committee will be aware, the Roundtable has a strong interest in these important issues and is pursuing major regulatory reform for the nonprofit sector as one of our four strategic priorities. A copy of our current brochure, which provides information on the Roundtable and how we are structured and how we operate is provided at Attachment 1.

Many of the many complex issues concerning various aspects of current regulatory frameworks and arrangements for nonprofit organisations in Australia have been identified in major inquiries conducted by the former Industry Commission in 1995 and by the Charities Definition Inquiry in 2001 and in numerous other studies and reviews. Organisations in the sector have devoted significant resources to the preparation of submissions to these Inquiries and have consistently recognised and argued the case for reform but have largely not managed to convince successive governments to take necessary reform action. The Roundtable published a major and initial statement on a National Nonprofit Regulation Reform Program in May 2004 (Attachment 2).

Regrettably, that statement, which addresses many of the issues being considered by the Committee, remains current and relevant today because we have made little progress in securing the level and degree of reform which would bring the nonprofit regulatory environment in Australia to world's best practice. The nonprofit sector has remained under the radar of the significant effort undertaken over the past few years to reduce the burden of regulatory red tape for the business sector and has only managed to achieve minor and largely peripheral reform. In that context, however, the Roundtable notes and applauds the efforts of the Victorian government, through its 2007 Review of Nonprofit Regulation, to make some inroads into reducing red tape and improving the regulatory environment for nonprofit organisations in that State.

The Roundtable notes and supports and endorses many of the points made by our members and others in their many submissions to the Inquiry. The Roundtable, with the generous and expert assistance of Professors Myles McGregor-Lowndes and Mark Lyons, provided advice and information to our members and other organisations to facilitate their preparation of submissions to the Inquiry. The submissions made to the Inquiry reflect the complexity and huge range of issues and problems which require attention and reform as well as the diversity of interests and concerns of the organisations in the nonprofit sector. Importantly, they also generally reflect the sector's views about the need for reform and the desirable directions for reform.

The Roundtable is strongly of the view that major reform will necessarily involve the Commonwealth and State and Territory governments, and many different agencies across the various jurisdictions. Our paper, *The Assessment of Charitable Status in Australia* (Attachment 3), clearly illustrates that the task of reforming charity law requires examination of some 178 Commonwealth and State and Territory Acts and as many as 93 different government entities. In our submission to last year's Commonwealth Treasury's consultations on *Financial Reporting by Unlisted Public Companies* (Attachment 4), we observed there are significant inconsistencies in reporting and other requirements imposed in different States and Territories pursuant to their very different Associations Incorporations laws.

There are compelling arguments for reform of laws governing the incorporation of nonprofit organisations, the taxation of nonprofit organisations, fundraising by nonprofit organisations, for reform of accounting and reporting requirements and for reform of the growing and increasingly burdensome degree of contractual red tape and regulation imposed through contracts between government agencies and nonprofit organisations.

We argue in this context not always for less regulation, but rather, better regulation and concede that this might mean more regulation in some contexts for some organisations. Others, and especially smaller member serving organisations, might require no external regulation. The utility and effectiveness of self regulation and the roles of Boards and Management Committees also require important consideration. The sector needs regulation which is proportionate to risks of non-compliance and which promotes and sustains the high level of public trust which the sector must continue to enjoy.

The present Inquiry being conducted by the Committee provides a timely and useful opportunity for further examination of the many issues concerning nonprofit regulation and, in the happy event that the Committee sees fit to recommend that major reform should be undertaken, for mapping a process to begin the implementation of reform.

The Roundtable is mindful that the Inquiry is being conducted in tandem with a number of other major reviews being undertaken by the Commonwealth and other governments, which include:

- the Australia's Future Tax System Review;
- the examination of the feasibility of and possible form and content of a Compact between governments and the nonprofit sector in Australia;
- the forthcoming Productivity Commission Inquiry into the social and economic impact of the sector; and
- the progressive implementation of Standard Business Reporting and other deregulation initiatives being pursued by the Minister for Finance and Deregulation and through the Council of Australian Governments (COAG).

A number of the major issues under consideration in the context of the Committee's Inquiry are likely to be addressed as part of these reviews (reform of charity law through the Tax Review, for example) and others will require separate and discrete attention. The Committee might consider how best to ensure there is a consistent and coherent approach to reform, about how a range of reforms might best be co-ordinated and sequenced and about what might be a workable and achievable pace for implementation of reform processes.

Another critical and important aspect of effective regulatory reform for the nonprofit sector is the need to engage, communicate and consult with nonprofit organisations on each and every aspect of reform which might affect or interest them. (*"Nothing about us without us"*, as we say.) The Roundtable recognises that some of the reasons that very little has been achieved to date in better regulation for the nonprofit sector include the difficulties in communicating effectively with a large and disparate group of organisations, the lack of a common voice of the sector on issues on which we broadly agree and our failure, by and large, to effectively assert and prosecute our case for reform.

One of the key reasons for the formation of the Roundtable was to provide a forum for addressing issues in common across the broader nonprofit sector and regulatory reform is a very high priority for all of our members. The Roundtable also aims to provide a locus for communication and dialogue between government and business and nonprofit sectors. We stand ready to use our networks to continue to promote the need for reform, to consult and communicate with the sector on reform issues and to play an active and a positive role in the design and implementation of reform measures.

Nonprofit organisations in Australia make a significant contribution to the Australian economy and to Australian society. They fulfil a role which is markedly different and distinct from the roles of the state and the market. An effective and well regulated nonprofit sector is a fundamental pre-requisite of a vibrant democracy and a truly socially inclusive Australia.

The lack of regulatory reform is impeding the ability of the sector to fulfil its potential and to make the best possible contribution it can make to the Australian people and communities. We want better regulation and world's best practice regulation and we want it as soon as it can practicably be delivered. We are prepared to play our part to make it happen.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Thompson', with a stylized flourish above the name.

**David Thompson AM**  
Chair of the Board  
14 September 2008

## **Attachments**

Attachment 1: National Roundtable of Nonprofit Organisations – What we do and how we do it.

Attachment 2: National Nonprofit Reform Program – May 2004 – Initial Roundtable Statement

Attachment 3: The Assessment of Charitable Status in Australia – Roundtable paper

Attachment 4: Roundtable submission to Treasury consultations on financial reporting by unlisted public companies