

Mission Australia Submission to the

**SENATE STANDING COMMITTEE ON ECONOMICS
INQUIRY INTO THE DISCLOSURE REGIMES FOR
CHARITIES AND NOT-FOR-PROFIT ORGANISATIONS**



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I. Background on Mission Australia

Mission Australia is a national non-profit organisation that works within the community, employment and training sectors. Our vision is to see a fairer Australia by enabling people in need to find pathways to a better life. Through our programs and services, we aim to combat homelessness; assist families and children to overcome hardship; support disadvantaged young people; deliver entry-level training; and help unemployed people find permanent work.

Mission Australia is a large organisation within the non-profit sector, and in 2006-07 operated 450 services around Australia which provided assistance to more than 300,000 people. We employed around 3,304 staff. We also received assistance from 800 active volunteers. Our income for 2006-07 was \$254 million, of which the largest amount was revenue from government funding associated with rendering services (\$177.7 million) followed by revenue from fundraising (\$21.9 million).

Mission Australia welcomes this Inquiry and commends the Senate for investigating such a significant issue. We are supportive of regulatory reform in the non-profit sector insofar as we envisage that greater standardisation of reporting requirements and improving the accountability of the sector will ultimately have a positive impact on the clients we support. Our submission will respond to the Inquiry's three areas of investigation and make recommendations on each.

2. An overview of the charity and non-profit sector in Australia

A key backdrop for any review of the disclosure regimes of charities and non-profit organisations is the contribution and scope of such organisations. The non-profit sector in Australia makes a significant contribution each year to the social and economic life of the country. As the Industry Commission noted in its report on charitable organisations in Australia:

“Like most modern democracies, Australian society is supported and served by a not-for-profit charitable sector which delivers a range of social welfare services to its citizens. In this role the charitable sector is a crucial partner with business and government, which it complements but with which it also contrasts.

The sector in Australia pre-dates any form of comprehensive government intervention on behalf of people in need. It arose from the compassion, goodwill and foresight of men and women of philanthropic, humanitarian and religious convictions and has continued to serve, expand and diversify since early colonial days.

The charitable sector underscores many basic values in Australian democracy. It exemplifies the principles of pluralism, free choice and the rights of citizens to participate in and take responsibility for their community. It helps ensure that no government has a monopoly on the way society deals with its

citizens — especially those who are most vulnerable because of economic or personal need.” (Industry Commission, 1995)

Non-profit organisations work across a number of areas including community services, health, education, arts and culture, advocacy and economic cooperation. (Hough et al, 2006) According to figures recently released by the Australian Bureau of Statistics, at the end of June 2007 there were 40,976 non-profit organisations in Australia, which between them employed 884, 476 people. The social services sector employed the largest number of people with 240,667 employees (27.2% of the total), followed by education and research (216,211 or 24.4% of the total). A large number of volunteers - 2,434, 815 - also worked in the sector. (ABS, 2008)

During 2006-07, the total income of the sector was \$74.5 billion, comprised of funding from federal, state and local governments (34.1%), income from services (28.6%), donations, sponsorship and fundraising (9.4%) and sales of goods (9.2%). Total expenditure for the sector was \$68.3 billion, of which nearly half (47% or \$32.1 billion) was accounted for by labour costs. Other expenses incurred included purchases (16%), grants and other payments (8.4%) and depreciation and amortisation (3.7%). (ABS, 2008)

3. The relevance and appropriateness of current disclosure regimes for charities and all other non-profit organisations

Recommendations

- I. That current disclosure regimes for charities and non-profit organisations be streamlined to reduce the administrative burden on organisations. At a minimum, streamlining should include the following measures:**
 - a) Aggregation of the various state fundraising reporting requirements into a single, consistent reporting format under Commonwealth jurisdiction and**
 - b) Implementation of a standard chart of accounts such as that developed by Professor Myles McGregor-Lowndes of The Australia Centre for Philanthropy and Nonprofit Studies, Queensland University of Technology.**

As a national charity with significant fundraising activities in every state, Mission Australia is subject to disclosure requirements from federal, state, financial and regulatory bodies with little consistency of information requirements. In addition, as a public company limited by guarantee, Mission Australia is subject to many of the reporting and auditing requirements of the Australian Securities and Investments Commission that apply to for-profit entities.

The requirements of these many and varied reporting obligations lead to a very significant administrative burden. Considerable staff resources are expended to ensure each requirement, whether an acquittal to a state or federal body confirming use of funds provided, or submission of annual fundraising return to each state body, or provision of audited annual accounts to ASIC, and so on, are provided to the relevant body in the appropriate timeframe. Whilst a standardisation of disclosure requirements would not eliminate all requirements for multiple provision of similar organisational information, it would have the potential to streamline and rationalise the staffing and internal processes required to produce such a multiplicity of reports. The consequence of this

rationalisation would be greater resources available for serving the disadvantaged Australians with whom we work.

At present, each state has a myriad of different requirements to satisfy in order to obtain and maintain a fundraising licence. Some states require the licence to be renewed annually. The Australian Taxation Office website provides a convenient summary of the different positions in each of the states and territories. As a minimum, aggregation of the various state fundraising licensing and reporting requirements into a single, consistent framework and reporting format would be of significant benefit to Mission Australia. Much valuable administrative time could be saved by not having to present some material in one format whilst distinguishing it from other duplicated information to satisfy the requirements of a particular state body. The *Best Practice Guidelines for Charitable Organisations* (published by the NSW Dept of Gaming and Racing) and the annual fundraising reporting requirements for the state of New South Wales which include audited financial statements would form a good basis for a federal reporting regime.

Another method of streamlining reporting requirements would be to utilise a standard set of accounts across all government bodies (both state and federal). For example, employee expenses are defined in many different ways by different reporting bodies and a standard definition would ensure that accounting system chart of accounts could be structured in such a way to provide reporting information as a direct output of the system rather than being prepared manually. The work undertaken at the Australian Centre for Philanthropy and Nonprofit Studies at Queensland University of Technology by Professor Myles McGregor-Lowndes in this regard is a good starting point, and Mission Australia is currently implementing this standard chart of accounts in anticipation of it being adopted by government bodies.

Concerns regarding the lack of transparency relating to fundraising ratios would also be reduced with the use of a standard chart of accounts, which would improve disclosure transparency.

4. Models of regulation and legal forms to improve governance

Recommendations

- I. That a national, independent body (nominally referred to herein as the 'Charities Commission') be established for the purposes of regulating the charity and non-profit sector, and that it:**
 - a) Be similar in structure and function to the non-profit regulatory bodies in New Zealand and/or the United Kingdom;**
 - b) Work with organisations in the sector to develop standards-based models for the provision of funding from government to non-profits;**
 - c) Have the capacity to promote the sector within government for the purposes of raising awareness of likely impacts of policy changes.**

Mission Australia recommends the establishment of a national body that would regulate the charity sector, with a structure similar to the regulatory bodies established in the UK and New Zealand. A 'Charities Commission' would need to be independent of government (similar to the Reserve Bank of Australia) and would be responsible for not only regulating the sector but also promoting the sector within government.

The functions of the New Zealand Charities Commission enacted under the Charities Act 2005 (NZ) are:

1. to establish and maintain a registration and monitoring system for charitable organisations; and
2. to provide support and education to the charitable sector on good governance and management.

The Act also describes the key functions of the New Zealand Charities Commission as including:

- deciding on whether to accept an application for registration;
- monitoring annual returns submitted by registered charities;
- reporting and making recommendations to Government about charitable sector matters;
- promoting public trust and confidence in the charitable sector;
- encouraging the effective use of charitable resources;
- educating charities about matters of good governance and management; and
- stimulating and promoting research about the charitable sector.

Mission Australia believes that charities in Australia would benefit from an independent federal body to undertake these functions and activities, as it would lead to consistency and transparency of reporting, and in turn further increase public confidence and trust in charities, which is already high. It would also provide a national focus for a sector which is making a very significant contribution to the social and economic wellbeing of Australia.

An independent federal body could also be tasked with developing a standards-based model for the provision of funding from government bodies to charities and other non-profit organisations. Developing these funding models in partnership between the funder (government) and fundees (charities) would ensure the structure was acceptable to both parties and would hopefully allow for funding models that were more focused on outcomes and key performance indicators.

An Australian 'Charities Commission' would also provide a body that could promote the sector within government, providing visibility to key decision makers in government as to the manner in which government policies and decisions would impact the sector. The recent urgent amendments to the *Families, Housing, Community Services and Indigenous Affairs and other Legislation Amendment (2008 Budget and Other Measures) Bill 2008* that needed to be passed "...to protect not-for-profit employees after the adverse impact on the sector of the Howard Government measures became clear" (Macklin, 2008 - see Appendix 1) is an example where one would hope an organisation such as the mooted 'Charities Commission' would have been able to have advised government beforehand and thereby avoided the need for the legislative change.

5. Other measures

i. Taxation concessions for non-profit organisations

Recommendations

1. That the current tax concessions associated with income remain in place; and
2. That charities and non-profit organisations are exempted from state-based taxes; and
3. That current tax concessions associated with employee benefits remain in place in order to allow the sector to attract talented employees; **OR**
4. That the government introduce a 'Social Purposes Test' for the purpose of determining eligibility for all tax concessions.

Mission Australia, as a Public Benevolent Institution, is eligible for significant taxation concessions. The objects of Mission Australia, as stated in our constitution, are:

...to make provision for the direct relief of poverty, sickness, suffering, distress, misfortune, disability or helplessness of persons in Australia.

The Mission shall provide direct relief to the poor, the homeless, the physically and/or mentally ill or abused, the aged, the chronically unemployed, those addicted to drugs, alcohol or gambling, incarcerated adults and juveniles including those newly released, the young, the destitute, the homeless, the helpless and any other group of individuals whose situation is of such seriousness as will arouse community compassion and thus engender the provision of relief.

All of the activities of Mission Australia are focused around these objects and are structured to benefit from taxation concessions that arise. Nevertheless, Mission Australia can understand why some for-profit entities may feel that non-profits may have an 'unfair advantage' when competing in for-profit activities.

Mission Australia considers that current tax concessions can be split into three categories, namely (1) tax concessions associated with income; (2) tax concessions associated with state based taxes (e.g. stamp duty, payroll tax etc.) and (3) tax concessions associated with employee benefits. These are briefly discussed below, after which an alternative tax concession eligibility methodology is proposed.

Tax concessions associated with income

Mission Australia, like many other charities, has entered into government contracts whereby the successful execution of the agreed activities can lead to surpluses being generated. In the case of Mission Australia, these surpluses are channelled back into funding both the infrastructure of the organisation and also deficit-generating community programs. If a change in government policy led to non-profits being taxed on profit making activities (i.e. having to pay income tax), then it is our expectation that deductible donations would be made from these surplus funds to reduce taxable income to negligible levels. In other words, it is Mission Australia's view that taxing charities on income would add little, if any, to the Government's taxation revenues.

Tax concessions associated with state-based taxes

At present, there is significant inconsistency in the assessment and treatment of state-based taxes. Mission Australia, for example, currently has stamp duty exemptions in some States but not all, in respect of insurance, motor vehicle registration, property leases and acquisitions transactions, and stamp duty exemptions that apply sometimes, but not every time, and so on. This inconsistency leads to confusion and frustration. A federal, independent 'Charities Commission', such as we have proposed, would work with the various states to ensure consistency in these state tax treatments. It is our desire that charities like Mission Australia be exempt from all state-based taxes such as payroll tax and stamp duty tax.

Tax concessions associated with employee benefits

Mission Australia's most valuable assets are its people, but it is becoming increasingly difficult to attract and retain talented individuals who are willing to work in the charity sector. One incentive that assists some charities in attracting staff is allowing employees to take advantage of fringe benefit tax exemptions that exist for PBIs (and others). Mission Australia is adamant that tax concessions associated with employee benefits must be retained to ensure that staff can be adequately rewarded for the work they do in a sector where recruitment is increasingly difficult. In order to attract and retain a skilled workforce, salary levels within the charity sector need to be comparable with the median salary levels of the for-profit sector. In most instances (given funding constraints) this is only possible with effective utilisation of fringe benefit tax exemptions.

Social Purposes Test

An alternative eligibility methodology with regards to income tax concessions would be the introduction of a 'Social Purposes Test'. This test would be applied when a non-profit entity was seeking tax concessions whilst also undertaking profit making activities. The 'Social Purposes Test' would be used to assess the nature of the profit making activities. Where the activities were providing social outcomes and were aligned with the objects of the non-profit, then the entity would be eligible for all relevant tax concessions. Where the activities provided no social outcomes then tax concessions would not be granted. For example, if an entity was established to provide affordable housing and was structured in such a way as to generate profits, then (assuming that affordable housing provided social outcomes and was aligned with the entities' objects) the entity would be eligible for tax concessions. Alternatively, if the entity was established to make and sell pizzas (at a profit) then the activities would not pass the 'Social Purposes Test' and the entity would not be eligible for any tax concessions.

Conclusion

As a large employer and service provider within the non-profit sector, Mission Australia has a significant interest in the outcomes of this Inquiry. Reform of the current disclosures regime, the establishment of a national regulatory body and the recommendations we have made regarding current taxation regulations have the capacity to impact significantly on our ability to provide better services to our clients, to the social and economic benefit of the nation.

Ross Hawkey
Chief Information Officer
22nd August 2008

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Media Release

JENNY MACKLIN MP

Minister for Families, Housing, Community Services and Indigenous Affairs

Passage of Bill to protect charitable sector employees

Legislation has been passed into law that will protect charitable sector employees from Howard Government 2006 Budget measures that would have seen many employees lose up to \$100 a fortnight from 1 July.

The passage of this legislation is a last-minute reprieve for employees in the not-for-profit sector from the Howard Government's fringe benefit tax changes.

The Government moved urgent amendments to the *Families, Housing, Community Services and Indigenous Affairs and other Legislation Amendment (2008 Budget and Other Measures) Bill 2008* to protect not-for-profit employees after the adverse impact on the sector of the Howard Government measures became clear.

The Rudd Government's amendments have restored the use of the net reportable fringe benefit in income definitions for Family Assistance.

This has ensured staff in not-for-profit organisations will not suffer a loss of family tax or child care benefits after 1 July 2008 if their circumstances have not otherwise changed.

Up to 85,000 Centrelink customers are expected to benefit from this decision.

The *Families, Housing, Community Services and Indigenous Affairs and other Legislation Amendment (2008 Budget and Other Measures) Bill 2008* carries a range of important budget measures, including:

- Introduction of a \$150,000 limit on primary earner income for family tax benefit part B and related dependency tax offsets;
- Introduction of an income test on the Baby Bonus, limiting eligibility to families with incomes equivalent to \$150,000 or less per year, payment in 13 instalments, indexation once a year and an increase age limit for adopted children;
- Collection of tax file numbers to check the eligibility of Commonwealth seniors health card holders;
- Voluntary referrals into income management where individuals feel, for example, that this would assist them to manage their finances better; and
- Alignment of the minimum eligible age for partner service pension, paid under the Veterans' Entitlements Act, with that of veteran service pension age.

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