



**ashm**  
Australasian Society for HIV Medicine

- Mr John Hawkins  
Committee Secretary  
Senate Economics Committee  
Department of the Senate  
PO Box 6100  
Parliament House
- Canberra ACT 2600

Submitted by email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Mr Hawkins,

### **Inquiry Into The Disclosure Regimes for Charities and Not-For-Profit Organisations**

Thank you for the opportunity to comment on the inquiry into the disclosure regimes for charities and not-for-profit (NFP) organisations.

#### ***About ASHM***

The Australasian Society for HIV Medicine Inc. (ASHM) is pleased to provide the following response from its perspective as a peak body within the NFP sector representing health professionals in the HIV, viral hepatitis and related diseases sector.

#### ***This Submission***

This submission has been developed with reference to our members and following discussions with others in the sector, predominantly ACFID and the Associations Forum, both of which are preparing more fulsome and broader submissions from the Aid and Associations perspectives respectively.

- We make some general observations about regulatory reform based on the experience of our Society.
- These are followed responses and recommendations relating to your terms of reference.

We support all submissions calling for harmonization of reporting and accounting regimes and would appreciate the opportunity to consider recommendations from others making submission to the inquiry. We recognize that others may have more experience in and realistic solutions to various aspects of the review and think therefore that all parties would benefit from the consideration of these. We note, as no doubt do many others, that there have been considerable, costly and time consuming reviews of the sector in the past which have resulted in little change to the status quo. We hope this review will be more constructive.

ABN 48 264 545 457  
Level 7, 46-56 Kippax Street, Surry Hills NSW 2010  
**Locked Mail Bag 5057 Darlinghurst NSW 1300**  
Telephone +61 2 8204 0700  
Fax +61 2 9212 2382  
Email [ashm@ashm.org.au](mailto:ashm@ashm.org.au)  
Web [www.ashm.org.au](http://www.ashm.org.au)

## **General observations**

The background paper prepared by the Committee's Secretariat was helpful in focusing our responses. The following observations are prefaced by paragraph numbers from that document, to which they relate.

### **6. The NFP sector in Australia (and overseas)**

The charities sector also contains a large number of often very large organizations which have a focus in regional or overseas charitable purposes. The distinction between agencies with a domestic or international focus is not well understood.

This is likely to be an area requiring greater consideration as there is a concurrent shift also occurring in the aid sector, predominantly facilitated by AusAID which is encouraging Australian NGOs with appropriate expertise to engage in capacity development activities regionally.

Until very recently there has been a quite distinct delineation between the work of domestic NGO and overseas aid NGO. There are currently three consortia of domestic NFP (and other agencies) being supported by AusAID to develop capacity development programs regionally in HIV/AIDS, vision, and disabilities.

We are a member of and host the secretariat of the HIV Consortium and are happy to discuss this issue in more detail with the committee, should you require. At some stage there will need to be consideration of the regulatory implications of domestic agencies playing a greater role regionally. The larger of us are coming to terms with the red-tape involved. Smaller agencies will be challenged or possibly excluded by these demands.

That being said we think the current steps being taken by AusAID are excellent and fully support them. It is noteworthy that one of our explicit roles as a member of the consortium is to support the development of professional societies of health care providers working in the HIV/sexual health areas regionally, this includes assisting them to grapple with their regulatory requirements and the requirements of donors where these exist.

### **9. Current regulatory regimes**

We strongly believe that there should be harmonization between regulatory regimes and financial reporting regimes. It is often said that regulation is arduous for smaller NFP. While this may be true we have had to provide the same or greater reporting against a small grant of say \$10,000 as we have had to provide on a grant approaching \$500,000.

### **14. Lack of transparency**

While the issues raised by Choice may warrant greater consideration they should be taken in the context of the transparency provided by other organizations. It would appear that there is a feeling that because the charitable sector offers people the opportunity to "give" money it has a greater requirement to be transparent about how it uses that money than does an organization which has a legal requirement to "take" money, such as a bank, a council or a hospital.

There is also a tone which suggests that an NFP should not use fund-raised funds to administer its activities, yet this is unrealistic as even organizations with very small fund-raising overheads still have some overheads. Benchmarking for acceptable standards should be encouraged.

### ***Terms of Reference, responses and recommendations***

#### **(a) the relevance and appropriateness of current disclosure regimes**

A number of NFP organizations have called for the development of an additional administrative body to oversee or administer incorporated bodies, charities, limited by guarantee. We have some concern about this as there is a fear that this could simply add another layer to the existing instruments. A more simplified arrangement may be achievable via ASIC or a department or section within ASIC which could develop arrangements for smaller organizations.

Of particular issues is that organizations which recognize the need to transition from state-based Incorporation Acts to federal Corporations Act are likely to be least equipped to do this and they need assistance to make this change. I note that the Corporations Act and regulations span 5000 pages.

As an organization which relies heavily on state and federal government funds the majority of our reporting is determined by our funding contracts. This is in addition to requirements of an Incorporations Act, the Corporations Act or the ATO. Many NFP, like us, derive funds from a number of departments and thus are subject to the standards of each of these, in addition to those relating to our organizational status.

#### **Recommendations:**

- A new nationally consistent portfolio of legislation and regulations within ASIC be developed to replace existing reporting and disclosure requirements across all levels of government and across federal and state jurisdictions
- The regulatory response needs to be shaped to suit the unique characteristics of NFP organizations. This should include the establishment of an appropriate financial standard designed specifically for the NFP sector. And incorporated into the AASB
- Revised accounting standards for the NFP sector include specific, harmonised reporting requirements for the acquittal of government grants across all levels of government. This would require all government departments to agree to transition their requirements to these, standards, rather than to apply additional reporting on-top
- A simplified reporting regime be provided for smaller NFP entities regardless of their incorporated structure. But which would be consistent with that proposed above and administered by ASIC. This would facilitate those organizations transitioning should their business size or reach expand

#### **(b) models of regulation and legal forms that would improve governance**

We agree with ACFID that the tiered model of compliance used by the ATO in its dealings with the for profit sector is appropriate for the charities and NFP sector. We also support the development of standards for the governance of NFP. As indicated in the background document a large number of adult Australians are members of these organizations and thus contribute to their governance, and should be assisted in this.

#### **Recommendations:**

- Through whatever mechanism is developed, education for and simplified guidelines be developed for those involved in the administration and governance of NFP and that these initiatives be in harmony with the financial reporting guidelines

**(c) other measures that can be taken by government and the not-for-profit sector to assist the sector to improve governance, standards, accountability and transparency in its use of public and government funds.**

We make a number of specific recommendations regarding transparency below and note that while the background document does not explore the notion of political activity or advocacy in any detail this will need to be addressed at some stage.

Specifically we note that the role of the NFP sector in developing public policy is very widely recognized. Participation in processes such as this review are demonstrations of this role and its benefit to society. State and federal governments have recognized this role and supported organizations to organize among their constituents to bring a voice to the policy table. This assistance is particularly important for groups with less capacity to organize (for example sex worker organizations, drug user groups etc) than traditional craft or professional organizations. We welcome the un-gagging of the sector.

**Recommendations:**

- That as part of this review process all submissions are made available for a further round of discussion and consideration in the event that consensus may be reached between various stakeholders
- Standards be developed for the reporting of FBT and other tax concessions via the annual reporting process
- That an annual reporting process and online lodgments of and access to annual reports be developed as part of the regulatory framework
- That standardized terminology (taxonomy) be developed to describe NFP and the range of agencies variously referred to as the third sector
- It is unhelpful to gag the NFP sector as this interferes with the development of good public policy and diminishes the capacity of the sector to provide a voice to its constituents.
- It may be possible to refine a set of standards or to provide guidelines on practices which are broadly acceptable within the sector and which are consistent with various levels of recognition. Any such taxonomy should be reflexive of the range of agencies and their purposes.

Again thank you for the opportunity to make comment on the review. We look forward to further participation in the process.

Kind regards



Levinia Crooks  
Chief Executive Officer  
Australian Society for HIV Medicine

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