



**Aged & Community  
Services • Australia**



# **ACSA Submission**

**DISCLOSURE REGIME FOR CHARITIES AND**

**NOT-FOR-PROFIT ORGANISATIONS**

Submission to the Senate Economics Committee

SEPTEMBER 2008

Aged and Community Services Australia (ACSA) is pleased to provide input to the Senate Economics Committee's Inquiry into this important matter.

## **Background**

ACSA is the national peak body for not-for-profit aged and community care providers and represents around 1,100 church, charitable and community-based organisations providing housing, supported accommodation, residential and community care services to over 700,000 older people, younger people with a disability and their carers.

ACSA is a member of the National Roundtable of Non-profit Organisations (NRNO) and of the Australian Council on Social Services (ACOSS).

Our members include the largest, and smallest aged care providers in Australia. They range in size from organisations with annual turnovers of tens of thousands of dollars, in the case of mainly volunteer-based community care services, to statewide, church auspiced, multi-functional providers with budgets in the hundreds of millions of dollars. Because our members are service providers, all derive the largest component of their income from government subsidies and all are incorporated. Forms of incorporation vary and include company structures, associations, church or religious order based structures and government or semi government bodies (state and local).

Because of their size and incorporation status, the majority of our members are subject to regulation by the Australian Securities and Investments Commission. All are subject to the relatively onerous reporting requirement imposed by the Commonwealth Department of Health and Ageing, as well as myriad State and Territory laws. The aggregate turnover of our members is estimated to be between \$6 and \$7 billion per annum with around \$5 billion coming from government and the balance from user contributions (fees) and other sources. This amount is steadily increasing, consistent with the ageing of the Australian population.

Most aged care services in our sector would engage in fundraising activities of various types and many would be in receipt of bequests. We do not have details of the range and extent of our members' activities in this regard.

## **Context**

Interest in reforming the non-government or charitable sector has come from a variety of sources. Several of these have been hostile to the sector challenging its role in advocating for particular causes; questioning the tax benefits extended to charities and raising doubts about the efficiency of fundraising for example.

The critique of the lack of transparency in fundraising, as reported by Choice magazine's recent article, is clearly based on real community concerns but equally clearly on an unsophisticated understanding of how charities (or other large organizations) necessarily operate. It is assumed that any funds raised that are not spent on service delivery are somehow wasted on 'administration' and 'marketing' as if these activities did not contribute to the goals of the charity. Administration and marketing support both the fundraising effort and the disbursement of funds received. Would those who mount such critiques really

prefer that charities did not train their staff, did not seek to raise funds from as wide an audience as possible and did not speak up for those they seek to serve?

If reforms to reporting and disclosure contribute to a better understanding of these issues, that will be an advance. If the importance of charitable organization advocating for their cause is better recognized as a result, that would be a bonus.

Other calls for reform have been more sympathetic, premised on a proper recognition of the intrinsic value of the third sector but recognising that current regulatory regimes, definitions and accountability mechanisms stand in need of improvement.

In reforming the structures within which charities and other not-for-profit organisations operate it is imperative that any changes pass a fundamental test:

***‘Do these changes strengthen and enhance the third sector or weaken and constrain it?’***

## **Principles**

ACSA supports investigation of improved structures and procedures for the administration of charities and non-government organizations based on the following principles.

ACSA believes that it is important that:

- *Reform be based on recognition of the intrinsic value of not-for-profit organisations and charities.*
- *Any new disclosure requirements are in proportion to the scale of the organisation and the nature and scope of their fundraising activities.*
- *Reliance be placed on existing accounting standards rather than creating new ones wherever possible. These could be supplemented by narrative statements.*
- *Narrative reports of activities and achievements are preferred to crude numerical measures of fundraising efficiency such as ratios.*
- *The reform process proceed in close consultation with the sector.*

## **Other Issues**

- Reform should proceed on the understanding that additional disclosure requirements will divert resources from the delivery of services or other organizational outputs and thus, ironically, compound the issue they may be intended to address.
- Definitions of charities should be clarified to remove ambiguity and uncertainty. This should be done in an inclusive manner - as a default, existing charitable status should be ‘grand parented’ and clear criteria established for any change in status. An open and accountable process should be established for the granting or changing of charitable status with avenues for appeal. There may be longer term advantages in vesting this function in an independent body rather than within the Australian Tax Office, provided that such an independent body is appropriately constituted and resourced.
- The value of the FBT tax concessions granted to charities that are Public Benevolent Institutions should be restored. It has been allowed to erode through inflation so that the \$30,000 ceiling on FBT free benefits would be worth over \$40,000 in 2008 dollars. This amounts to policy making by stealth.

- Consistency between levels of government on the application of tax concessions to charities is needed. ACSA members who are Public Benevolent Institutions have had their entitlement to local government rate concessions challenged (ultimately unsuccessfully) in some States.
- Many NGOs and all larger ones have their books audited annually – either as a requirement of their incorporation and/or as part of managing stakeholder relations. The introduction of additional, specialised reporting requirements for charities or other not-for-profits that do not relate to existing accounting standards would create difficulties in accessing audit services and diminish the competitiveness of the supply market for such services, compounding the cost factors referred to above.

## **New Directions?**

ACSA and its members are encouraged by the Government's stated commitment to improving the relationship between Government and the third sector.

The predominant ethos of public administration over the past decade and a half, with its catch phrases of 'steering not rowing', 'purchasing not providing' and so on, may have been directed at clarifying the role of governments but it has had the side effect of seeming to equate all other organizations, whether they be commercial contractors or not-for-profit entities or charities.

The challenge thrown to the sector by the Industry Commission's 1995 *Charitable Organisations in Australia* report was heard by the sector as a challenge to become more 'business like'. Certainly ACSA's members have been actively recruiting managers from the private sector (and to a lesser extent from government) for at least that long, in part as a response to that challenge. Management of not-for-profit aged care services has been thoroughly professionalized over the past 20 years.

These developments have had many positive effects. In our industry they have helped to create a world class system of aged care in Australia for example. But, taken as a whole, these changes may have also served to create or reinforce an impression in some minds that there is no difference between the different classes of non government organizations – charitable, not-for-profit or commercial. The work of this Inquiry could contribute to reinforcing this impression. Alternatively, and desirably, it could create a new clarity about the role of the third sector in the twenty-first century.

## **Conclusion**

ACSA believes that there is value in reforming the regulatory environment in which charities and other not-for-profits operate. We believe that there are dangers and pitfalls in such an enterprise highlighting the need to proceed with caution, in consultation with the representative bodies of the third sector and with a clear focus on not making things worse.

A single, national hierarchical reporting regime for not-for-profit organizations, in proportion to their scale, across all levels of government and consistent with existing accounting standards is attractive in principle but the devil will be in the detail.

Aged and Community Services Australia would be pleased to discuss these matters further with the Committee if it so desires.