

Submission to the Productivity Commission's Philanthropy Inquiry

MAY 2023

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About UnitingCare Australia

UnitingCare Australia is the national body for the Uniting Church's community services network and is an agency of the Assembly of the Uniting Church in Australia.

We give voice to the Uniting Church's commitment to social justice through advocacy and by strengthening community service provisions.

We are the largest network of social service providers in Australia, supporting 1.4 million people every year across urban, rural, and remote communities.

We focus on articulating and meeting the needs of people at all stages of life and those that are most vulnerable.

Introduction

UnitingCare Australia welcomes this opportunity to contribute to the Productivity Commission's review into philanthropy in Australia. This submission will focus primarily on matters of principle regarding the role and effect of philanthropy in supporting charities working with vulnerable people and communities. This submission has been informed by input from the Uniting Church and the UnitingCare network of service delivery organisations across the country.

Overarching principles for consideration

UnitingCare Australia welcomes any effort to increase resources toward supporting vulnerable people and communities, including the Australian Government's commitment to double philanthropic giving in Australia by 2030. Australia ranks 19th, in the Global Philanthropy Environment Index Scores (2022)ⁱ, with total giving at around 0.81% of GDP as compared with New Zealand at 1.84% and the USA at 2.1%. Doubling the level of philanthropic giving in Australia is achievable, however doing so will require governments to be active in their pursuit of this objective.

Australians are generous in supporting their communities in times of need. This generosity of spirit is most profound when natural disasters or emergencies strike. However, there are millions of Australians who regularly offer money, time and/or resources to support a range of charities working with the homeless, the elderly, people fleeing family violence and those with disabilities. They do so willingly, however they hold an expectation that governments will play their part in providing ongoing support to individuals and communities which are socially and economically vulnerable.

Over many decades governments have retreated from being service providers to that of service funders and stewards of service provision. Their role as funders in areas of community, aged and care services is essential in light of the increasing demand for them. For the poor and vulnerable in our society governments are in reality the only "buyer" of such services. While we support the Australian Government's commitment to double philanthropy in Australia, the funds derived from the achievement of that commitment should be regarded as additional and supplementary funding and not a substitute for government funding of supports for vulnerable people and communities.

We consider philanthropy as being a tangible expression of support for a cause considered to be of public benefit by people and organisations of goodwill. Its purpose is the transfer of resources (financial, time, information as well as goods and services) from one party with means to another. Philanthropy is not a quasi-capital market from which the charitable sector secures resources. As such care must be taken not to assume that market-based principles applicable to other parts of the economy are readily transferable to the philanthropic and charitable sectors.

As noted in the *Call for Submissions* paperⁱⁱ smaller charities (less than \$1million in revenue) have a strong reliance on donations. Any recommendations arising from this review regarding the design of regulatory compliance and reporting related to the access, use and reporting of donations must properly recognise the capacity for the charitable sector to engage with these changes. A focus on streamlining and harmonising fundraising regulations across jurisdictions, together with the implementation of a charity passport mechanism that is recognised by both government and philanthropic organisations are important measures which should be strongly endorsed through this review.

Government tax support for Not-for-Profits

We acknowledge that the Terms of Reference for the review includes the examination of the tax expenditure framework applying to charitiesⁱⁱⁱ. We ask that any assessment of these concessions be made with regards to the effect they have in maintaining and/or increasing resources to the sector. The tax expenditure framework that applies to charities operates both as an incentive to donate funds (DGR) as well as maximising the funds available to a charity in fulfilling their purpose. Both are critical in securing the necessary resources to support the activities of the charity sector.

Expanding the availability of DGR to more charities is a sensible way in which to increase access to philanthropic funds. That said we caution against any recommendation which would seek to trade off increased accessibility to DGR for other concessions available to the sector. While we are cognisant of both the Terms of Reference for this review and the government's fiscal position, we see little benefit in adopting a 'robbing Peter to pay Paul' strategy as a way to expand access to DGR.

As outlined earlier in our submission we consider the doubling of philanthropy as an important way in which to deliver increased resources to the charity sector. We have also noted that tax concessions play a crucial role in maximising the funds available to charities in order for them to fulfill their purpose. We are therefore troubled that the Commission has seen fit to highlight Fringe Benefits Tax concessions as well as other concessions and exemptions such as payroll tax, land tax, rates, stamp duty and motor vehicle registration as causing potential issues around competitive neutrality.

The debate around the merits of charities having access to tax concessions is not new. In a 2020 report from the OECD, *Taxation and Philanthropy*^{iv} it argues that tax concessions for charities have the benefit of moving the locus of power closer to the charity. That is, the charity receives a guaranteed reduction in costs each year and therefore has greater independence to focus its charitable efforts, even where government and other funding is limited. A second benefit is that concessions are less likely to “crowd out” donations.

It is unfortunate that we continue to see these concessions framed in the negative when they offer genuine benefits to the sector in the pursuit of their charitable purpose. Any reduction in the costs of delivering supports to vulnerable people and communities should be viewed positively, because they enable the charity to do more work with the resources at hand. It is also important to note that unlike for-profit organisations, charities cannot distribute their surpluses, instead they must reinvest these funds into their charitable purpose. Indeed, many of UnitingCare Australia members use surpluses to cross-subsidise supports to vulnerable people and communities which are either underfunded or unfunded by government.

We would therefore encourage the Commission to consider positively the benefits of improving the operation of and access to these concessions, in particular the Fringe Benefits Tax concessions. To this end we refer the Commission to the paper *Improving the utilisation of the fringe benefits tax concession by Public Benevolent Institutions*^v in which the authors outline useful improvements to the operations of the Fringe Benefits Tax concession. While we support the majority of the findings arising from this paper, we consider indexation of the Fringe Benefits Tax concession cap as also warranting further consideration.

Other matters

Regulations are an important element in the proper functioning of the charity sector. However, as the Commission has noted, regulations that are poorly targeted or disproportionate to their policy objective may not only fail to achieve their primary purpose, but also discourage giving. We ask that the Commission reaffirm the principle that regulators only seek information from those they regulate that is necessary for them to ensure compliance with the relevant laws. Further it is important that in conducting this review the Commission makes itself familiar with the quantum of regulatory obligations charities are required to comply with, especially those working with vulnerable people and communities.

As outlined earlier in this submission, we see merit in government agencies as well as philanthropic entities embracing and utilising the concept of a charity passport for the provision of standard information. However, the increasing demand for information about outcome and impact is a far more complicated issue which we hope the Commission will address as part of this review. Any recommendation in relation to this matter should include recognition that both governments and philanthropic organisations will need to include adequate resources to undertake the relevant evaluations to confirm effectiveness of the program's they seek to fund.

Finally, we ask that the Commission consider the paper^{vi} by Emeritus Professor Myles McGregor-Lowndes, *Are any more recommendations worth implementing from nearly 30 years of commonwealth nonprofit reform reports?* in particular the recommendation by the ACNC Review to abolish ACNC governance standard 3 and reform or repeal of the Division 50-50 Special Conditions in the ITAA 1997. We highlight these two recommendations specifically as a demonstration of some of the poorly designed regulatory/legislative obligations which serve to create unnecessary uncertainty for charities.

Conclusion

UnitingCare Australia supports the Government's commitment to double philanthropic giving by 2030. In making our submission to the review we have highlighted a range of principles and issues for consideration by the Commission. We ask that the Commission focus on the development of recommendations which increase the overall resourcing available to charities to pursue their purposes for the benefit of the communities they serve.

We are happy to meet with the Commission to further expand on the issues raised in our submission.

ⁱ Philanthropy Australia, *Giving Trends and Opportunities Report 2022* p5

ⁱⁱ Productivity Commission, *Review of Philanthropy – Call for Submissions* March 2023 Figure 2 p6

ⁱⁱⁱ Productivity Commission, *Review of Philanthropy – Call for Submissions* March 2023 Terms of Reference items 5 & 6 p29

^{iv} OECD (2020), "The case for providing tax concessions for philanthropy", in *Taxation and Philanthropy*, OECD Publishing, Paris, <https://doi.org/10.1787/722d538f-en>

^v Zabar J & Jefferson B, *Improving the utilisation of the fringe benefits tax concession by Public Benevolent Institutions*, Tax and Transfer Policy Institute, Working Paper 13/2022 November 2022

^{vi} McGregor-Lowndes, M. (2023) Are any more recommendations worth implementing from nearly 30 years of Commonwealth nonprofit reform reports? (ACPNS), QUT. Available at <https://eprints.qut.edu.au/237821/>