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Where not-for-profits go for help

5th May 2023

Productivity Commission
4 National Circuit
Barton ACT 2600
CC: The Hon. Dr Jim Chalmers MP
The Hon. Dr Andrew Leigh MP

Dear Commissioners,

I am writing on behalf of Our Community, an organization that for the past 20+ years has supported Australia's social sector.

Our Community

Our Community operates SmartyGrants, a leading grants management software solution used by more than 500 philanthropic and government organizations in Australia to manage their grants, and hundreds of thousands of not-for-profit organisations to apply for grants. SmartyGrants has been at the forefront of innovation in philanthropy and grantmaking for more than a decade and has helped countless organizations manage their grantmaking programs more efficiently and effectively.

Our Community also runs one of Australia's leading donations platforms, GiveNow, the nation's first grants database (FundingCentre.com.au), and the Institute of Community Directors Australia (ICDA). Together, these enterprises give us a unique vantage point over the Australian social sector.

Our Community supports the aims of the government to see philanthropy double by 2030. We agree that philanthropic giving has an essential role in Australian civil society.

Preamble

We preface our attention to the Commission's requests for comment by a general injunction that the sector really requires an *ab initio* ("start from scratch") consideration of what an ideal not-for-profit regimen would involve, including

- A single national regulatory model for both charities and not-for-profits, as recommended by the Australian Charities and Not-for-profits Commission Legislation Review 2018;
 - Inconsistencies and complexities in Commonwealth, state and territory regulation impose three key forms of regulatory burden on charities:

registration and reporting obligations under state and territory incorporated association legislation; licensing, reporting and operational restrictions under fundraising legislation; and eligibility requirements for tax concessions. Advances in technology (such as online fundraising platforms) mean charities are increasingly operating across multiple jurisdictions. The panel found that a single national scheme for charities and not-for-profits would alleviate these burdens, improving sector outcomes.

- A consideration of tax-deductible public benefit activities that is entirely freed from the complex historical boundaries of the Statute of Elizabeth (1601).

Again, while we appreciate the Commission's good intentions with regard to the philanthropic sector in Australia, we do also appreciate the point made recently by Professor Myles McGregor-Lowndes¹, who has pointed out that there have already been a considerable number of inquiries into Australian philanthropy and related issues, and the findings of many of these inquiries remain unimplemented.

Many of the issues canvassed by the present inquiry, and some of the points made by Our Community below, have been covered already, as Prof. McGregor-Lowndes points out, by the

“Over 15.5 million words on almost 50,000 pages generated in total by government inquiries

“The government produced nearly 3,000 pages of reports, and the sector made over 4,500 written formal responses generating about 29,000 pages.”

Professor McGregor-Lowndes' views, and his recommendations, should be accorded considerable weight, and will be cited frequently in the analysis that follows.

Information request 1

Defining philanthropy and the inquiry's scope

No comment at this point.

Information request 2

Vehicles, trends and motivations for giving

The Commission's paper goes into some detail on the possible motivations of Australian charitable donors. The motivations listed, though, have two major significant omissions.

The most probable, and the most immediate, and the most potent, motivation for giving is that someone – someone the donor respects – asked for the money. This is a necessary, though not sufficient, condition of the majority of donations to charitable causes.

¹ 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/>

In the light of Section 8 of the Commission's inquiry, it is also significant that the list of motivations makes no mention at all of being impressed by the level of fundraising costs, or, more generally, the efficiency and effectiveness of any not-for-profit organisation.

Indeed, over 20+ years of working with donors and recipients in this sector, we have seen little evidence that anyone, other than the most strategic donor, is moved by the presence of such factors (though the obvious absence of efficiency and effectiveness may well be a barrier to giving). A significant program of investment in the United States supports that view. In 2006 the Hewlett Foundation launched a multi-million-dollar initiative with the goal of shifting 10 per cent of individual philanthropic donations into a data-informed realm. The Nonprofit Marketplace Initiative closed in 2014 when Hewlett concluded the strategy of providing more or better information about nonprofits was not working to shift donor behaviour.

Information request 3

Role of government in philanthropy

No comment at this point.

Information request 4

The Deductible Gift Recipient (DGR) framework

The Australian government currently goes to the trouble of setting detailed rules for what constitutes eligibility for DGR privileges and then reverses the effect of these criteria by setting up government departments specifically directed to evade the prohibitions in these rules. These include, among other registers:

- The Overseas Aid Gift Deduction Scheme (OAGDS)
- The Foundation for Rural & Regional Renewal (FRRR)
- The Australian Sports Foundation

Our Community would suggest that a better way to handle this would be to decide on a principled base for tax deductibility and apply it to all areas of the community sector.

We would suggest that all organisations registered as not-for-profit organisations are eligible for DGR status. This system would depend upon the existence of a single national regulatory model with strict reporting requirements.

At present, the largely opaque system for allocating DGR status is a considerable deterrent to application – a saving for the government, but a burden on not-for-profits. It would assist not-for-profits considerably if there was a less legalistic, more accessible explanation, insofar as the current maze allows this; however, the tax office sees no advantage in this.

Information request 5

Other tax concessions for not-for-profit organisations

Similarly, such tax concessions as FBT rebates are protected from general use by a moat of impenetrable jargon. If the ATO wanted more NFPs to take advantage of such concessions, it would advertise and explain them. It does not. This is not surprising, but it is unfortunate. The Commonwealth should install no tax breaks it does not wish to encourage organisations to apply for.

In light of the rapidly increasing concentration of wealth in Australia, consideration for an intergenerational tax, or estate tax, that redirects wealth to the not-for-profit sector should be considered. As per the estate tax in the USA that operated prior to its removal by President Trump, this can encourage giving with a deduction from estate tax liabilities against money bequeathed to charities after death.

Information request 6

Unnecessary regulatory barriers to philanthropic giving

No comment at this point, other than reference to our earlier recommendation to open up tax deductibility to all not-for-profits, which would remove the onerous DGR registration regime.

Information request 7

Consumer information on the effectiveness of not-for-profit organisations

The Commission suggests that

For a conventional market to work effectively, consumers need adequate information about the price, quality and characteristics of goods and services on offer, and confidence that they will get what they paid for. In the case of philanthropy, donors may similarly need adequate information to be confident that the money, assets or time they donate is used for its intended purpose. Donors may be discouraged from giving if they cannot identify causes that align with their preferences or organisations that share their values, are well managed and effective at delivering outcomes.

From a data perspective, it should be pointed out that there is very little evidence that this is in fact the case. The average person in the street does not analyse the financial ratios of the charities they fund, any more than they examine the balance sheets of the companies they buy their cars from.

This may be because they appreciate that these expenses vary wildly across the sector, and in most cases the organisations themselves are the best judges on what needs to be spent where on delivering the outcomes they desire, or it may be because motivations are almost entirely directed towards the goals of the organisation. In any case, the market for community goods is in no sense a conventional economic market.

Correspondingly, the Commission's headings –

- The policy rationale, costs and benefits of government provision of specific data sources to inform donors' choices about where to give.
- Information donors would value on the effectiveness of not-for-profit (NFP) organisations, but cannot access and why.

Are, we believe, misconceived.

The disparate goals of the not-for-profit sector are various and frequently incommensurable, and no common measurement format is either desirable or indeed conceivable. As I have previously written²:

Giving is a social act, and its meaning relies not primarily on logic but on the feelings we have for each other – our families, and our communities, and our surroundings. Meanings are multi-layered, and arise from all parts of our being – our ethics, and our hopes, and our fears. You couldn't hand the job of donations over to a robot; it wouldn't know where to begin.

We are faced with a large number of compelling reasons to give to different causes of different kinds, and we can't rely on any simple rule to say what should come first. It's just that human beings are not bred to value only one thing.

That does not, of course, mean that we should embrace ways of doing good that are ineffective. Once we've worked out where we want to act, then we should certainly concentrate on how to get what we want most efficiently and with the greatest bang for the buck. Outcomes matter, and it's worth putting our minds to work on how best to get from here to there. Our Community is working on exactly that. For the past nine years we have been investing in building a system to streamline the collection of outcomes data originating primarily from not-for-profits but collected, aggregated and analysed by grantmakers – the organisations that are funding the work.

Currently around 50 organisations, a mix of government, trust and foundation grantmakers, use this product, the Outcomes Engine (which is built into SmartyGrants), to track and measure outcomes. That constitutes around 10% of the customer base. We have ambitions to slowly transition all SmartyGrants users onto the Outcomes Engine over the next three to five years.

Each of the organisations (both grantmakers and grantees) that interact with the platform has different outcomes and metrics to measure their programs. This fact is important. For outcomes tracking to be meaningful it must be responsive to the specific context of the people supplying the funds, the specific context of the organisations receiving the funds, and the specific context of the people or environmental or cultural factors that are set to experience a change to their circumstances as a result of the work financed by the funds.

² Moriarty, D. (2023) [Altruism is more than a matter of logic | The Canberra Times | Canberra, ACT](#)

That's not to say that aggregation of results is impossible. By providing a framework for outcomes data to be collected in a structured way we are unlocking the potential for such data to be organized and interrogated, with a view to providing valuable information about what works to create social, economic, cultural and environmental change.

In coming years, as we enter phase two of the project, we will work with funders, and their grantees, to unlock the insights their funding is generating to inform ongoing improvements in decision-making, which will make precious dollars go further.

Information request 9

Cost-effectiveness of public data sources

We do particularly encourage not-for-profits to report on impact. Many organisations are still reporting primarily on outputs, e.g. number of people reached, number of health sessions delivered, number of books delivered. Where they do enter the realm of outcomes, a common practice is to emphasise success stories, rather than providing a sober analysis of aggregated results. There needs to be an incentive to report on outcomes and share what works and what doesn't work to create positive social, economic, cultural and environmental change.

We are also concerned to ensure that the measures used to assess impact in the community sector take full account of the social benefits of participating. Simply by existing, many not-for-profit groups produce health and social benefits for the community³, and these have to be taken into consideration on top of any additional goals they may be working towards.

The government should promote the use of impact evaluations as a powerful tool for understanding what works and what doesn't work in the work of Australia's social sector organisations. The Productivity Commission could promote the use of impact evaluations in the philanthropy sector by proposing a sustainable source of funding for not-for-profit to conduct impact evaluations that assess the situation a reasonable time – at least a year – after the currency of the program.

The Productivity Commission might consider echoing our own call, in line with international best practice⁴, that all institutional funders set aside 10% of all funding to facilitate the collection of data and analysis of the results of the funding. The funds could be used by the funder themselves, or passed to the fundee, to facilitate impact evaluation. The percentage recommendation allows funding to scale in line with the quantum of the grant, and ensures both the funder and the fundee can learn from the results of the funding with a view to improving (radically or incrementally) over time.

³ Putnam, R., 2001, Social Capital Measurement and Consequences, Canadian Journal of Policy Research, 2(1):41-51

⁴ Pasanen, Tiina. [Monitoring and evaluation: five reality checks for adaptive management | ODI: Think change](#). ODI (accessed 1/5/2023)

Where sober evaluation does occur, currently many reports are not shared. Not-for-profits, and governments funding the work of not-for-profits, fear that the data may highlight missteps and be used against them. We need to shift towards a culture of learning and improvement.

We also need to provide the scaffolding for more efficient sharing of results. If the government was to create a fund to support not-for-profits to properly evaluate their programs, and request that these reports be published in a public clearinghouse, then we would have a better understanding of what works and what doesn't. Our own Outcomes Engine platform is shifting us towards that end state. As highlighted earlier, by providing a framework for outcomes data to be collected in a structured way we are unlocking the potential for such data to be organized and interrogated, with a view to providing valuable information about what works to create social, economic, cultural and environmental change.

The government should also adopt the recommendation 5.4 of the 2010 Productivity Commission Report.

The Australian Government should provide funding for the establishment of a Centre for Community Service Effectiveness to promote 'best practice' approaches to evaluation, with an initial focus on the evaluation of government funded community services. Over time, funding should also be sought from state/territory governments, business and from within the sector. Among its roles, the Centre should provide:

- a publicly available portal for lodging and accessing evaluations and related information provided by not-for-profit organisations and government agencies
- guidance for undertaking impact evaluations
- support for 'meta' analyses of evaluation results to be undertaken and made publicly available.

The SmartyGrants Outcomes Engine could provide a powerful and seamless input into such a clearinghouse.

Conducting impact evaluations requires specialized expertise. The Productivity Commission could recommend a mechanism to support the development of impact evaluation expertise in the not-for-profit sector through provision of funding for training and capacity building.

Such support would also be extremely useful for funders. We have found that many of the trusts and foundations and other (e.g. government) funders, we collaborate with do not have in-house expertise in measurement and evaluation. Although they are eager to learn and build their skills, there is a shortage of training opportunities that specifically address "evaluation for funders". This makes it difficult for funders to put in place appropriate outcome goals and reporting regimes, or to even supervise that work when it is outsourced to others. While there are resources available on how to measure the outcomes of funded programs, there are few resources that cater to those who take a portfolio approach to evaluation (aggregating the results of many such programs).

An important note. The Productivity Commission should explicitly recommend against creation of impact “league tables”, which are virtually impossible to sensibly and meaningfully construct and can exacerbate competition and secrecy among not-for-profit organizations. Rather than developing a platform that ranks not-for-profit organizations based on their impact, we recommend support for work that facilitates learning about what works and what does not.

The not-for-profit sector, and those who support it, should foster a culture of continuous improvement and learning, where standardized measures are used to promote transparency and facilitate learning. Not-for-profit organizations, and their funders, that openly share what did not work should be recognized and awarded. Sharing should be seen as a precondition for a "licence to operate." Through sharing of results philanthropists and other funders can develop greater confidence in the organizations they fund, and the impact their funds are helping to generate.

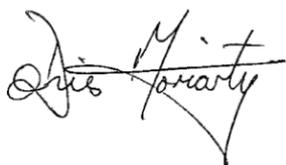
Information request 10

Public strategies to increase the status of giving

No comment at this point.

We appreciate the opportunity to contribute to this important inquiry and look forward to seeing the results and recommendations of the Productivity Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "Denis Moriarty". The signature is written in a cursive style with a large, sweeping flourish at the end.

Denis Moriarty
Group Managing Director