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28 February 2018

Mr M Crowe
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Murray

Review of the Australian Charities and Not for Profit Commission

We provide the following comments in reply to the Treasury request for comment to assist with the mandatory review of the Australian Charities and Not for Profit Commission ('ACNC') legislation. The request for comment, released 20 December 2017, seeks views on the suitability and effectiveness of the ACNC Acts.

Pitcher Partners makes these comments in our capacity as accountants, auditors and advisors to numerous entities governed by the ACNC and other not for profit entities beyond the existing authority of the ACNC. We also include within our submission the views of our clients who are affected by the ACNC.

We acknowledge the review is of the legislation that establishes, empowers and frames the operations of the ACNC, however we present our comments within a commercial context. We are not legal advisors, and accordingly request this be taken into account when assessing the following.

1. We are supportive of the ACNC and its future existence.
2. In our view the ACNC has, compared to previous regulators, improved the oversight and governance of participants in the charities sector. This sentiment is supported by 79% of our client survey respondents.
3. The improved oversight and governance has in our view improved public confidence in the sector's participants. This sentiment is supported by 79% of our client survey respondents.
4. We are supportive of the objects of the ACNC as currently legislated.
5. The ACNC currently only governs charity organisations, despite its title referencing 'Not for profit'. We are of the view this misalignment of scope and title should be resolved. Ideally this would involve the extension of powers to govern not for profit organisations. We understand and acknowledge the constitutional challenges of aligning many regulatory regimes.

6. We are of the view the ACNC has assisted to simplify oversight of the charity sector through establishment and empowerment of a single charities regulator. There is need, and opportunity, for further alignment or consolidation of numerous other federal and state provisions that create inefficiency of operations and confusion among industry organisations. Examples include fundraising rules, and oversight of unincorporated associations. We understand and acknowledge the constitutional challenges of aligning many regulatory regimes.
7. There is a need for the interaction between ACNC and ASIC to be improved, or clarified. Numerous charitable organisations and commercial sector participants that work with ACNC regulated organisations are still confused by the apparent duplication of data, and inconsistent maintenance of organisational data. This seems to undermine the report once, report often aspiration. The simple alignment of data fields for consistency, or removal of charitable organisations from ASIC registers is the first step. Thereafter, commonality or linking of information such as banned directors and responsible persons, and registration of company secretary within ACNC databases is required.
8. We are of the view there is scope to align some of the disclosure and reporting obligations imposed on companies limited by guarantee through the Corporations Act and charities identified as 'large'. The extension of obligations should consider:
 - a) A report by responsible persons as to the year's activities, strategic goals and other elements of the directors' report for companies limited by guarantee. We are of the view that including this would assist with accountability of charitable organisations.
 - b) Reporting obligations of auditors for breaches of legislation and qualified opinions.
 - c) Reassessment of the scales of ACNC tiers for entity reporting and review/audit obligations to more closely align to the Corporations Act obligations for entities such as not for profit companies limited by guarantee.
9. Our observation of the different levels of financial reporting by charitable organisations leads us to suggest increased guidance or requirements for consistent financial reporting. We note that 39% of our survey respondents agreed with this proposition, identifying there are inadequate levels of reporting by some sector participants. We suggest mandatory preparation of General Purpose Financial Reports for at least all 'large' ACNC registered entities, on the basis that increased financial disclosure will increase the accountability of charities and commonality of disclosures will assist with benchmarking of charitable organisations (compared to that facilitated by special purpose financial reports).

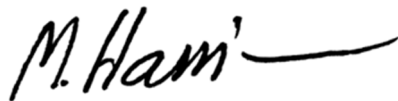
Increasing the reporting obligations of larger organisations should be undertaken in conjunction with a review of the concept of 'large' as identified at 8c) above to ensure the burden is not excessive for smaller organisations simply by virtue of being a charity.
10. This suggestion is based on the view that by definition all charities, being in receipt of public and/or private sector funding, indirect public funding through various tax exemptions and ordinarily, are operating in pursuit of goals for the public good and will have dependent financial statement users. The dependent financial report users include benefactors, tax payers or beneficiaries of services/outcomes and increased disclosure is required to inform such parties.
11. The nature of charitable organisations is that the outcomes of their activity are rarely effectively reflected by traditional financial reporting. On this basis we suggest the ACNC be empowered to

require outcome based reporting to supplement financial reports. Concepts such as triple bottom line, or other qualitative measures, are not new and inclusion of information of this nature could supplement financial reporting of charities to increase accountability. Our charities survey identified 80% of respondent organisations believed they adequately disclosed their use of funding, but there was scope for improvement by other sector participants (39%).

We emphasise these comments should not be construed as support for any new powers to be granted to the ACNC to assess, rule on or challenge the qualitative outcomes or effectiveness of charitable entities. We only advocate provision of information to assist charities' stakeholders to make informed decisions.

We trust these comments are of assistance with the Review and would be happy to expand these comments if requested.

Yours faithfully



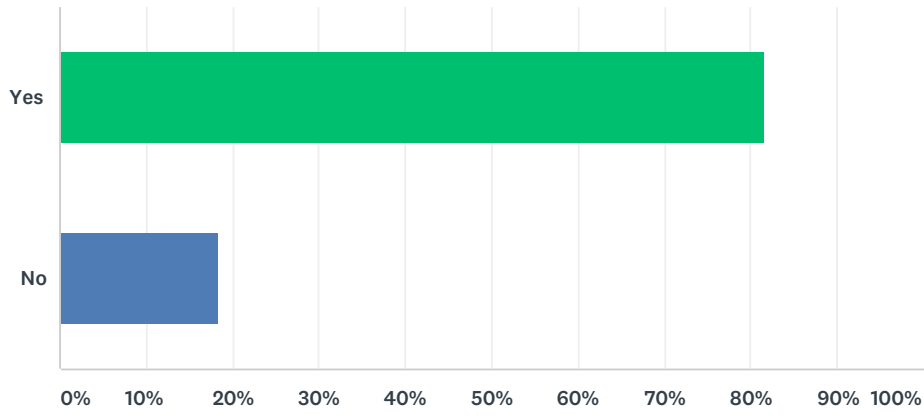
M J HARRISON
Executive Director

Appendix 1

Summary of survey

Q1 Do you think the ACNC made a difference to the way charities and NFPs behave?

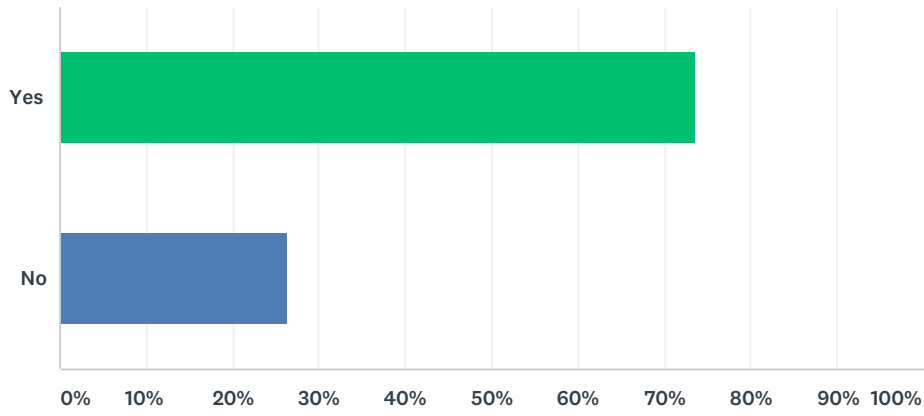
Answered: 38 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	81.58%	31
No	18.42%	7
TOTAL		38

Q2 Do you think the ACNC has improved public confidence in charities and NFPs?

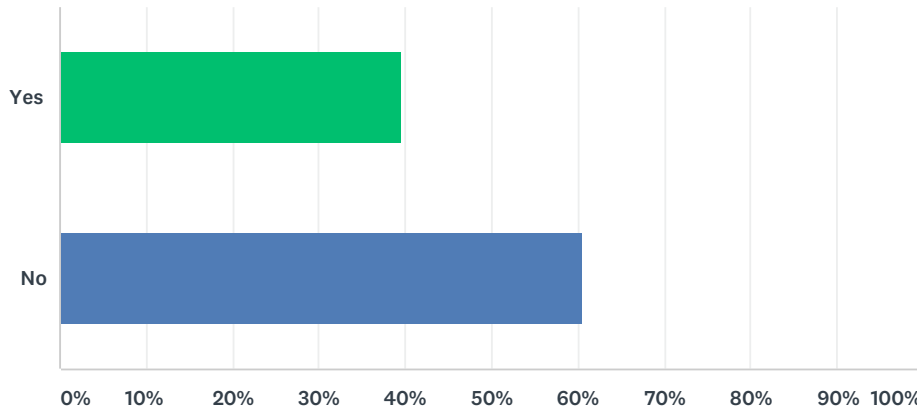
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ANSWER CHOICES	RESPONSES	
Yes	73.68%	28
No	26.32%	10
TOTAL		38

Q3 Has your organisation seen a reduction in reporting since the ACNC has existed?

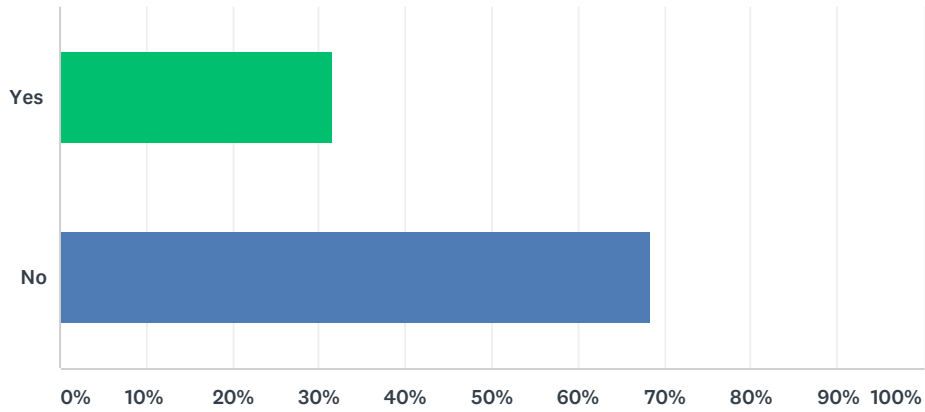
Answered: 38 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	39.47%	15
No	60.53%	23
TOTAL		38

Q4 Have you approached the ACNC for support?

Answered: 38 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	31.58%	12
No	68.42%	26
TOTAL		38

If so, how would you rate the ACNC in providing support?

- Not particularly helpful in answer to my specific question
- Excellent
- Very good - most of the time.
- Not personally just a net search. Found documents on their site helpful
- very helpful
- very good helpful knowledgeable and responsive
- quick and efficient
- Excellent
- Good response and helpful
- Middling - good counsel but recognised their own limitations
- Adequate
- 5 out of 10
- Very Good
- Very beneficial - provided good advice and responded in a timely manner
- Staff at the ACNC have been extremely approachable and supportive
- Exceptionally good.
- Asked for basic support on understanding their reporting - support was provided.
- Very helpful. I have found the ACNC has seen their role as more support than policing which I think
- is really beneficial.

Q5 If the ACNC could undertake additional responsibilities to support your organisation or sector, what would they be?

Answered: 23 Skipped: 15

Q5 If the ACNC could undertake additional responsibilities to support your organisation or sector, what would they be?

Work to reduce differences in reporting required from different states

Statistics about all nfp in nsw, then Aust.

I believe there efforts to reduce reporting are worth continuing. It has just taken longer than any one anticipated

Improve their interactive website, which is woefully slow for entering the AIS

Push for recognition and use of the National Standard Chart of Accounts by all government bodies

Move to one stop reporting instead of reporting to state based regulators.

Link to ASIC registers, eg banned and disqualified directors.

Supportive education to smaller organisations could be beneficial

Reduce state based reporting requirements, state based registrations for fund-raising, etc.

Renewal of registration of business. Keep on simplifying processes

It would be helpful for if the Company Secretary was also listed on the ACNC website.s

Provide a clear set of accounting standards that include a fuller disclosure of related parties contracts.
That the definition of related parties be widened to include auditors who do other work for the charity
helps organisations to merger to streamline backroom services

Forcing consolidation and investigating poor commercial practices

Require other government agencies like the Australian Bureau of Statistics to refer to an organisation's report to ACNC for info, rather than collecting their own data and penalising small organisations who cannot do them on time because of lack of resources.

Actively follow-up organizations that don't file or lodge inadequate governance returns.

Resolve issue with ASIC re Director's details

Free training and more research into what is happening across the sector

Ideally would like to see the layered reporting removed. The individual licensing State by State continues to be a burden. A standard way of reporting financially may also be useful

Roundtables/seminars to explain proposed legislative changes

To put tighter controls on charity approvals and link quality service provision. It is too easy to become a charity and I do not believe there is tight enough auditing, especially of small charities. We have several examples of "charities" with charity status offering appalling services yet easily able to con the public into donating. There is little accountability and these charities can be a place for egotistical people who set themselves up as "in charge" and take off management fees and reimburse their "costs" - and provide (at times) downright dangerous services to vulnerable people. In particular this occurs with victims of domestic violence and/or homeless people. It also occurs in some accommodation & boarding house style charities. It is too easy to become an incorporated Association (NSW Law) and to be recognized as a charity (both state and federal laws) A bit of paperwork and a small fee is all that's needed

That people fundraising are more accountable for the outcomes of their funding. Perhaps on advertising and fundraising material it says the percentage of the donation that will go to the cause. Perhaps this could be a star rating with the best being 5 stars for example.

The sector needs to be supported by an authority making sure there are consequences for not adhering to the law.

Reporting is still required for Consumer Affairs Victoria as well as financials submitted to State Government Departments (DHHS), this should be referred to the financials submitted to the ACNC

Synchronise with ASIC better. Banks and others still have difficulty believing that the directors as last listed on ASIC may no longer be current. Also, not recognising the formal position of Company Secretary creates credibility issues for that incumbent.

Continue to advocate for elimination duplication of reporting.

Help with reporting. Remove red tape. Govern the number of NFP's out there

Take over fully reporting requirements. Some updates are still required by ASIC e.g. Form 484.

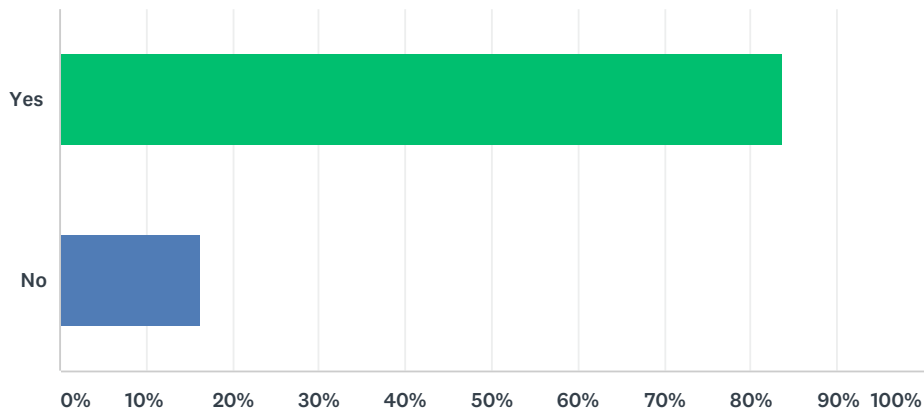
Perhaps oversee the national reporting of fundraising where we currently have state based reporting through bodies such as Consumer Affairs Victoria

Initial tax office requests...the ATO is a nightmare to deal with

Remove need to report for fundraising licences to states and centralise to ACNC as well as REO returns

Q6 Do you believe your current reporting adequately discloses your use of funding (government and private) to evidence outcomes?

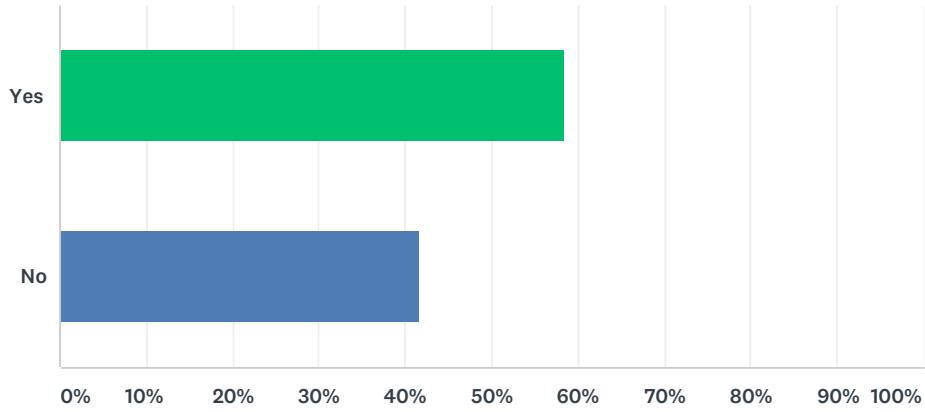
Answered: 37 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	83.78%	31
No	16.22%	6
TOTAL		37

Q7 Do you believe other organisations in your sector adequately discloses your use of funding (government and private) to evidence outcomes?

Answered: 36 Skipped: 2



ANSWER CHOICES	RESPONSES	
Yes	58.33%	21
No	41.67%	15
TOTAL		36

Q8 Do you have any other comments or questions?

Answered: 14 Skipped: 24

Q8 Do you have any other comments or questions?

There is inconsistency across states in terms of reporting fundraising disclosures, would be good to see that consistent as well as less laborious

The ACNC seems much more interested in deregistering charities than in supporting those that are doing the right thing. The registration process is cumbersome and complex. The web interface is extremely slow. They did a survey about the NSCOA (which we were not invited to participate in) and have never published the results. It feels like they are a tool of government rather than a support for charitable organisations

We are strongly opposed to interventionist proposals such as the "control" over organisations spending.

The introduction of the ACNC has been very helpful in reducing the amount of red tape that our organisation had to go through via ASIC.

Whenever I've heard the ACNC "in action" there is a presumption (by some) that "one size fits all". Charities are so diverse and across so many industries this cannot be achieved with a loss of quality of information.

We are looking at ways to improve our reporting eg impact reporting. We have found that the detailed old fashioned P&L reporting that we provided on the ACNC website with the annual report was used by the press to support unfounded accusations. In the future we will very carefully summarise our P&L and provide less detailed information.

Any changes have to be for simplicity and clarity.

We have very limited government funding Need for less requirements for small volunteer organisations

It would be excellent to have a simplification of financial reporting requirements in presentation requirements of Financial Statements for charities.

I think the ACNC is a positive development and streamlines 'the rules' and has the capacity to weed out non-performers.

I believe we all do the best we can but I suspect that we are not always consistent in how things are categoried

Tighten up Introduce a robust accreditation system There should be no charity status and no DGR status without appropriate accreditation - no matter how small or large There are too many dodgy "charities" out there and the public are (sometimes) blissfully ignorant about what happens with their donations

The NFP and charity sector in our area is mostly reputable but they are put off by overseas and national campaigns that yield little for our area but do a lot of damage to the reputations of hardworking volunteer groups.

We only know what we submit but there were quite a few organisations that did not submit on time and possibly never have but they continue to operate.

Synchronise with ASIC better. Banks and others still have difficulty believing that the directors as last listed on ASIC may no longer be current. Also, not recognising the formal position of Company Secretary creates credibility issues for that incumbent.

I think the evidence of outcomes could be better with all not-for-profits. NFP'S are often led towards promoting outcomes in ways that are easy to understand and focus on statistics that are easy to absorb when the communities they are working with are often extremely complex and don't fit simply into statistics.

As a general comment. too much governance. Need to complete fundraising returns for each state. Feel like there's an inordinate amt of admin for a small completely voluntary charity trying to make a difference. Would be good if EVERYTHING was national, no state by state reporting.

Appendix 2

About Pitcher Partners

Pitcher Partners is a national association of independent firms in Melbourne, Sydney, Perth, Adelaide, Brisbane and Newcastle. Each firm operates as a separate independent business, but with a shared commitment to common values including providing exceptional client service, technical expertise, rigorous and practical commercial advice and a caring working environment. The firms work together to ensure clients receive the highest levels of service and advice, no matter where they are located.

Our Mission

- To specialise in servicing the middle market and be recognised as leading firms each servicing this market
- To have cultures which are based on caring for clients and earning their trust
- To have practices which emphasise a strong advisory involvement with clients, providing both business and specialist advice of the highest standard
- To have practices whose culture is to care for employees on an individual basis and provide them with great careers