

## **Submission to the Productivity Commission Inquiry into Charity Law**

**March, 2009**

### **Introduction**

I feel like charity law has fallen out of step with what my peers and I care most about, and that my generation doesn't have the same kinds of philanthropic organisations supporting us and our values as older generations do.

To achieve goals like growing donations and increasing community engagement, charity laws should build incentive structures that foster organisations that work on the kinds of issues that younger generations of Australians care the most about.

### **Structure and Terms of Reference**

I would like to raise with the Inquiry:

- 1) The need to realign DGR status with the values of today's Australians (2.ii, 3.ii, 5, 6)
- 2) The maturity of international approaches to charity evaluation (3.ii, 6.iii)
- 3) The way in which DGR-status charities shaping Government policy can make democracy work better for communities (3.i, 5, 6.iii)

I have donated to effective charities, and work to support local philanthropic and community groups. I'd like to do more of this over time. I think the changes I recommend in this submission would make it easier for me to be involved, and also help other Australians to donate more and participate more in their communities. The changes could almost dramatically increase the good we achieve through this work.

### **Issue One: DGR status**

I am concerned about animal welfare, including in our agricultural sector. I know, both from public polling and from interactions with my friends, family and community, that this concern is widely shared by Australians and only growing.

I think the phrasing of the charitable purpose regarding animals in the *Charities Act* makes sense. "Preventing or relieving the suffering of animals" is a clear and laudable concept. However, the way that 4.1.6 of the *Tax Act* narrows that down to organisations whose principal activity is "*providing short-term direct care to animals (but not only native wildlife) that have been lost, mistreated or are without owners*" or "*rehabilitating orphaned, sick or injured animals (but not only native wildlife) that have been lost, mistreated or are without owners*" is obviously unreasonable.

The more impactful way to help animals is a holistic approach that seeks to prevent cruelty from occurring, pursues sensible regulation about how society at large treats animals, and also provides direct care to animals that fall through the cracks. Complex problems have complex solutions. Limiting DGR – a significant boost to the efficacy of charities who can access it – to only "bandaid solutions" limits the impact of the cause overall.

I sympathise with concerns that a dramatic expansion of DGR status could have impacts on the tax base. I think, if DGR is going to be expanded gradually, prioritisation should be based

on where the most positive impact can be achieved per dollar, and with a view to aligning DGR status with the values of modern Australians.

Charity evaluators, in their work assessing the potential good that could be achieved by working on different causes, consistently agree that animal welfare is one of the most impactful ways to do good. As a proxy for interest in the community, Roy Morgan has found that the trend in vegetarian eating continues to grow, with 2.5 million people in Australia (over 12% of the population) now eating all or almost all vegetarian. About 1 Australian decides to go meat-free every 5 minutes. Obviously, not everyone who cares deeply about animal welfare is a vegetarian, but this indicates that a very significant portion of the Australian population is motivated by this concern. Despite how widespread this view is, the community is currently underserved by charity law. This limits the extent to which we can make tax-deductible donations and limits the positive impact we can achieve through our donations.

## **Issue Two: Charity Evaluation**

### **“Greenwashing” shows how evaluation is necessary to prevent market failure in the philanthropic sector**

I’m glad that the Australian Competition and Consumer Commission (ACCC) has started taking fraud associated with “Green Washing” seriously.

The ACCC acknowledges that environmental claims can be a powerful marketing tool; that companies are increasingly using environmental claims in an attempt to differentiate themselves and their products from the competition; and that many consumers consider environmental claims as a major factor when evaluating products to purchase.

While I appreciate that the ACCC is taking its function of tackling these most egregious examples seriously, the underlying problem is much broader. First, the issue obviously is not limited to the environment – all kinds of ways of “doing good” are used for marketing. Second, the legal threshold of “misleading or deceptive conduct” is very high. There is a range of ways that carefully worded materials can suggest a product or initiative is doing good, where in reality the extent of that good is marginal. Third, a fundamental market failure is the underlying problem and it should be addressed.

We know from extensive charity evaluation overseas – supported by methodologically similar evaluations of social programmes – that the most impactful initiatives are orders of magnitude better at achieving their desired outcome (like saving a life, or preventing an animal from suffering) than the average initiative. In the case of consumer goods, a person might be persuaded to buy one product over another, but if they get home and find out that the product they purchased was 100 times worse than a competitor’s product for the same price, the feedback loop is short enough that the better product would rapidly win out in the market. It’s hard to imagine what a car or t-shirt or bar of soap that is 100 times better than another product of the same price would even look like. Certainly, such products aren’t readily available on the market.

However, in the charity marketplace, widely divergent initiatives do coexist. Fundamentally, this is because donors do not have a direct feedback loop with their donations. Donors assume that charities vary in quality in a similar magnitude that other products vary in quality. Metaphorically, “any bar of soap on the shelf is probably going to be fine”. But this isn’t the case.

Market failure runs deeper than the misleading and deceptive conduct that the ACCC is rightly addressing. Instead, it is proper that the Australian Government lead the way by establishing a charity evaluator that helps communicate to Australians how wide the variance in charity impact is and guides Australians towards increasing their impact. Importantly, governments already do this in sectors that lack this kind of feedback loop. For instance, the Australian Tax Office has created a YourSuper comparison tool. Why not do the same for charities?

### **Issue three: Policy Advocacy**

#### **The Role of Charities in Shaping Public Policy**

In many cases, and particularly in the area of averting catastrophic risks, engaging with the government on policy is a crucial component of achieving better outcomes for the world.

For example, while there is a valuable role for non-government organisations like the International Campaign Against Nuclear Weapons to play in reducing nuclear risk, at the end of the day, it is governments that possess the nuclear weapons stockpiles, set the rules about the acquisition of fissionable material and nuclear technology, and ratify international treaties.

Charities have real value to add to these conversations. Including investing resources in policy analysis, accessing global talent, and progressing the public policy conversations. In many ways, the activity of the not-for-profit sector on a topic reduces the burden on governments. Historically, many important policy ideas that have shaped modern society have emerged from outside of government - like the 40-hour work week or approaches to tobacco safety.

While charities are allowed to participate in policy discussions, many charities that focus on policy change as a primary means of achieving their goals are excluded from DGR status. This exclusion should be reconsidered, as charities that work to prevent catastrophic disasters or promote animal welfare through policy change have a valuable role to play in the public policy conversation.

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### **Summary and Conclusion**

Australia has the potential to create a world-leading philanthropic sector. We already know that the most effective charities can have a substantially greater impact than the average charity, but currently, there are no mechanisms in place to incentivise impact or empower donors to choose the best charities based on their impact.

By implementing the recommendations outlined in this submission, Australia can become a global leader in philanthropy. This could reverse the brain drain and attract more impact-focused charities to Australia, further enhancing the country's ability to make a positive impact on the world.