

6<sup>th</sup> Feb 2024

The Productivity Commissioner, Ms Julie Abramson;  
 The Deputy Chair, Mr Alex Robson;  
 The Associate Commissioner, Mr Krystian Seibert.

Dear All.

Thank you for displaying the Draft Report. We note that your department exists under the umbrella of the Productivity Commission.

Here are our observations.

- a) As a former Board Member of several Charitable Organisations that have or have applied for DGR status, I know that the current process for approval and ACNC oversight is rigorous and detailed. If more rigor needs be applied to the approval process, the Commission should work with ACNC- who actually administer the DGR system.to understand what changes they perceive to be needed.
- b) Under your heading- Charities not gaining DGR status: with the explanation of ‘Charities undertaking activities including advancing religion and advancing industry’; How will this be defined? Most “public benevolent institutions and health promotion charities” whom you define as retaining DGR status are backed by an ideology & belief system. That belief system may be altruistic or religious, but the actual Charity retains its DGR by its outcomes.  
**How do you define ‘advancing religion or advancing industry’, or delineate any perceived “advance” from their work? How can you separate the great works & outcomes of the Salvation Army from clients’ desire to actually go & investigate The Salvation Army Church & perhaps join it?**  
As a Breast Cancer Survivor, How do separate the broad work & outcomes from the McGrath Foundation from the Healthcare Industries it has spawned & promotes? (The various facilities, the Breast Care Nurses & their co-ordination & agencies, the industries around relevant lotions & underwear, the industries around physio & occupational therapy) ?  
**In short: you cannot delineate a belief system from the work that organisation produces. It is always the underlying WHY for what people do.** If it were possible to separate the two, ideology & charity; Governments would have long ago been very successful by simply saying “here is the need, come & meet it”. That hasn’t happened because people need the WHY/ THE PASSION to commit to supporting that group.
- c) Under your heading- Charities gaining DGR status: with the explanation of ‘Charities that currently do not have DGR status, such as those focused on advocacy and prevention’. Noting that your Enquiry is under the umbrella of the Productivity Commission, **What criteria would be used to decide on which Advocacies or Prevention groups could have DGR status?** Would it only be those who align with the government of the time’s ideology? We could pose the supposition that an ‘ISIS group could apply for DGR status on the grounds they wanted to advocate for all Australians to become Jihadists to prevent us all from missing out on their version of Paradise’. Or that the Catholic Church could apply saying ‘their advocacy would prevent us from going to hell.’ Or a Labor Party group could apply citing their advocacy to prevent people becoming a conservative & of course visa versa by the LNP!  
**HOW do you measure outcomes/ PRODUCTIVITY of a mere Advocacy or Prevention Bureaux?** Such organisations, if they existed without context of plans & programs to see tangible results to Advocacy or actual measurable Prevention programs, would not give the Donors satisfaction that they were contributing to a vibrant & achieving group. It would be a huge money pit without any outcomes to benefit society.  
Most Charitable Organisations that I know of already have advocacy as part of their ethos. For Instance, the McGrath Foundation gives Advocacy for Regular Mammogram examinations, along with facilitation to achieve that outcome. The McGrath Foundation also gives out information for Cancer Prevention strategies which become somewhat measurable by the follow up strategies & programmes which are the core of their Charity.  
**We cannot see or how this type of DGR grouping could be of any be additional assistance to our Society.**  
 We note that **currently,** “ ‘Advancing education’ is a charitable purpose as defined by section 12 of the Charities Act 2013 (Cth). While your organisation may be able to be registered as a charity by the ACNC, this does not guarantee the ATO will endorse you for DGR status. This is because the types of educational charities and organisations that are eligible to receive DGR status are extremely limited. “ [quoting Chloe Sevil, Senior Legal Project Manager & Lawyer from LegalVision website Aug 9 2023.  
 Therefore giving ‘Advocacy & Prevention ‘ programs DGR status will be fraught with discrimination & caveats.

- d) Under your heading- Charities with DGR status withdrawn: with the explanation of ‘Mainly charities that have DGR status for school building funds’. **WHY?? Which schools? How will it be determined which Charities are excluded? What OTHER Charities will lose their DGR status under this clause?**

This IS outright **Discrimination** &, purely a “we hate (private) school building fund DGR status” dogma by whoever the proponent of this proposal was. Discrimination is against the broader law of Australia.

I point out that The Legislation changed on Dec 14 2021 to require

“ **Amended DGR categories**

From 14 December 2021, the following updated general DGR categories require non-government organisations to be registered as a charity:

- public fund for hospitals
- public fund for public ambulance services
- public fund for religious instruction in government schools
- Roman Catholic public fund for religious instruction in government schools
- **school building fund**
- public fund for rural school hostel building
- approved research institute
- public fund for persons in necessitous circumstances
- fire and emergency services fund
- environmental organisation
- cultural organisation. “ [colour highlight mine]

**So, requirements have already been tightened up to have school building funds to be registered as a Charity. And I point out that this current Government helped pass that Legislation in 2021.**

The current Legislation DOES NOT delineate what type of building fund, however ‘*public fund(s) for rural school hostel building*’ is included as another category. So, this must be aimed at Private schools. We can personally rationalise that this Catholic, Masonic Lodge, Palestinian, Israeli, Moslem, Christian, ...group should or should not have Charity &/or DGR status, but that DOES NOT make good, manageable or correct legislation.

**Discrimination is against the law.**

Equality of Outcomes means that Private School Students should NOT have the added burden that the necessary buildings funding cannot be a tax deduction, which might mean the difference between whether a new piece of necessary uniform can be, or cannot be purchased by the caregiver. Thousands of Private School Students are from very low Socio-economic families who make choices to go without other things to give their children a good education.

Often Catholic Schools are the only Education facilities available to Indigenous and Migrant Communities.

Private School students’ parents are already paying double; they pay their taxes which support the Public School System, but for a multitude of reasons, they choose send their children to a Private School.

If the reasoning behind the proposal is wanting to perhaps lessen the perceived teaching of religious education to children, then that premiss is totally at odds with the enrolment of over 350,000 children into Religious Education in Government schools in NSW this year!

- e) Under your heading- Improve public information and enhance access to philanthropy and the dot point of ‘Support the establishment of an Aboriginal and Torres Strait Islander philanthropic foundation’.

**After the failure of the Voice Referendum, where the Australian public resoundingly reject to be a Nation divided by race, this is an appalling proposition!**

There is no Charity I know of that says “No, we won’t help you, you’re Asian/ Aboriginal/White...” **The very Nature of any Charity is just to meet people, whoever they are at the point of their needs.**

**Racial Discrimination has been against the Laws of Australia for a very long time. This proposal would therefore be totally against the Law and totally Discriminatory.**

What you are proposing could easily produce the following scenario: where 2 ladies are neighbours and friends, both single parents each with 3 children. One lady is an Aboriginal, the other of White European descent. So an Aboriginal Charity approaches the Aboriginal lady, gives her help substantially in finances and food and a new group of friends. This lady says to her friend ‘come with me & they’ll help you too’. The White lady goes with her friend & the Charity says ‘Oh no we can’t help you, you’re not Aboriginal’. How devastating. How divisive. How ‘Confidence breaking & anti-Trust’; how Un-Charitable and against the very 1<sup>st</sup> Object you’ve stated as yours. Which clearly states: “ maintain, protect and enhance public trust and confidence in the Australian NFP sector; “

**The 3<sup>rd</sup> Objective as described by Regulation of Charities by the Australian Charities and Not-for-profits Commission, Published Tuesday 31 March 2020 is to**

*'..promote the reduction of unnecessary regulatory obligations on the Australian NFP sector.'*

And from your own Draft Report

*'..We are proposing a principles-based approach to develop a simple, transparent and fair system for determining which charities can receive tax-deductible donations..'*

The ACNC's Audit Report of Dec 2021 sought to be *"effective in strengthening the sector and reducing the regulatory burden on charities."*

Under its recommendations they verified that the *'light touch' approach to registration is appropriate.'*

Your Draft Report also seeks to see if the "light touch" is the right approach to efficiency in the sector.

In Conclusion:

Each of your proposals seems to add layers and layers of more complicated restrictions and regulations.

**There seems to be no demonstrable path for you to *"..develop a simple, transparent and fair system for determining which charities can receive tax-deductible donations.."*. Your proposals seem to be complicated and certainly totally unfair and unbalanced.**

Rather than the current system being *"poorly designed, overly complex and have no coherent policy rationale"* your Draft Report seems to show that its your proposals are the ones that are *"poorly designed, overly complex and have no coherent policy rationale"*

**HOW will *'Charities that :advocate for animal protection, that focus on preventing poverty or general community wellbeing, that promote the prevention of injuries, and Charities that support groups of people like women, Aboriginal and Torres Strait Islander people, or LGBTQIA+ people'* be able to refocus donations towards activities that provide the greatest net benefits to the community as a whole.? These groupings of advocacy, "support" and focus are totally un-measurable in effectiveness & impact & therefore couldn't be said to benefit the community as a whole. Where would the motivation be to donate to a group that 'promotes the prevention of injuries' when all donations could only go to administration and advertising?**

**Do you not understand that people who make donations to Charities, do so because there is a personal preference /circumstance / belief that causes them to donate? For instance: my parents donated to The Heart Foundation because they had heart disease themselves. Having just come through Breast Cancer, I would be more inclined to donate to specific Breast Cancer Charities like the McGrath Foundation as I became a recipient of the type of SERVICES the fund and promote. These type of Charities who currently attain DGR status have tangible funding projects and therefore tangible outcomes.**

I point out that people with less than \$18200 income don't have to pay tax, so a deduction is of no monetary value to them. Until recently, in Australia low income has been defined as below \$66,667 per annum, & with the current 'Cost of Living Crisis' over 50% of Australians can barely afford to live , and certainly don't have vast pots of money to donate; naturally as a consequence, of course people with much more disposable income of over \$1m were able to claim an much greater average donation of \$194,296.

**There was an Audit done of the 2015 legislation, in 2020. Out of that the ACNC was formed & changes were made leading to the 2021 Act. The ATO who administers this legislation doesn't want the changes proposed here. Sure, improve the system if it needs it, but "if (overall) it isn't broken, don't waste taxpayers' money just to satisfy your personal biases".**