

## SUBMISSION TO THE PRODUCTIVITY COMMISSION'S PHILANTHROPY INQUIRY

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*I have over 20 years' experience working in the philanthropic sector, establishing over 100 philanthropic family foundations and assisting many of these families implement a strategic giving program. As well as being the inaugural CEO of one of the largest family foundations in the country, I have served the sector with The Myer Family Office, The Myer Foundation, Sidney Myer Fund, The Catherine Freeman Foundation, Philanthropy Australia and the Reichstein Foundation.*

### **1. Roadmap to more and better giving in Australia**

Given the staggering wealth that we have created in recent decades in Australia we have an extraordinary opportunity to significantly grow the size of the philanthropic sector and implement best practice giving, as I detail in my new book, *Give While You Live, a practical guide to more & better giving in Australia (2023)*. The outcome would have a significant positive impact on our community, and further abroad. The book includes many strategies to grow and improve giving in Australia, with three of the main strategies to implement such change being:

- I. Australia's Giving Pledge (AGP): the philanthropic sector keeps focussing on structural change, but the reason we don't have a strong giving culture in Australia is cultural (as I detail in *Give While You Live*). We need role models to lead the way, so that material giving becomes the 'norm' amongst high-net-worth families, and becomes a community expectation, as in the USA. With AGP, high-net-worth families publicly commit to giving away a minimum of 20% of their wealth, to eligible charities or their foundation, in their lifetime or upon death.
- II. Philanthropy Centre of Excellence (PCE): many practices in the Australian philanthropic sector remain unchanged over decades. In *Give While You Live*, I outline the principles of best practice giving. Best practice giving can be taught and a PCE could do that. As the philanthropic sector grows, and the community is the beneficiary, donors have an obligation to maximise the impact of gifts made.
- III. Transparency levels: transparency builds trust, shared learnings, an increased ability to solve problems and maximise impact. However, there is little transparency in the philanthropic sector, particularly in relation to the 2,000+ Private Ancillary Funds (PAFs) and 2,000 charitable trusts managed by Licensed Trustee Companies (LTCs). These funds/trusts have been established for charitable purposes, and receive tax concessions, so we need to shine a light on their work. Once we have full transparency of PAFs and LTC managed charitable trusts, we will have a much clearer view of structured giving in Australia. This will inform better decision-making, resulting in stronger community outcomes.

The first two initiatives can be implemented by Philanthropy Australia.

**Recommendation: that the Commission recommends:**

- **the implementation of Australia's Giving Pledge and a Philanthropy Centre of Excellence;**
- **information on PAFs (which have assets of \$10 billion in aggregate) be accessible on the ACNC's public portal e.g. name, directors' names, mission/focus areas, annual accounts including grant recipients and the amount granted for the previous year and a contact email address; and**
- **there be full transparency of the 2,000 charitable trusts (which have assets in aggregate of \$6 billion) managed by LTCs, including name, annual accounts, all expenses with a detailed breakdown of those charged by the LTCs (including investment management fees), grant recipients and the amount granted for the previous year and a contact email address.**

## **2. Licensed Trustee Companies**

If we seek more and better giving in Australia we need to address the governance issues relating to Licensed Trustee Companies (LTCs). In *Give While You Live*, I explain in detail the way LTCs operate, driven by the lack of transparency surrounding their actions, their conflicts of interest and the lack of portability of the 2,000 charitable trusts that they manage.

An alliance of respected charitable trusts, foundations and senior people in the Australian for-purpose and philanthropic sectors formed the Charitable Alliance in 2012 to seek change to the governance issues driving LTCs actions. The Charitable Alliance triggered a federal government review of LTCs, which resulted in the Corporations and Markets Advisory Committee (CAMAC) review. In May 2013 CAMAC released its report, *Administration of Charitable Trusts*.

CAMAC sought to ensure that the administrative arrangements for these charitable trusts continue to promote the benevolent and philanthropic objectives for which they were established. CAMAC was concerned with the many case studies that the Charitable Alliance provided on LTC actions and recommended:

- a stewardship audit of LTC administered charitable trusts;
- the introduction of a "fair and reasonable" requirement for all fees and costs charged by LTCs to charitable trusts; and
- changes to the judicial dispute resolution procedures to enable greater portability of charitable trusts.

Eleven years later the CAMAC recommendations are yet to be implemented by government.

Conservative fee analysis by the Charitable Alliance suggests that in the ten years since the CAMAC review the excess fees charged by LTCs could have exceeded \$500 million i.e. this sum has been charged by LTCs instead of being granted to the community, as the (mainly) long-dead founders of these 2,000 charitable trusts would have expected.

Charitable trusts are established for the benefit of the community, not for ASX-listed financial services companies to maximise fees, allow no portability and act with no transparency, enabling LTCs to maximise their shareholder returns.

In addition, I endorse the submission to this Inquiry by the Charitable Alliance.

***Recommendation: that the Commission recommends that the CAMAC recommendations from its May 2013 report be implemented.***

**Peter Winneke**

**[www.givewhileyoulive.com.au](http://www.givewhileyoulive.com.au)**