

To whom it may concern,

When I first found out through friends that a Productivity Commission review of philanthropy and charitable giving was being undertaken, I started reading relevant documents and I was quite surprised to find just how out-of-date some of Australia's legislation and definitions are. I'm a professional in my 20s who grew up in a rural area and now lives in Brisbane, and my perceptions of what 'charitable giving' means are drawn from my life experiences, as everybody's are. As a child, it meant things like 'we put money in the collection tin when there has been a national disaster', and 'we buy our breakfast at the Sunday markets from the Rotary van' and 'we buy an extra can of cat food at the supermarket for the local shelter'. As an adult, it has expanded to include a deep and genuine concern for issues like environmental stewardship and climate change mitigation, animal welfare, investment in research, and efforts to prevent distant and unpredictable events that present catastrophic or even existential risks to society (like future pandemics and nuclear wars.) And as the daughter of frugal small-business owners, my concept of 'charitable giving' has always included a helping of 'can we get a tax deduction for this – because if we can, we can make the money go further, both for ourselves and for others.'

I was genuinely surprised to discover that Deductible Gift Recipient (DGR) status is available only to some charities, based on a narrow and outdated set of rules that do not reflect the average Australian's concept of which activities deserve recognition as charitable in intent and purpose. For instance, DGR status is not available to most animal welfare charities, or to charities working to reduce the risk of catastrophic disasters. Many of my peers, and also older people in the community, consider tax deductibility to be a reasonable proxy for whether a charity is legitimate, and many extremely worthy organisations are missing out on potential donations for this reason. They are additionally missing out on donations because tax deductions are an appealing incentive to donate at all, or to choose one organisation to receive your donation over another. Many organisations affected by this are internationally recognised best-in-class charities such as the International Campaign to Abolish Nuclear Weapons, and the Alliance to Feed the Earth in Disasters; these charities widely accept tax-deductible donations in other countries, but cannot do so in Australia. It seems bizarre to me that a 'defence charity' can attain DGR status for repairing war memorials (*Tax Act 5.1.3*) or providing recreation for members of the armed forces (*Tax Act 5.1.2*) but not for the prevention of a nuclear war.

I was also shocked to learn that charities without DGR status are considerably limited in the benefits they can offer to their employees. I have witnessed a substantial number of friends – all of them intelligent and highly educated young people with a deep drive to use their careers to better the world – leave Australia to work in the non-profit sector overseas. I believe that if it were easier for Australian charities working on animal justice, environmentalist and longtermist causes to obtain DGR status and therefore offer better benefits and job security to their employees, working in the non-profit sector in Australia would be a much more appealing option for people wanting to use their careers for good. This could be an opportunity to attract talented people with philanthropic mindsets and new ideas from overseas, rather than a contributing factor to the 'brain drain' of young Australian talents going elsewhere.

I am also concerned about the arbitrary restrictions on Public Benevolent Institutions (PBIs), which seem to be based on shockingly outdated concepts and definitions. The term 'Public Benevolent Institution' fell out of common usage in the 1930s, and it is defined mostly through historic court cases rather than statutes; before I started reading and talking with friends about these issues this year, I had never heard the term before. Courts have interpreted it to refer to helping those who arouse "pity and compassion". I feel compassion towards most living beings, and many of the people who most need charity in Australia in 2023 are deserving of our profound admiration, not our pity. It is also difficult to interpret this language in a way that includes causes deeply important to many Australians which do not involve providing for individual people or animals – such as conservation of habitats and species, reduction of greenhouse gas emissions, championing a free and open Internet, preserving art and cultural heritage, or charitably funding scientific research. The arbitrary restrictions on PBI status force organisations to limit their scope and refrain from organising activities that would bring people together for a charitable cause, because they are afraid of being deregistered. For instance, Effective Altruism Australia cannot risk organising a reading group for *Animal Liberation Now* by Peter Singer, because it is a PBI and must focus on global health and poverty, despite this being a small segment of what most supporters of Effective Altruism Australia consider themselves to stand for. Concern about losing PBI status prevents EAA from properly supporting university and community clubs in the way that effective altruist groups do elsewhere in the world, which reduces the opportunity for young people to participate in social events which revolve around charity and thinking about ways to maximise the good we can each do with our own lives. This is just one example, coming from a cause that I am personally interested and involved in – I feel certain that many other charities and community groups face similar restrictions based on their need to retain PBI status, and that it similarly reduces their opportunities for community building and outreach.

The final major issue I would like to raise in this submission is that charities which DO have DGR status are currently prevented from engaging in most policy advocacy by legislation that is designed to help democracy, but actually harms it. I believe more charities with DGR status being involved in the public policy conversation would make our democracy work better. Businesses with large budgets frequently engage in political advocacy and lobbying, and even gain tax benefits from doing so – spending on lobbying is often tax deductible. However, charitable groups which have amassed a great deal of passionate and knowledgeable people and often conducted independent surveys and research are afraid to engage in political activism (even non-partisan) because of the threat to their DGR status. I think it's perverse that those with a profit motive are given additional incentives in the form of tax breaks to engage in lobbying and policy activism, while groups working for a better future through policy change typically aren't eligible for DGR status. This hurts our democracy deeply; the loudest voice in public policy should be the public. People my age, who I work and train and socialise with, care deeply about issues like global catastrophic risk and animal welfare and the free and open Internet – but currently DGR status is not available to charities that want to undertake community building and engage in the policy debate on these issues. Charities should not have to choose between the appearance of legitimacy and benefits for their employees conferred by DGR status, and being able to speak up when their knowledge and perspective – fundamentally different from that of for-profit businesses – allows them to make an important contribution to a policy discussion.

In short, I feel that charity law in Australia is outdated and no longer represents people my age – the issues we care about, the organisations we support, or the activities we consider to be charitable and worthy of being recognised by the government as such. To achieve goals like growing donations and increasing community engagement, charity laws need to provide scaffolds rather than barriers for the organisations that work on issues that younger generations of Australians care most about, and that are likely to become increasingly important in the future as the world faces the impacts of climate change. Charity groups should not have to spend their money on paying lawyers to work out exactly how much they can say about a proposed piece of legislation, or whether they can host a community discussion on a specific topic, without risking their DGR and/or PBI status. During this review, the Productivity Commission has a chance to make recommendations that realign Australian charity laws with the values of today’s Australians, and I am very hopeful that you will consider the following specific changes that are very important to myself and many of my peers:

1. Expand DGR status to the high impact cause areas that align with the values of modern Australians (2.ii, 3.ii, 5, 6). It should overall be much easier for a charity group to obtain DGR status, subject to transparency requirements.
2. Allowing Public Benevolent Institutions to work across cause areas (2.iii, 3.i) Rather than relying on archaic legal precedent, a modern definition of PBIs needs to be created which takes into account the breadth of causes Australians care about and is not focused on providing for individual people or animals.
3. Ensuring that charity laws do not hamstring charitable organisations from participating in policy debates. Policy advocacy is currently dominated by companies and individuals with profit motives, and making it easier for charities to participate in public policy debates would restore trust in democracy (3.i, 5, 6.iii).

Thank you for the opportunity to provide commentary on this review. These issues are deeply important to me and I am hopeful that this process will result in substantial reform to Australian charity laws in a way that benefits Australian democracy and society, now and into the future.

Yours sincerely,

Laura Leighton.