

Submission to Productivity Commission inquiry into Philanthropy

5 May 2023

I welcome the Federal Government's commitment to double philanthropic giving by 2030. I believe that Australians in general seek to make a positive difference, both via causes from which they benefit, and via causes that benefit others.

I also welcome the Productivity Commission's inquiry into Philanthropy as a means to identify how changes to existing regulations might forward the aim of increasing philanthropic giving. My submission to the Commission's inquiry focuses on two issues:

- the availability of Deductible Gift Recipient (DGR) status for high impact cause areas (specifically animal welfare); and
- the importance of policy advocacy by charities, including the potential to make our democracy fairer.

DGR status for “animal welfare”

The phrasing of the charitable purpose regarding animals in the Charities Act – “Preventing or relieving the suffering of animals” – is a clear and worthy concept. However, s 4.1.6 of the Tax Act restricts this 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”.

The existing phrasing accurately reflects the views – both historical and contemporary – of many Australians, particularly with respect to obvious acts of cruelty towards domesticated and native animals. The Tax Act, however, effectively excludes organisations whose principal activity is to inform and educate the public and to advocate on behalf of animals.

When the Tax Act provisions were drafted, not only was the farming of animals far less intensive in Australia than it is now, but there was also far less public awareness of practices that caused the suffering of animals. Increasing numbers of Australians are now speaking out against cruelty towards animals, particularly with respect to the suffering experienced by animals as a result of intensive “animal agriculture”. The live export of sheep and cattle, and the keeping of hens in battery cages are two examples of animal welfare-related causes that have inspired many people to raise their voices in protest in recent years. Many members of the public are also concerned about activities – such as extensive land clearing and development – that impact native animals.

Although I am in my 50s, I believe from my interactions with younger people that animal welfare is an important issue for many Australians.

A more impactful way to help animals that is not currently contemplated in the DGR eligibility provisions would be a holistic approach that seeks to prevent cruelty from occurring and pursues sensible regulation about how society at large treats animals, while also providing direct care to animals that fall through the cracks. 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.

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. Not everyone who cares deeply about animal welfare is a vegetarian, but this indicates that a significant portion of the Australian population is motivated by this concern. Despite how widespread this view is, the community is currently under-served 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.

DGR Status and Advocacy-Focused Charities

We understand that the ACNC’s view is that a charity can promote or oppose a change to law, policy or practice, provided its advocacy is aligned with a charitable purpose. However, the real problem is that DGR status is almost essential to effectively being able to raise funds and employ talented staff, but the gateways to DGR status are narrow and typically exclude any framings around policy or advocacy.

So, while it’s technically true that a charity can engage in advocacy, DGR charities largely monopolise fundraising and staff attraction, and DGR status is not available to organisations that prioritise advocacy.

In practice, this hamstringing advocacy-focused charities and creates an asymmetry in our democracy. For-profit companies have significant amounts of money to spend on lobbying and often get tax advantages for doing so. But people in the community who are passionate about certain causes often lack the bodies to organise around and certainly don’t get tax advantages. This should change, specifically by broadening out DGR classes so that advocacy-focused organisations are eligible for DGR status. This problem is most obvious in the space of animal welfare, where DGR status is limited to certain kinds of animal rehabilitation. Charities that want to advocate for rules and approaches that mean animals don’t need rehabilitation in the first place don’t get DGR and are therefore limited in their ability to advocate.

This change would make democracy fairer, help connect communities around the things they care about, and encourage donations.

The loudest voice in public policy should be the public. The public are concerned about issues like animal welfare – but currently DGR status is not available to charities that want to build community engagement and engage in the policy debate on those topics. More involvement by better-funded charities would increase community engagement and allow a more sophisticated and inclusive public conversation.

Summary and conclusion

If the Australian Government wants to double philanthropic giving and increase impact, it should lead from the front. Overall, Australian charity regulation has become outdated. Charities with DGR status are the lion's share of the sector, but DGR status is not aligned with my values or the values of my peers. This means that charities aren't focusing on many of the things I care about, and organisations to which I would like to donate because their activities align with my values do not receive as much as I would like to contribute. That is to say, I would be willing to increase my contributions to those organisations if they had DGR status.

Thank you for the opportunity to contribute.

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