

Senate Standing Committees on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600

2 May 2014

Dear Senators

**Australian Charities and Not-for-profits Commission (Repeal) (No. 1) Bill 2014**

Jesuit Social Services welcomes the opportunity to contribute to the Committee's inquiry into the Bill to repeal the *Australian Charities and Not-for-profits Commission Act 2012*.

We oppose this legislation and consider short-sighted the push to abolish a national regulatory framework that is in its infancy. The Bill before the committee undermines many years of positive work to increase levels of transparency and accountability in the charity and not-for-profit sector and the longer term goal of reducing the red-tape burdens that the sector faces.

Jesuit Social Services has had positive experiences with the current regulatory framework during the short time in which it has operated. The approach of the Australian Charities and Not-for-Profits Commission in engaging with our sector has been highly professional and proactive. Additional red-tape under the national regulatory framework has been marginal, and like many other charity and not-for-profit organisations, is something we accept given the longer term benefits of a harmonized system of regulation for the sector.

Instead of abolishing the current regulatory framework, we call on the federal government to work with the states, territories and other stakeholders towards realising a truly national regulatory framework for the charity and not-for-profit sector. This must include engagement with the states and other Commonwealth agencies with a view to consolidating regulatory functions and avoiding duplication. Over the long term, this will produce greater red-tape reductions and productivity gains. It will also contribute to maintaining the community confidence that is so important to the legitimacy of our work.

*Background*

Jesuit Social Services is a social change organisation that works to build a just society by advocating for social change and promoting the health and wellbeing of disadvantaged people, families, and communities. For over 37 years we have worked where the need is greatest including with: young people, women and Aboriginal people in the criminal justice system; people seeking asylum, refugees and newly arrived migrant communities; young people with mental illness and alcohol and drug issues; and people of all ages who are disengaged from learning and education.

We work in Victoria, New South Wales, and remote Central Australia. Our work is funded by a diverse range of private philanthropic, corporate, and government funding as well as earned income from our social enterprises. As a

result of this diversity, we have experience working under regulatory regimes within and across different jurisdictions. Our views on regulation of the not-for-profit sector are informed by these experiences.

Australia's diverse charity and not-for-profit sector generates significant social value for our community. Our sector draws strength from its origins and ongoing connections to the wider community, most notably through the mobilisation of millions of volunteers every year. Sustaining and deepening community links to, and trust in, the sector is a critical factor to the ongoing success and sustainability of our work.

As the scale, sophistication, and complexity of the charity and not-for-profit sector's work has evolved, so too has our need to maintain and strengthen community confidence. It has been clear to Jesuit Social Services for many years that transparency and accountability are crucial elements of this. There is a range of ways that individual organisations can demonstrate high levels of transparency and accountability - including through strong governance processes, formal accreditation processes, and making readily available information on our work and finances.

We have long argued, together with colleagues from across the sector, that a national system of regulation and reporting also has a vital role to play. This system, envisaged by the Productivity Commission in its report on the *Contribution of the Not-for-profit Sector* and realised through the *Australian Charities and Not-for-profits Act 2012*, contributes to sustaining community trust in the work of the sector. An added advantage, over time, is the potential for harmonization to deliver productivity gains for the sector.

#### *Our experience working with the Australian Charities and Not for Profits Commission*

Every charity and not-for-profit organisation has unique characteristics and circumstances that will shape interactions and experiences with regulatory agencies. The Committee is likely to be presented with a diverse range of views and reflections on the Australian Charities and Not-for-Profits Commission. In particular, we are aware of challenges faced by organisations in the education and health sectors which already operate under unique regulatory frameworks within those sectors. However, we believe that there is strong support across the community services sector for the notion of a national regulatory framework and the retention of the Australian Charities and Not-for-Profits Commission.

Jesuit Social Services experience working with the Australian Charities and Not-for-Profits Commission over the past 18 months has, if anything, further strengthened our support for a national regulatory framework. Our interactions have been positive and we commend the Commission and its staff for the useful information they have provided; for excellent online systems; and for a willingness to engage with, and listen to, the concerns of the sector.

The major justification for abolishing the current regulatory scheme is that it has increased the 'red tape' burdens on our sector. From our own experience, Jesuit Social Services believes that this criticism is unwarranted. The additional burden imposed by the requirement we complete an Annual Information Statement has been minimal, with our business services team reporting the process of completing the statement took very little time and did not require the preparation of a substantial new material.

While there was some duplication in the information reported to the Australian Charities and Not-for-Profits Commission and other regulatory bodies, we consider it an acceptable part of the process of moving towards the objective of 'report once and use often'.

#### *The need for a long-term view of red tape reduction*

It is erroneous to conclude that additional burdens have been placed on the not-for-profit sector on the basis of the first year of operation of the Australian Charities and Not-for-profits Commission. The Commission entered operation with regulatory reform of the not-for-profit sector not having been fully completed. There has not been a clear reform process followed by the Council of Australian Governments in this area and as a result there is uncertainty about ongoing state regulatory functions. The Australian Charities and Not-for-Profits Commission has

also lacked powers in some areas of Commonwealth responsibility to align reporting requirements. These worthwhile reforms are incomplete and must be given greater priority, but it is doubtful whether they can be completed without an institution like the Australian Charities and Not-for-Profits Commission in place.

Regulatory reform in any sector is challenging and the OECD, in exploring best practice in this area, has identified the need for comprehensive long-term planning and implementation<sup>1</sup>. In Australia, this more sophisticated understanding of 'red-tape' reduction has been outlined by Tim Orton of Nous Consulting writing in *The Australian* newspaper:

*“Simply focusing on the burden of red tape, rather than also considering whether it produces the desired outcomes or how it is enforced, is less likely to produce enduring benefits than an approach that takes a more strategic and holistic approach to regulation.”*

We urge the federal government to take heed of these expert views and adopt a more strategic and holistic approach to regulation of the not-for-profit sector. This approach must retain the Australian Charities and Not-for-profit Commission and look at how the mandate of the Commission can be strengthened in order to realise the aims of increased transparency, high levels of accountability, and 'report once and use often'. It would build on the many years of work and significant goodwill that have been invested in building a national regulatory framework, while accepting that there is still more work to be done. Ultimately, this approach has much greater potential to deliver long term benefit to the sector and the wider community, as opposed to the marginal short term gains that will be achieved under the Bill before the Committee.

#### *Conclusion*

Once again we thank the Committee for the opportunity to comment on the *Australian Charities and Not-for-profits Commission (Repeal) (No. 1) Bill 2014*. We urge Senators to take into account the views of the organisations who will be affected by this legislation and our desire for a national system of regulation that contributes to building community confidence in the work of our organisations.

Yours Sincerely

Julie Edwards

Chief Executive Officer, Jesuit Social Services

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<sup>1</sup> Organisation for Economic Co-Operation and Development, 2009, *Overcoming Barriers to Administrative Simplification Strategies: Guidance for Policy Makers*.