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FOR
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The Secretariat
Review Panel
c/-Mr Murray Crowe
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: acncsecretariat@acnclegislationreview.com.au.

Dear Secretariat

Review of Australian Charities and Not-for-profits legislation

Australian Lawyers for Human Rights (**ALHR**) is grateful for the opportunity to provide this submission in relation to the Panel's current Review of the *Australian Charities and Not-for-profits Commission Act 2012* and the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012* (together, the **ACNC Acts** or **ACNC legislation**).

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Background

1. ALHR

- 1.1 ALHR was established in 1993 and is a national association of Australian solicitors, barristers, academics, judicial officers and law students who practise and promote international human rights law in Australia. ALHR has active and engaged National, State and Territory committees and specialist thematic committees. Through advocacy, media engagement, education, networking, research and training, ALHR promotes, practices and protects universally accepted standards of human rights throughout Australia and overseas.

2. ALHR's Concerns

- 2.1 Pursuant to the principle of legality, Australian legislation and judicial decisions should adhere to international human rights law and standards, unless legislation contains clear and unambiguous language otherwise. Furthermore, the Australian parliament should properly abide by its binding obligations to the international community in accordance with the seven core international human rights treaties and conventions that it has signed and ratified, according to the principle of good faith.
- 2.2 ALHR endorses the views of the Parliamentary Joint Committee on Human Rights expressed in Guidance Note 1 of December 2014¹ as to the nature of Australia's human, civil and political rights obligations, and agrees that the inclusion of human rights 'safeguards' in Commonwealth legislation is directly relevant to Australia's compliance with those obligations.
- 2.3 Generally, behaviour should not be protected by Australian law where that behaviour itself infringes other human rights. There is no hierarchy of human rights – they are all interrelated, interdependent and indivisible. Where protection is desired for particular behaviour it will be relevant to what extent that behaviour reflects respect for the rights of others.
- 2.4 It is only through holding all behaviours up to the standard of international human rights that one can help improve and reform harmful and discriminatory practices.
- 2.5 Legislation should represent an **appropriate and proportionate response** to the problems and harms being dealt with by the legislation, and adherence to international human rights law and standards is an important indicator of proportionality.²
- 2.6 In the context of the charitable and not-for-profit sector, the findings of the Royal Commission into Institutional Responses to Child Sexual Abuse have made it clear that charities, including religious charities, are not necessarily the most appropriate bodies to carry out educational, health or welfare work in relation to children. Many charities involved in child sexual abuse appear to have lacked proper oversight mechanisms until quite recent times. As Professor O'Connell says in her own submission to the Review:

As a result of the Royal Commission into Institutional Responses to Child Sexual Abuse it is no longer appropriate to assume that the governance of religious entities will always be of a high standard.

¹ Commonwealth of Australia, Parliamentary Joint Committee on Human Rights, *Guidance Note 1: Drafting Statements of Compatibility*, December 2014, available at <http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/Guidance_Notes_and_Resources>, see also previous *Practice Note 1* which was replaced by the Guidance Note, available at <<https://www.humanrights.gov.au/parliamentary-joint-committee-human-rights>>.

² See generally Law Council of Australia, "Anti-Terrorism Reform Project" October 2013, <<http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/a-z-docs/Oct%202013%20Update%20-%20Anti-Terrorism%20Reform%20Project.pdf>> .

- 2.7 The findings of the Royal Commission thus give the message that oversight and governance mechanisms are more important for restoring public faith in this part of the charitable sector than regulation to enforce 'efficient' outcomes, which is itself a contested concept.

Part A

3. Other Commonwealth Legislation of concern

- 3.1 Before turning to the ACNC Acts, it is of the greatest importance to note that a number of current Commonwealth Bills would, if passed, have a significantly deleterious effect upon Australian Charities and not-for-profits. These include in particular:

- the *Foreign Influence Transparency Scheme Bill*, (the 'Foreign Transparency Bill') and
- the *Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2017* (the 'Electoral Reform Bill').

- 3.2 In this context we endorse the comments of Suicide Prevention Australia to this Review that:

Australian charities should continue to be allowed to undertake advocacy to further their objectives, for example in approaches to governments on policy proposals and decisions, and in monitoring and reporting on the respective policies of political parties on topics of concern to the charity. This is an essential part of their work. In 2010 The High Court in the Aid/Watch case held that charities engaging in political debate is an essential part of advocacy work and very much in the public interest.

- 3.3 We also endorse the views expressed by the Jesuit Social Services organisation to this Review as to the importance of advocacy by charities, and the 'critical need' for the charitable sector to 'challenge policies, practices, ideas and values that perpetuate inequality, prejudice and exclusion.' As that organisation says, listening to the voices and perspectives of the most vulnerable and marginalised, and advocating for them by communicating their stories to others, 'is critical to maintaining a healthy, fair and just society.' Recent changes proposed by the Government under the Electoral Reform Act to ban international donations to charities that engage publicly in election issues (and non-election issues) are, says the organisation, 'one example of a reform which will further limit the voice of the sector.' Further, Jesuit Social Services makes the points (which in their submission appear as one paragraph but which for clarity we have numbered separately) that:

1. *Strong democracies, like Australia, rely on a dynamic interplay between community service organisations, broader civil society and government to continually develop and improve our collective responses to complex social problems.*
2. *This interplay is deeper and more fundamental than other transactional relationships that governments and community organisations engage in, such as purchaser-provider or regulatory oversight.*
3. *Whilst regulation and governance are fundamental components of a trusted and thriving social services sector, community organisations are mission (not profit) driven, and therefore it is critical that any implementation of NFP regulation does not erode the wider role of NFP organisations in building individual capabilities, cohesive communities, and a strong civil society.*
4. *It must be about more than simply generating efficiency and mitigating risk.*

The Electoral Reform Bill

- 3.4 The Electoral Reform Bill unreasonably restricts and chills political speech of charities and not-for-profit NGOs, even speech that is not related to election campaigns, while restricting business comparatively lightly and providing exemptions for some types of media activity.
- 3.5 This approach is illogical as business and media operations are likely to have a much greater ability to affect public perceptions and hence voting patterns than charities and NGOs.
- 3.6 The Bill requires many Australian individuals and bodies who are active public communicators about ‘political’ matters to register as ‘political campaigner’ (in general terms responsible for per annum political expenditure of \$100,000 or more), ‘third party campaigner’ (in general terms responsible for per annum political expenditure of \$13,500 or more) or ‘associated entity.’ Registration requires compliance with additional often complex requirements in relation to:
- (a) the receipt of donations, particularly restrictions on foreign donations (Division 3A);
 - (b) disclosure of donations, electoral expenses, and reporting of annual returns (Divisions 4, 5 and 5A); and
 - (c) authorisation of electoral matters (Part XXA).
- 3.7 The extensive restrictions will impose substantial compliance burdens upon charities, advocates and not-for-profits which are least able to bear such burdens. Such organisations will be comparatively restricted in their ability to continue to be involved in political communication in comparison to businesses and business groups, which will have the resources to lobby political parties and espouse particular policies as they wish. In particular, businesses will not have to register as associated entities³ unless they state that they support (or oppose) a specific political party.
- 3.8 The concept of an associated entity in the Electoral Reform Bill is misconceived and far too broad. It does not take into account the complexities of political discourse, nor the nature of the diverse and non-linear ways in which public speech operates. The expression of a particular viewpoint in common with a candidate or registered political party is taken as indicating political alignment in all respects, which may well not be the case.
- 3.9 ALHR’s primary concern is that the Bill will unreasonably and disproportionately violate the fundamental universal human rights to freedom of speech and freedom of expression, and will diminish, not enhance, the right to free political communication in Australia.**
- 3.10 ALHR expresses **strong doubts as to the adequacy of the Constitutional basis** for those parts of the Bill which place unreasonable burdens on persons or organisations merely because they are involved in discussions about matters of importance to the Australian public, and which thus burden the implied Constitutional right of political communication.
- 3.11 Political comment aimed at making a better nation is a fundamental underpinning of any democracy. Public participation in our political system is a fundamental and indispensable part of Australian democracy. The discourse of NGOs and charities and the media’s ability to report and comment on the same are a potent expression of the free spirit of Australia and our democracy. They should not be traded away so carelessly by overreaching legislation such as the proposed Bill.
- 3.12 Any legislation which impinges upon human rights must be narrowly framed, proportionate to the relevant harm, and provide an appropriate contextual response which minimises the overall impact upon all human rights. The drafting of the Bill far exceeds its stated aims and has the potential to severely restrict normal political behaviour and to chill the exercise of free speech including political comment.

³ Businesses may still, however, be registerable as political campaigners or third party campaigners.

- 3.13 Given that Australians do not have an express legally protected right to freedom of speech and/or expression, the aspects of the proposed Bill referred to above are all the more troubling.
- 3.14 ALHR is concerned that the Bill will severely impact on the ability of non-government associations, from major charities to small volunteer groups, to participate in political discourse, while leaving major businesses relatively untouched. This outcome ensures that the voices of the ‘haves’ dominate our democracy, while those who attempt to speak on behalf of the ‘have nots’ will be so limited and restricted that their voices will not be heard. Growing inequality in the world is indeed “a direct consequence of the voice of working people being crushed” as a former Australian Treasurer has said, and this Bill could have that very effect because of its overreach.
- 3.15 Donations from Australian electors, citizens and perhaps residents, as well as Australian-incorporated companies and trustees who are any of the foregoing, are permitted under the Bill. It is not clear how in practice the legislation could prevent any of such persons from being a conduit for foreign donations, unless the bank accounts of all political donors are to be inspected.
- 3.16 ALHR does not agree that it is appropriate to restrict foreign donations to entities which engage in political communications for advocacy and non-profit-making purposes, particularly in circumstances where (as under the Electoral Reform Bill) the scope of political communication has been defined so widely that it is not confined to communications connected in some way with elections or to issues that would traditionally be recognised as overtly political.
- 3.17 The purpose of restricting foreign donations is to avoid potential corrupt conflicts of interest. Where an organisation is not advocating for its own interests but to share its expertise in a way that improves Australian society and/or to advocate for the needy and dispossessed, such restrictions are not necessary and not appropriate. Should donations from the Bill and Melinda Gates Foundation to domestic violence support organisations, or from the World Wildlife Foundation to organisations opposing fracking for conservation reasons, or supporting protection of the platypus, be disallowed just because the Foundations are not Australian? **This type of restriction is entirely out of place in the charitable and NGO sector.**

The Foreign Transparency Bill

- 3.18 While we do not disagree with the Bill’s aim of requiring recent MPs and recent holders of senior Commonwealth positions to register their activities on behalf of foreign interests, ALHR’s view is that the exclusions provided for such persons require clarification, and that the Bill is excessively far reaching in most other respects. The Bill provides only a light degree of regulation in relation to business interests⁴ but imposes a jungle of regulations and strict liability penalties for non-business interests. The degree of regulation envisaged is completely unnecessary and inappropriate in today’s international and inter-connected world.
- 3.19 Further, the Bill undermines the key role of charities and other non-government organisations in supporting Australia’s democracy. The Bill restricts the ability of any speaker with minimal foreign connections to lobby government or even political parties. The very exceptions given to business tacitly recognise the repressive nature of the Bill.
- 3.20 The Bill continues a general trend in recent Commonwealth legislation to impose strict liability and resultant **excessive penalties, including imprisonment for up to 7 years, irrespective of whether or not any harm has been caused**, and irrespective of the extent of any harm (see Section 7). ALHR is strongly opposed to such legislative provisions.
- 3.21 ALHR submits that the nature of the **types of harm** that might be caused by “foreign interference” **need to be fully analysed** so that the Bill can focus only on likely real harm - rather than spreading its present wide net which appears intended to catch any public speech on any policy matter

⁴ Business and commercial interests are generally exempt under section 29 so long as the Australian party acts as an employee of, or “under the name” of, a foreign “business”, in relation to “a commercial or business pursuit.”

whatsoever, even where the association of the speaker with any foreign interest is absolutely minimal and/or completely benign.

- 3.22 The Bill appears to capture private communications with politicians and political parties if there is some foreign association, even where the foreign association is quite irrelevant to the communication.
- 3.23 The legislation assumes that any lobbying activity in any way connected with foreign entities is necessarily inappropriate and should be notified to the Australian government and/or made public. There is no foundation for this supposition, particularly in the light of the very broad definitions of ‘lobbying’ and ‘on behalf of’ in the Bill, which will effectively catch much normal political discourse.
- 3.24 The Bill continues a general trend in recent Commonwealth legislation to impose strict liability and resultant **excessive penalties even when there is no intent to harm** (and no harm occurs) or at the worst where there is only minor negligence or recklessness (see Section 7). ALHR is strongly opposed to such legislative provisions.
- 3.25 The Bill contains a number of key terms which are not clearly defined or are defined in a manner **far wider than their plain English meanings** (see Section 4). ALHR believes this type of drafting has the potential to deliver unintended results.
- 3.26 It would appear that the specific activities which may be registerable are described in the Bill in order of generality.
- 3.27 The narrowest activity is ‘**parliamentary lobbying**’. This is defined in section 10 as meaning:
lobbying any one or more of the following persons:
 (a) *a member of the Parliament (meaning the Federal Parliament);*
 (b) *a person employed under section 13 or 20 of the Members of Parliament (Staff) Act 1984.*
- 3.28 Such a definition would appear to catch an Australian individual’s private lobbying of their local member of Parliament, provided that some foreign friend or relative knows that the Australian person is likely to contact their MHR or Senator. There is no exception for private communications.
- 3.29 The next activity is ‘**general political lobbying**’. This is defined in section 10 as as meaning:
lobbying any one or more of the following:
 (a) *a Commonwealth public official;*
 (b) *a Department, agency or authority of the Commonwealth;*
 (c) *a registered political party;*
 (d) *a candidate in a federal election;*
other than lobbying that is Parliamentary lobbying.
- 3.30 The next activity is “**communications activity**” which is defined in section 13(1) as communicating or distributing “information or material” including (as per section 13(2)) “information or materials in any form, including oral, visual, graphic, written, electronic, digital and pictorial forms.” Again, private communications would appear to be caught by this definition just as fully as public communications. Exceptions are included in section 13 for the “publisher of a periodical” who publishes the information or materials, as well as for the broadcaster of the relevant communication, but in neither case is an exception provided for the journalist involved. **Nor is there any exemption for attending public demonstrations, signing public petitions, writing letters to a newspaper or online or other normal methods of political discourse aimed at changing government policy.**
- 3.31 The final type of activity which may be registerable is donor activity. That is defined as follows:
*a person undertakes **donor activity** if:*

- (a) *the person disburses money or things of value; and*
- (b) *neither the person nor a recipient of the disbursement is required to disclose it under Division 4, 5 or 5A of Part XX of the Commonwealth Electoral Act 1918.*

It should be noted that there is no limit on donations by a foreign individual or foreign “business” (not restricted in this case to commercial businesses). **This provides a wide-open backdoor for foreign influence and is totally inconsistent with the purported ‘transparency’ regime contemplated by the Bill.**

- 3.32 To summarise: the extreme width of the meaning given to the phrase ‘for the purpose of political or governmental influence’ would mean that if a person in Australia were to text, email or phone a family member or friend who is not a permanent Australian resident nor an Australian citizen and say: “I’m going in the demonstration at Parliament House tomorrow to support Marriage Equality” then potentially that person would be regarded as acting on behalf of that other (‘foreign’) party and their activity is registerable as such (and subject to criminal penalties if registration does not occur), **whether or not the activity ever takes place.**

Summary

- 3.33 In the view of ALHR, the combined effect of the legislation referred to in the preceding paragraphs is not only counterproductive but **highly dangerous** in terms of a proper approach to the rule of law. In combination, the above drafting problems could have the unintended effect that the Bills could **severely penalising bona fide and benign behaviour on the part of charities and other not for profits which causes no harm or minimal harm.**
- 3.34 There is no doubt that the Bills will severely chill public policy discussions, given the strict liability nature of the offences, the vague and excessive reach of key terms, and the additional onerous reporting requirements and associated expenses required from individuals or entities which wish to engage in public speech. Despite the Explanatory Memorandum for the Foreign Transparency Bill saying that “the scheme is not intended to restrict, deter, criminalise or punish otherwise lawful activities or associations,” there is a real danger that the Bills will indeed have that effect.

Part B

4 Commonwealth and State legislation should be harmonised

- 4.1 We agree with various other submissions that the ACNC should give priority to working with State and Territory governments to harmonise regulation so as to reduce the regulatory burden on charities and not for profits. To the extent that the Commonwealth does not have power to regulate (for example in relation to charitable trusts) the Commonwealth should explore the possibility of obtaining a referral of power in this area, as Professor O’Connell suggests.
- 4.2 As Dr Flack notes:

The current ACNC legislation, based largely on the Commonwealth’s taxation powers, is intended to regulate those charities that wish to take advantage of the Commonwealth tax concessions available only to charities. It is important to note that there are many legally recognised charities registered in every State and Territory that have chosen not to register with the ACNC yet continue to be recognised for tax-concessions by the Australian Tax Office (ATO) and regulated by the applicable State and Territory government legislation.

In addition, there are many other types of not-for-profit organisations that enjoy a subset of the tax concessions available to charities and other not-for-profit organisations that are not required to register with the ACNC. These not-for-profit organisations continue to be regulated by State and Territory government legislation.

- 4.3 We note the practical problems identified by Relationships Australia (South Australia) in having to provide information such as change of director details to both ASIC and the ACNC because Relationships Australia is a company limited by guarantee. Similar concerns about continued duplication of reporting obligations were echoed by Suicide Prevention Australia and Jesuit Social Services.

5 ACNC legislation amendments generally not required

- 5.1 ALHR endorses the submissions of others including Dr Ted Flack that the current ACNC legislation, including its objects, should remain largely unamended except for the ACNC's recommendations regarding necessary administrative amendments. We agree that to do otherwise could impose an inappropriate burden on charities and other not for profit entities. As Dr Flack notes:

Until the States and Territories refer their powers to regulate charities and other not-for-profit organisations to the Commonwealth government, expanding the powers of ACNC simply adds to the regulatory burden of these organisations and is contrary to one of the objects of the legislation.

- 5.2 However as mentioned above we would support amendments necessary for Commonwealth/ State harmonisation of regulation and there are some amendments which we would recommend as a matter of principle, as described further below.

6 Objects not be amended as proposed

- 6.1 ALHR endorses the submissions of a number of others including Dr Ted Flack and Professor Anne O'Connell, University of Melbourne, that the Objects of the ACNC not be amended to include the new objects proposed by the Commission⁵. We agree that the new objects in many respects are covered by the existing objects and agree with others that to the extent this is not the case, any extended objectives are not necessary.
- 6.2 We also agree with Dr Flack that the criteria of 'effectiveness' is not necessarily the most important value for a charity. As Dr Flack says, if the public disclosure of the salaries of charity executives is the central issue, then minor amendments to the disclosures required in the Annual Information Statement could be used to fulfil this information requirement without alteration to the objects of the Act.
- 6.3 We note also the comments of Suicide Prevention Australia, who rightly say that effectiveness or efficiency is subjective and contextual, and inextricably linked with a number of different categories such as organisation type, target group, jurisdiction and operating environment, as a result of which definitions of effectiveness will differ from organisation to organisation. As they also note:

The assumption that volunteers can and should maintain high level administrative and governance commitments fails to acknowledge the transitional nature of volunteerism and assumes a consistent supply of highly qualified individuals available to volunteer their time and skills.

- 6.4 We do however support the change to the objects recommended by Suicide Prevention Australia, which is that the objects (and, to the extent necessary, the body of the ACNC Acts) should be amended so as to incorporate into the ACNC's powers the ability to advocate for changed funding terms and conditions in order to better support the existing objects of sector robustness, sustainability, vibrancy, independence and innovation.

⁵ (a) To promote the effective use of the resources of not-for-profit entities; and (b) To enhance the accountability of not-for-profit entities to donors, beneficiaries and the public.

6.5 Suicide Prevention Australia notes how government and philanthropic funding usually comes with strings attached which actually make the work of a charity more difficult and less effective. The problems, they say, include funding being limited to work which is:

- *project based, rather than supporting essential overheads such as governance, administration, compliance, rents etc (robustness). It also means that organisations constantly have to develop “new” projects: while this may support innovation, it can mean that tried, trusted and effective work is left unfunded.*
- *a maximum of one year in duration (or in some Governments and larger philanthropic grants, three years). This impairs an organisation’s capacity to be bold in finding solutions, especially to wicked problems (innovation). It also makes planning and implementing long-term solutions difficult due to the substantial risk that there will not be ongoing funding (robustness and sustainability)*
- *in strict compliance with funders’ expectations. These can be narrow or unintentionally biased for a particular viewpoint (vibrancy; innovation)*
- *in line with the funders’ policies on a particular issue. In some cases this can limit an organisation’s capacity to speak out (independence)*
- *conducted in collaboration with another organisation in the sector (independence)*
- *evidence-based. Work will often only be funded if it has already been demonstrated as effective (innovation).*

7 Concept of what is a charity (and DGR) should be updated

7.1 As Ken Baxter points out, the traditional categories of charity have been derived historically through our common law and need clarification and updating. While we do not agree with Mr Baxter that the concept of a charity should be limited solely to organisations which assist the ‘poor and helpless,’ we completely agree with him that it is quite inappropriate for the following agricultural entities to continue to be treated as charities (on the purported basis that they act in accordance with “other purposes beneficial to the community”), giving them a competitive advantage against their peers:

1. Queensland Sugar Ltd (Queensland)
2. Grain Growers Ltd (NSW), and
3. Bulk Handling Co-operative Ltd (Western Australia).

7.2 While we appreciate that the definition of a charity is contained in the Commonwealth *Charities Act* and not the ACNC legislation, there is no doubt that the impact of this definition flows through to the ACNC legislation and has a major impact on the activities of the ACNC. A revision of definitions could also be part of the harmonisation process referred to above. At the same time, the categories of DGR (Deductible Gift Recipient) could well be modernised as those categories also reflect historic (and largely property-based) concepts of charity which should be updated. Why are donations to a school’s building fund deductible for tax purposes but not donations for its operating costs? The reasons for many of these distinctions are lost in history and need urgent modernisation.

8 Removal of exemption

8.1 One amendment which we do believe is appropriate is that, as recommended by Professor O’Connell and by Suicide Prevention Australia, the exemptions under the principal ACNC Act for a ‘basic religious charity’ (BRC) should be removed. These exemptions were included in the Act as a result of lobbying by the established religious entities, says Professor O’Connell, but serve no logical purpose. There is no reason why BRCs should not be subject to governance standards like all other charities, and if the BRC has revenue of less than \$250,000 (or some other appropriate minimum) it will only have to undertake minimal reporting. In addition, points out Professor

O'Connell, the exemptions are limited to those religions that are unincorporated and therefore discriminate against religions that adopt an incorporated legal form for operational purposes.

9 Revision of tiered reporting levels

- 9.1 We also endorse Professor O'Connell's suggestion that the tiered reporting system should be amended from time to time to reflect the current structure of the sector. She notes that most charities have annual revenue of less than \$250,000 and very many have revenue of less than \$50,000.

Part C

10 Questions posed in the Terms of Reference

1. Are the objects of the ACNC Act still contemporary?

Yes, but subject to the change recommended in paragraph 6.4 above and the suggested changes to the definition of charity / charitable purposes and consequential changes to the categories of Deductible Gift Recipient referred to in section 7.

2. Are there gaps in the current regulatory framework that prevent the objects of the Act being met?

As identified in sections 4 to 9 above.

3. Should the regulatory framework be extended beyond just registered charities to cover other classes of not-for-profits?

Yes but the framework first needs to be harmonised with State and Territory legislation to avoid further regulatory duplication.

4. What activities or behaviours by charities and not-for-profits have the greatest ability to erode public trust and confidence in the sector?

The activities dealt with in the Royal Commission into Institutional Responses to Child Sexual Abuse.

5. Is there sufficient transparency to inform the ACNC and the public more broadly that funds are being used for the purpose they are being given?

Generally, yes, however in addition we support the concept that salaries and expenses of senior management and directors should be publicly available for charities and not for profits having income above a certain appropriate minimum.

6. Have the risks of misconduct by charities and not-for-profits, or those that work with them, been appropriately addressed by the ACNC legislation and the establishment of the ACNC?

Generally, yes.

7. Are the powers of the ACNC Commissioner the right powers to address the risk of misconduct by charities and not-for-profits, or those that work with them, so as to maintain the public's trust and confidence? Is greater transparency required and would additional powers be appropriate?

Generally we do not see any need for additional powers, other than as suggested in paragraph 6.4.

8. Has the ACNC legislation been successful in reducing any duplicative reporting burden on charities? What opportunities exist to further reduce regulatory burden?

Harmonisation of legislation between Commonwealth and States, and agreements between the ACNC and ASIC to share publicly registered information, could substantially reduce duplicate reporting obligations.

9. **Has the ACNC legislation and efforts of the ACNC over the first five years struck the right balance between supporting charities to do the right thing and deterring or dealing with misconduct?**

We believe so.

If you would like to discuss any aspect of this submission, please email me at: president@alhr.org.au

Yours faithfully

A handwritten signature in black ink, appearing to be 'BC' followed by a stylized flourish.

Benedict Coyne
President
Australian Lawyers for Human Rights