

**2008 Senate Economics Committee inquiry into disclosure regimes for NFP organisations  
- comparison between PilchConnect recommendations and those of final Senate  
Committee report**

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PILCHCONNECT Recommendations	SENATE INQUIRY Recommendations
<p><b>National regulatory framework for NFPs</b></p> <p>A focus on a consistent, national regulatory framework for all NFP organisations, not just charities and/or community welfare organisations.</p> <p>Regulation should not be based solely on legal form, tax status or activity alone, rather on the essential characteristics of NFP organisations.</p> <p>(Recommendations 1 – 4)</p>	<p><b>Recommendation 1</b></p> <p>Common terminology to be adopted for NFP organisations with consistent terms used amongst all governments in relation to the size of NFP organisations.</p> <p><i>(See also recommendations 3, 4, &amp; 7 relating to establishment of a consistent, national regulatory framework for NFP organisations)</i></p>
<p><b>National, independent, specialist NFP regulator</b></p> <p>An independent, national regulator for the NFP sector is required, bringing Australia in-line with other jurisdictions.</p> <p>While costly, the expense involved in the establishment of an independent, national regulator can be minimised by:</p> <ul style="list-style-type: none"> <li>- reliance on data collection and storage programs currently used by ASIC, possibly in conjunction with a sector-managed resources such as Guidestar;</li> <li>- cost sharing with State bodies due to savings achieved by no longer needing separate regulators in each State and Territory;</li> <li>- cost savings achieved by fewer staff required in the ATO (their role will be to apply the revenue laws rather the having to determine eligibility); and</li> <li>- cost savings to the NFP sector by a reduction in red tape and, therefore, greater capacity and efficiencies in delivery by NFPs of government / public funded services</li> </ul> <p>(Recommendations 5 – 7)</p>	<p><b>Recommendation 3</b></p> <p>A single independent national regulator to be established for NFP organisations.</p> <p><b>Recommendation 4</b></p> <p>The national regulator should have similar functions to regulators overseas. As a minimum, the regulator should:</p> <ul style="list-style-type: none"> <li>- develop and maintain a Register of all NFP organisations in Australia using existing ASIC website resources;</li> <li>- develop and maintain an accessible, searchable public interface;</li> <li>- undertake either an annual descriptive analysis of the organisations that it regulates or provide the required information annually to the ABS for collation and analysis;</li> <li>- secure compliance with the relevant legislation;</li> <li>- develop best practice standards for the operation of NFP organisations;</li> <li>- educate / advise NFP organisations on best practice standards;</li> <li>- investigate complaints relating to the operations of the organisations; and</li> <li>- educate the public about the role of NFP organisations.</li> </ul> <p><b>Recommendation 5</b></p> <p>The committee recommends that the Commonwealth Government develop the legislation that will be required in order to establish a national regulator for Australia.</p>

## **PILCHCONNECT Recommendations**

### **Nationally consistent fundraising laws**

A national NFP regulatory framework must include fundraising laws. These laws need to be overseen by an independent national NFP regulator.

NFP licensing issues should be included in the COAG's work towards mutual recognition of licensing standards but this should only be an interim step to a truly national regime.

(Recommendations 8 & 9)

### **Improved specialist NFP legal structure**

A new specialist NFP legal structure that allows an organisation to easily operate across all states, and has a sliding scale of reporting obligations based on size, is required.

Any new legal structure must contain the flexibility to meet the needs of small and large NFP organisations. Migration from existing legal forms should be free or low cost and involve no, or only minimal, filing.

The best way to implement a new NFP specific Act is by way of a referral of powers from the States.

Government need to support sector-based initiatives especially in the absence of a pro active, NFP-specific regulator whose role includes providing these services.

(Recommendations 10 & 11)

### **Improved reporting and disclosure**

A minimum standard of disclosure that is simplified and tailored to the NFP situation should be required of NFP organisations.

A tiered regime of reporting obligations based on size should be introduced where full, audited accounts should only be required from larger NFPs and a sliding scale of filing fees should apply according to the size of the organisation.

This approach should be pursued across all Federal Government departments, and included in COAG's Standard Business Reporting Agenda.

Consideration should be given to whether ASIC's database collection and searching systems can be utilised by the NFP reporting database, and/or whether the Guidestar model could be supported and funded.

Any reform suggestions about reporting obligations be assessed against the over-arching principle that the cost of compliance should not exceed the benefit.

(Recommendations 12 – 14, 17 & 18)

## **SENATE INQUIRY Recommendations**

### **Recommendation 9**

A National Fundraising Act should be developed following a referral of powers from states and territories to the Commonwealth. This Act should include the following minimum features:

- it should apply nationally;
- it should apply to all organisations;
- it should require accounts or records to be submitted following the fundraising period with the level of reporting commensurate with the size of the organisation or amount raised;
- it should clearly regulate contemporary fundraising activities such as internet fundraising.

### **Recommendation 7**

A single, mandatory, specialist legal structure should be adopted for NFP organisations through a referral of state and territory powers.

All existing NFP organisations should be automatically migrated to the new structure.

Given the degree of change such a legal structure would mean for some NFP organisations, the legal structure must be developed in full consultation with these organisations.

### **Recommendation 10**

A tiered reporting system be established under the legislation for a specialist legal structure.

### **Recommendation 11**

The tiered approach be assigned to organisations based on total annual revenue.

### **Recommendation 13**

A new disclosure regime contain elements of narrative and numeric reporting as well as financial, in acknowledgement that the stakeholders of the Sector want different information to that of shareholders in the Business Sector. The financial reporting should be transparent and facilitate comparison across charities.

### **Recommendation 14**

The national regulator should investigate the cost vs benefit of a Guidestar-type system (a website portal that publishes information on the aims and activities of NFP organisations) in Australia to encompass all NFP organisations.

## PILCHCONNECT Recommendations

### Accounting standards and chart of accounts

The work of the Standard Chart of Accounts project (The Australian Centre for Philanthropy and Nonprofit Studies, QUT) should be introduced for all Commonwealth and State government grant submissions and acquittals.

The Senate Inquiry should support the development by the Australian Accounting Standards Board of an NFP industry-specific standard. An NFP specific standard needs to mesh with broad industry standards and place more emphasis on the narrative account of how organisations are achieving their stated objects.

(Recommendations 15 & 16)

### Simplification and reform of taxation concessions

Any taxation reform should be underpinned by a rational policy basis for charity and NFP taxation exemption and other fiscal incentives.

The Senate Committee is urged to refer the recommendations of the *Inquiry into the Definition of Charity* (2001) to a specialist committee for implementation.

(Recommendations 19 & 20)

### Support required to promote best practice governance and accountability

The Australian Bureau of Statistics should receive long term funding to compile and update baseline data on the whole of the NFP sector.

Government should provide funding to peak bodies such as the NRT, so there is capacity to engage in the reform process as meaningful partners and stakeholders.

Sector-run support services that assist NFPs to identify, understand and implement better governance and accountability practices should receive core government support and funding.

(Recommendations 21 – 23)

### Ministerial position focussing on NFP sector

The existing position of 'Parliamentary Secretary for Social Inclusion' should be recast to encompass the broader NFP sector and also elevated to a ministerial position.

(Recommendation 24)

## SENATE INQUIRY Recommendations

### Recommendation 12

The Commonwealth Government should work with the NFP sector to implement a standard chart of accounts for use by all departments and NFP organisations as a priority.

### Recommendation 8

The Henry Review should include an examination of taxation measures affecting NFP organisations with a view to simplifying these arrangements and reducing confusion and cost of compliance for these organisations.

### Recommendation 6

The committee recommends that, once a NFP register is established and populated, this information should be provided to the ABS, who should prepare and publish a comprehensive study to provide government with a clearer picture of the size and composition of the Third Sector.

### Recommendation 2

The committee recommends that the Government establish a unit within the Department of Prime Minister and Cabinet specifically to manage issues arising for NFP organisations. The unit should report to a Minister for the Third Sector.