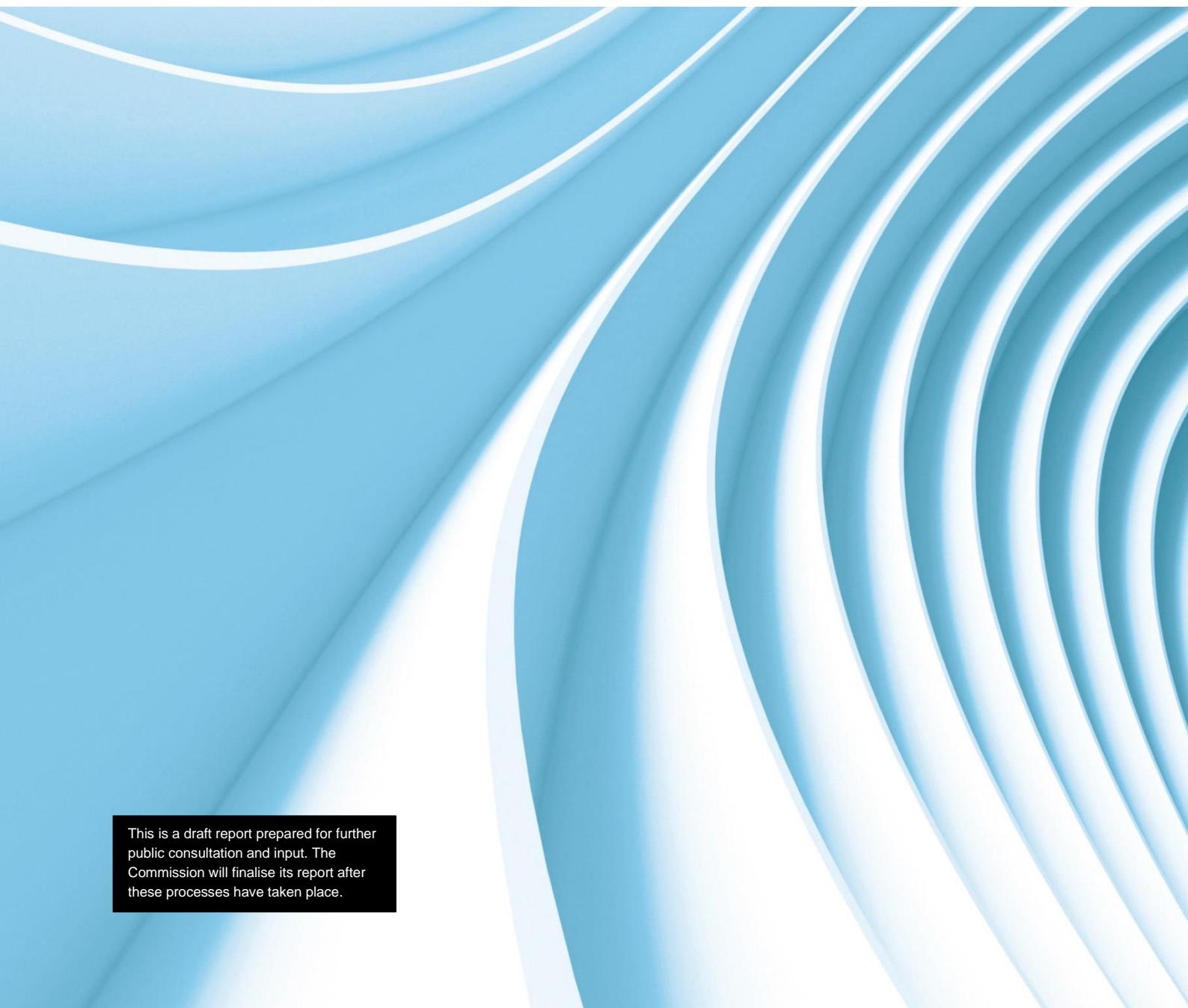




Future foundations for giving

Draft report

Overview



This is a draft report prepared for further public consultation and input. The Commission will finalise its report after these processes have taken place.

The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.

The Productivity Commission

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

Further information on the Productivity Commission can be obtained from the Commission's website (www.pc.gov.au).

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Opportunity for comment

The Commission thanks all participants for their contribution to the inquiry and now seeks additional input for the final report.

You are invited to examine this draft report and comment on it by written submission to the Productivity Commission, preferably in electronic format, by 9 February 2024. If you are unable to make a written submission, you can make a submission by phone or you can provide a video submission.

Further information on how to provide a submission is included on the inquiry website: www.pc.gov.au/inquiries/current/philanthropy.

The Commission will prepare the final report after further submissions have been received and it will hold further discussions with participants. Public hearings will be held in February 2024. Further details on locations, dates and registering for hearings can be found on the inquiry website.

Commissioners

For the purposes of this inquiry and draft report, in accordance with section 40 of the *Productivity Commission Act 1998* the powers of the Productivity Commission have been exercised by:

Alex Robson Presiding Commissioner

Julie Abramson Commissioner

Disclosure of interests

Alex Robson declared that he is a Professor at Griffith University.

Julie Abramson declared her role on the board of a dual sector (vocational education and higher education) institution.

Krystian Seibert declared that he is the Chair of Mental Health First Aid Australia, and an Adjunct Industry Fellow at the Centre for Social Impact, Swinburne University of Technology. Until May 2023, he had a part-time role as the Policy and Regulatory Specialist at Philanthropy Australia.

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Acknowledgments

The Commissioners would like to thank those who contributed to this inquiry. They would like to thank the team and acknowledge the Australian Charities and Not-for-profits Commission, the Australian Taxation Office and Treasury for providing secondees to the team for this inquiry.

Overview

Key points

- * **Philanthropy contributes to a better society by providing money, time, skills, assets or lending a voice to people and communities who would otherwise receive lower quality, or have less access to, goods and services.**
 - Many Australians give money, other assets, or their time. Over \$13 billion was donated to charities in Australia in 2021 and 6 million people volunteered in 2022.
 - Philanthropy, particularly volunteering, can help build social capital by contributing to social networks, building trust within communities, and diffusing knowledge and innovations through communities.
 - Philanthropy can also provide untied, flexible or long-term funding for more innovative and riskier projects compared to what government funding can offer.
- * **The Productivity Commission's draft recommendations would establish firm foundations for the future of philanthropy, so that the benefits of giving can continue to be realised across Australia. The proposals would enable greater donor choice and ensure that regulation continues to support trust and confidence in charities.**
- * **The Commission's proposed reforms aim to make the deductible gift recipient (DGR) system simpler, fairer and more consistent.**
 - All Australian taxpayers co-invest in charities through the DGR system, but the arrangements that determine which entities can access DGR status are not fit for purpose – they are poorly designed, overly complex and have no coherent policy rationale.
 - Reform is needed to simplify the DGR system and direct support to where there is likely to be the greatest net benefits to the community. If adopted, the Commission's draft recommendations would mean that more charities overall would be able to access tax-deductible donations.
 - In contrast, the personal income tax deduction for giving does not need substantive reform. Preliminary estimates by the Commission show the personal income tax deduction is likely to be an effective mechanism for encouraging donations of money and other assets.
- * **The Australian Government should support the establishment of an independent philanthropic foundation controlled by – and for the benefit of – Aboriginal and Torres Strait Islander communities to enhance the arrangements linking philanthropic and volunteer networks and funding to Aboriginal and Torres Strait Islander organisations.**
- * **The regulatory framework for charities is complex and reforms to enhance the role, powers, functions and enforcement tools of the Australian Charities and Not-for-profits Commission (ACNC) are needed to support the high level of public trust and confidence in charities now and in the future.**
 - The Australian Government should establish a National Charity Regulators Forum with state and territory regulators to create a more formalised regulatory architecture.
- * **The Australian Government should create more value for the public from the data collected about charities by improving the ACNC charity register, and collecting and publishing additional data on ancillary funds, corporate giving, volunteering and charitable bequests.**

Each day, people across Australia seek to improve the wellbeing and resilience of the community by contributing to causes they care about, whether it be supporting people experiencing disadvantage, advancing medical research, promoting arts and culture, or caring for the environment. People do this in many ways – donating money to support causes, such as assisting people affected by natural disasters, or volunteering their time and skills to benefit others, such as being on the board of a local art gallery.

These acts of giving are philanthropy – the giving of money, time, skills, assets or lending a voice to people and communities that would otherwise receive lower quality, or have less access to, goods and services.

Over \$13 billion was donated to charities in Australia in 2021, an increase of 26% in real terms since 2017. The Productivity Commission estimates that total giving to all registered charities will be about \$26.5 billion in 2029-30 if the average nominal growth rate (7.9%) of this measure of giving continues. This is just one scenario that the Commission examines.

A large part of giving in Australia takes the form of tax-deductible donations by individuals – this was worth \$4.4 billion in 2020-21, which represents more than a tripling in the value of giving (in real terms) since 2000-01. The increase in giving is largely driven by people who earn a high income – people who earn more than \$180,000 accounted for almost two-thirds of the increase. While the total value of donations has increased over recent decades, a lower proportion of people who have taxable income are giving. In short, fewer people are claiming a tax deduction for giving, but those who do are giving more.

Volunteering is widespread in Australia. However, the proportion of people volunteering with an organisation (formal volunteering) declined over the decade or so before the COVID-19 pandemic. The pandemic was disruptive to charities and volunteers, but broader social, economic and demographic changes also contributed to the decline.

The decline in the formal volunteering rate has coincided with a rise in informal volunteering, where people support non-family members outside their household. Although the informal volunteering rate declined slightly in 2020, reflecting the effects of the COVID-19 pandemic, it had mostly recovered by 2022.

The Australian Government, in the context of its goal of doubling giving by 2030, asked the Productivity Commission to undertake an inquiry to analyse motivations for philanthropic giving in Australia and identify opportunities to grow it further.

The Commission examined trends and motivations for giving, analysed existing policy arrangements and proposals for change, and assessed the expected benefits and costs to the community of different forms of government involvement in philanthropy. This work has been shaped by extensive stakeholder engagement and informed by diverse perspectives and evidence.

This draft report proposes a package of practical reforms to improve the policy settings that govern, support and incentivise philanthropy, to enhance outcomes for donors, charities, taxpayers, people who receive goods and services from charities, and the community as a whole. The Commission welcomes feedback on its proposed reforms, including on how they could be implemented, through submissions, consultations, roundtables and public hearings.

Philanthropy contributes to a better society

While markets are characterised by exchanges between a buyer and seller of a good or service, philanthropy does not involve such an exchange and donors do not expect to receive a financial or other direct benefit in return for their gift. In conventional markets, prices convey information to producers and consumers regarding changes in preferences, opportunity costs and relative scarcity. The absence of price signals in the

market for charitable donations means that other sources of information tend to play a greater role to inform decision making by donors and charities.

Many people who give money or time may not consider themselves as philanthropists and may not use or identify with the term. Philanthropists can come from any part of society – young or old, wealthy or less financially well off, from metropolitan or regional areas. Some cultural or religious communities also have philanthropic traditions or practices of giving embedded in their belief systems or ways of life.

There are many ways people can give (figure 1). They can give directly to another person or charity through online platforms, including peer-to-peer giving; they can use giving vehicles, such as ancillary funds; they can sign up to workplace giving programs; they can give as a customer when they pay for groceries through a ‘roundup’ nudge at the supermarket checkout; or they can volunteer with a charity in their local community. Organisations can also donate money, goods, staff time or a voice on behalf of their owners.

Figure 1 – Different ways people in Australia give

There are three main sources of donations		
People	Estates	Organisations
Donations can be in different forms		
Money and assets In 2021, charities received \$13.4 billion in donations	Goods and services 77% of people donate goods each year	Time In 2022, around 6 million people formally volunteered
Some donors give directly, through giving vehicles, giving groups or platforms		
Giving directly <ul style="list-style-type: none"> One-off giving Regular or planned giving 	Giving vehicles and collective giving <ul style="list-style-type: none"> Private funds (private ancillary funds, charitable trusts) Public funds (public ancillary funds, community foundations) Giving circles 	Technologies <ul style="list-style-type: none"> Matching platforms Peer-to-peer fundraising/ crowdfunding

People and organisations can have complex and multifaceted reasons for giving or not giving – and these reasons can change over time (figure 2). Some motivations for giving are highly personal, such as those associated with an individual or family experiences, or connection to faith or culture. Other motivations are broader, such as wanting to make a difference.

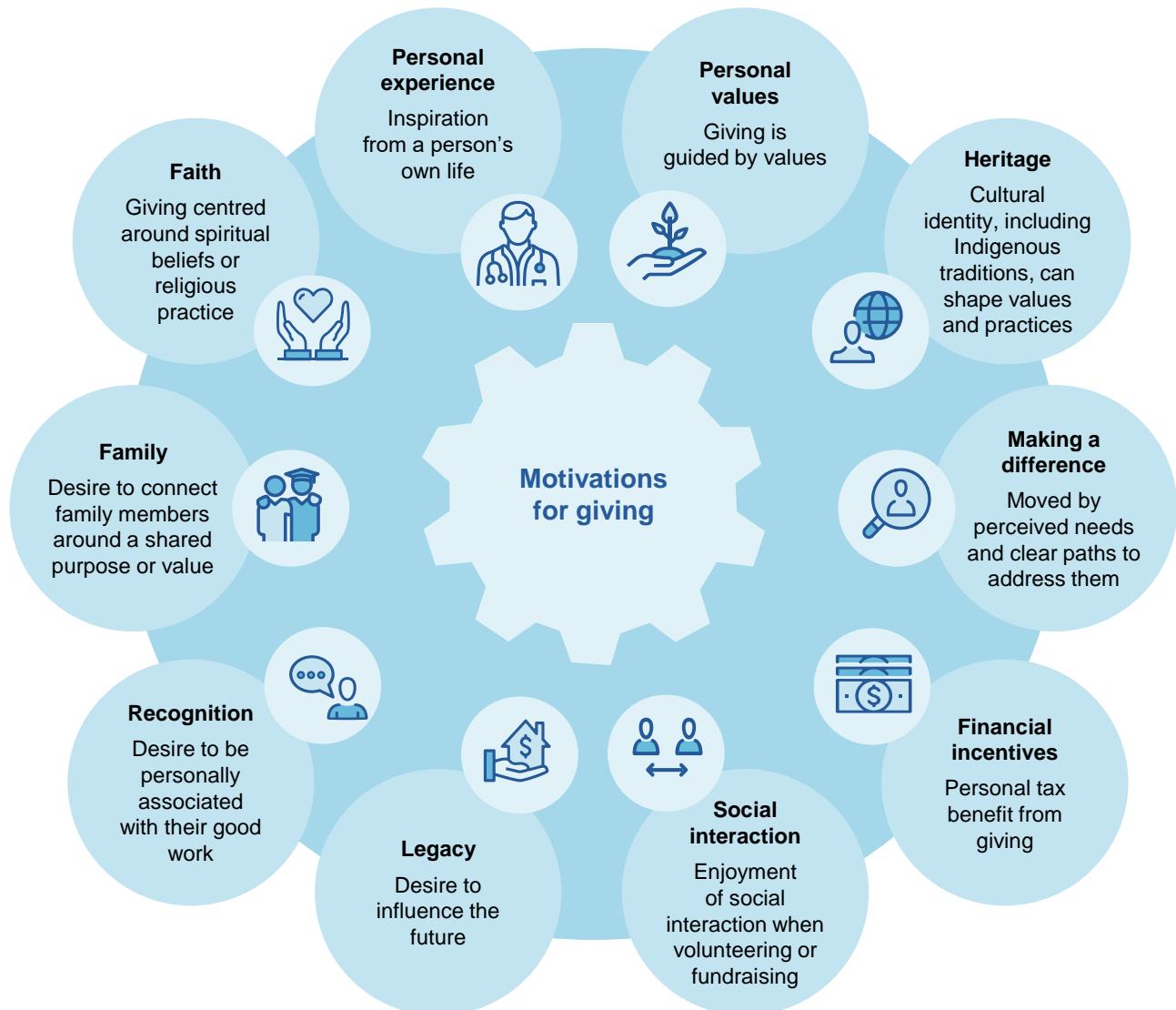
Motivations can also change over a person’s life. For example, volunteering with sport organisations peaks for people aged between 35 to 54, coinciding with parental support of activities around children, whereas people aged 65 and over tend to volunteer with organisations providing health and social services.

Broad conclusions can be drawn from patterns of giving behaviour.

- People affected by natural disasters are likely to donate more to help others in their own community.
- Some people with high net worth use giving vehicles (such as private ancillary funds).
- Many businesses use high-visibility giving, including pro bono work, to bolster their reputation and social license, and attract and retain employees and customers.
- A lack of financial resources is one of the main reasons people do not give money, and work and family commitments are the main barrier to volunteering.

Figure 2 – Motivations for giving

People can have complex and multifaceted personal reasons for giving



But some motivations appear more important in particular contexts or among groups



Effectiveness is a strong motivator for giving among high-net-worth people



Many people volunteer through an organisation for social contact



Many large businesses give to bolster their brand and 'social licence'

Specific events can also prompt people to give and affect how they give



Changes in personal circumstance, such as a financial windfall



Being prompted by a financial adviser or employer



Fundraising events, such as for disaster relief

Philanthropy supports a vast array of activities

Some services, such as health care and suitable housing, are fundamental to a person's social and economic participation and inclusion, while cultural institutions can help connect people to their community. The protection of the natural environment is also valued by current and future generations.

Competitive, open and well-regulated markets mostly work well to supply the level and quality of goods and services valued by the community, but gaps can emerge and some people, or people in certain locations, will miss out. Outcomes from market exchanges do not always meet the community's expectations about what goods and services should be provided or what constitutes a just and fair distribution of wealth, income or access to goods and services. In these cases, there may be a role for government to intervene directly. But direct government provision to address market gaps can also fail to meet community expectations. Another approach is for governments to provide indirect support, by steering giving toward charitable activities valued by the community. Charities play a key role in facilitating philanthropy, acting as intermediaries between donors and the beneficiaries of goods and services.

Small charities in Australia are heavily reliant on donations (as opposed to grants or selling goods and services) and volunteers – charities with revenue under \$250,000 receive 40% of their total revenue from donations on average. However, donations are concentrated in a small number of large charities. In 2016, the largest 10% of charities (by annual revenue) received 94% of all donations and the 25 largest charities received almost 20% of total donations. More than half of all charities operate without paid staff.

In addition to funding goods and services for people who need them, philanthropy – particularly volunteering – creates indirect benefits for society by contributing to social networks, building trust within communities, and diffusing knowledge and innovations. For example, volunteering at an aged care home or in a local conservation group may contribute to social norms, networks and trust that facilitate co-operation within or between groups and promote co-operative behaviour. These are some of the ways in which philanthropy can help build social capital.

Philanthropy can have strengths and weaknesses

Both government funding and philanthropic funding can have strengths and weaknesses (figure 3). Donors and charities can bring specific skills, relationships or experience working with communities receiving services or networks that the government cannot access. These skills and networks may allow donors and charities to achieve better and more valued outcomes, like higher quality, more accessible, or more timely service delivery at lower cost compared with direct government provision or grants.

The Maranguka initiative is an example of how a community has been able to build a trusting relationship with philanthropic partners to deliver tangible change in Bourke, NSW. The initiative is a First Nations community-led place-based model of justice reinvestment that redirects resources that would be spent on prisons back into the community. Philanthropic funding enabled the community to try innovative approaches that provide positive outcomes in their community.

Inquiry participants have commented that philanthropy can also enable innovation by providing 'patient capital' through long-term untied funding, which government often cannot do. For example, it is common for government grants to be linked to short-term funding cycles. Philanthropic funding also has a different risk profile from government funding and can have a greater tolerance for – and even expectation of – failure when trialling new models of service delivery, for example. This can have important positive spillovers for government. Once philanthropy has funded initiatives that have demonstrated success, governments could provide funding on a larger scale and change policy settings more widely.

Philanthropy can also support advocacy that conveys the perspectives of communities, facilitating their input into democratic processes and policy outcomes. This can include expressing views on policy issues which are different from the government or the wider public.

For example, the Alannah and Madeline Foundation commented that:

The characteristics of the philanthropy dollar in a charity's revenue mix are unique and precious. It is the only social change dollar that can be used as social risk capital: it is free to fund innovation, to pilot, to fail and try again ... diversity and freedom are core to [philanthropy's] success. It is free of government and political agenda and election cycles: it can fund activities and costs that are unattractive or 'out of bounds' to other revenue sources or funders; it can be multi-year and unrestricted in its use. (sub. 47, p. 4)

A donated dollar can have different value to a charity, depending on how it can be used. When donations are untied, they can enable charities to be more innovative and independent by, for example, trialling new initiatives or approaches to service delivery. Untied donations can cover administration costs – those fixed, core expenses that enable a charity to operate, but which are often not fully covered by grants. Although some donors may believe that low administration costs mean that a charity is more efficient and effective, the Commission's analysis shows that this measure is likely to be an inaccurate reflection of a charity's performance and can lead to underinvestment in key capabilities and capacity.

Figure 3 – Each dollar of funding can have different characteristics

Government funding	Philanthropic funding
<ul style="list-style-type: none"> Accountable through democratic processes Scalable Transparent Might attract other funding 	<ul style="list-style-type: none"> Risk capital Patient capital Can be untied Flexible Responsive
<ul style="list-style-type: none"> Inflexible Reporting burden 	<ul style="list-style-type: none"> Donors may be misaligned with a charity's values Reporting burden

Like private and government provision, philanthropic giving can also fail to meet the efficiency and equity goals or expectations of the community. Donors can be deliberately scammed by people trading on the good name of charities when they do not have enough information (for example, due to information asymmetries). Similarly, a donor cannot easily observe how their donation has been used, including whether it aligns with their intentions. Using subsidised philanthropy to fund goods and services means government has less control over how those public funds are spent, which may be an issue if the interests and preferences of donors are not well aligned with those of the broader community.

Some charities do not draw on certain kinds of philanthropy. As part of its engagement for this inquiry, the Commission heard that some Aboriginal and Torres Strait Islander organisations may be less willing to interact and engage with philanthropy, for example, where in their view philanthropists 'obtained their wealth at the detriment of First Nations people' (Jumbunna Institute, pers. comm., 3 October 2023).

Other Aboriginal and Torres Strait Islander organisations would like to access the networks and information that are so vital for obtaining philanthropic funding, but can face barriers. A report by the Centre for Social Impact and Jumbunna Institute for Indigenous Education and Research (2023, p. 16) included the following perspective:

The philanthropic space is a very elitist and exclusive ‘club’ that makes it difficult for people without the right connections or right backgrounds to enter.

Many of the organisations that face barriers to accessing philanthropic networks are small, work in remote areas or provide services that are unfamiliar to many donors.

Working with Aboriginal and Torres Strait Islander organisations to strengthen their capacity to access philanthropic networks – where doing so aligns with their values and interests – would potentially contribute to government policy commitments to Aboriginal and Torres Strait Islander people under the National Agreement on Closing the Gap, such as supporting a stronger community-controlled sector.

In principle, philanthropy can (and should) support the goals and ambitions of Aboriginal and Torres Strait Islander communities. However, the Commission heard that the approaches of some philanthropic funders may not suit the aspirations, priorities and needs of Aboriginal and Torres Strait Islander communities.

There are examples of initiatives led by Aboriginal and Torres Strait Islander people which have enabled Aboriginal and Torres Strait Islander communities to build effective partnerships with philanthropy and provide grant funding for projects or geographical areas. There is an opportunity for more communities to be empowered and further their goals and ambitions through engagement with different sources of philanthropy.

The Commission proposes that the Australian Government provide funding to support the establishment of a foundation led by – and for the benefit of – Aboriginal and Torres Strait Islander people. The Government should provide funding toward an initial endowment, with additional contributions to the endowment provided by philanthropic funders. The endowment should be of sufficient size to ensure that the foundation is financially sustainable and independent.

The purpose of the foundation would be to enhance the arrangements linking philanthropic networks and funding to Aboriginal and Torres Strait Islander organisations. The objective would be to complement rather than absolve governments of their responsibilities and commitments to enhance outcomes for Aboriginal and Torres Strait Islander people through other programs that strengthen outcomes important to the rights, wellbeing and quality of life of Aboriginal and Torres Strait Islander people.

A concern with government programs is the potential to ‘crowd out’ (or substitute for) initiatives undertaken by non-government organisations. To reduce this risk, the foundation’s mandate and functions would be specifically focused on strengthening the capacity of Aboriginal and Torres Strait Islander communities to build and support partnerships, as well as supporting new and existing giving vehicles that are led by or support Aboriginal and Torres Strait Islander people. It would be able to administer grants programs to fulfill these functions.

Appropriate governance arrangements will be necessary to ensure that its functions do not duplicate the roles and responsibilities of other bodies, including government agencies, and to report on the outcomes of the foundation’s activities. This should include an evaluation of the foundation’s impact after five years of operation.

Why do governments encourage philanthropy?

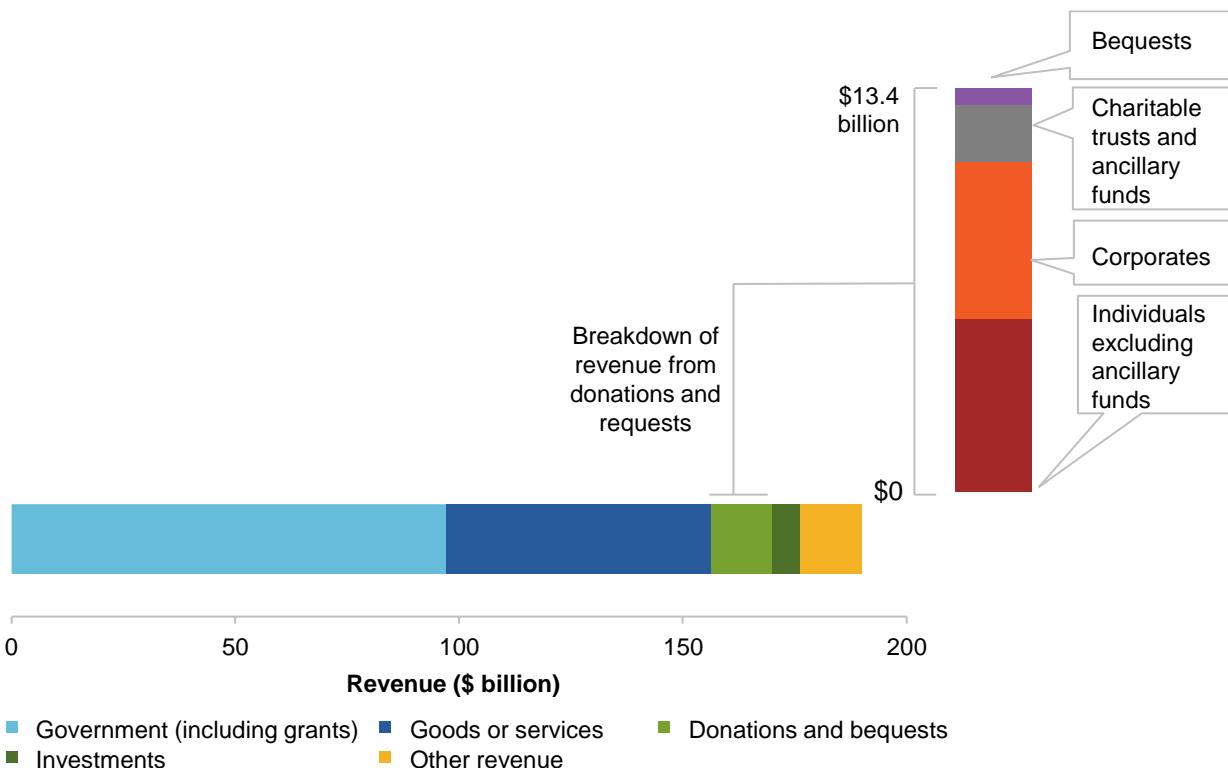
Growing philanthropy has long been a goal of governments, supported by a range of policy instruments. For example, when Tasmania was the first colony in Australia to introduce tax on some income in 1880, it

exempted 'any Hospital, Benevolent Asylum, or other building used solely for charitable purposes' from land tax (Martin 2017, p. 197).

Income tax deductions are the main way that the Australian Government encourages giving to charities, but it is not the main way in which governments support charities. Together, Australian, state, territory and local governments provided \$97 billion in 2021 in direct funding to charities through grants and contracts – the largest source of revenue for charities (figure 4).

There is a clear role for government in supporting philanthropy. Philanthropy can provide funding for activities that the community values and constraints on governments mean it would otherwise be underfunded, or not funded at all. This enables governments to focus on other priorities. The funding provided by philanthropy has different benefits (and costs) to government support and so can be a complement to, or substitute for, direct government funding. For example, medical research institutes attract substantial donations, which provide 'funding (often more discretionary) to support researchers and develop new and innovative blue-sky research where they may not yet be competitive for larger government grant schemes' (AAMRI, sub. 91, p. 4).

Figure 4 – Most charity revenue comes from government grants and contracts^a



a. Commission estimates of the breakdown of bequests and other types of donations uses a mix of 2020 and 2021 data.

Support from government can be in the form of encouraging giving through financial incentives and a regulatory framework that maintains the public's trust and confidence that individual charities, as well as the broader charitable sector, will use donations to further charitable purposes for the benefit of the community.

However, if government provides financial support to encourage philanthropy, this means that less funding is available for other purposes (there is an opportunity cost). Donations that attract a tax deduction result in less revenue collected by the Australian Government through income tax, which could otherwise be used to fund core government services, such as health care and education, or fund charities directly through grants.

These policy trade-offs cannot be ignored, and they were expressed to the Commission by various inquiry participants, with the South Australian Council of Social Service commenting that 'tax revenue forgone needs to be a crucial calculation of any proposal to increase philanthropy' (sub. 83, p. 2).

Governments also need to be agile in responding to broader trends. The ways that people give are changing, largely spurred by technological advances. The use of cash is rapidly declining. People are increasingly moving toward using digital payments and online platforms for giving, such as PayPal Giving Fund or Facebook. The Australian Government is also phasing out cheques, which used to be a common way of donating for some people. As the way people give changes, the risks donors need to be aware of also change. Government regulation needs to keep pace with – or stay ahead of – these changes.

This inquiry is one further step in the evolution of government support for philanthropy in Australia. The inquiry differs from previous reviews in that its focus is on the full breadth of philanthropy – of which charities are an important part – rather than a review of the not-for-profit sector as a whole.

This inquiry assessed the policy settings that support philanthropy in Australia and the Commission's draft recommendations provide practical ways governments can improve outcomes for donors, charities and the community. In coming to these draft findings and recommendations, the Commission was informed and guided by the contributions of inquiry participants through 275 submissions, 106 consultations and 7 roundtables, as well as previous government reviews and the academic literature.

The Commission developed a framework to assess where there is a role for government to support philanthropy and where policy changes are needed. This assessment was based on the expected benefits and costs to the community of different forms of government involvement in philanthropy. The Commission drew on the perspectives of donors, charities, philanthropic foundations, researchers and governments to analyse policy options to support giving, including their equity and efficiency outcomes. The framework also considers that the policy settings to encourage philanthropy require trade-offs.

Policies to encourage giving should align with people's motivations

Policy settings to encourage giving should align with peoples' motivations, but many of the reasons people give or do not give cannot be influenced by policies to encourage giving.

- Giving tends to increase with income. Rising disposable income and wealth are therefore likely to be one of the major reasons why giving has increased over the last two decades.
- Formal volunteering, while widespread in Australia, is declining. Volunteering is predominantly influenced by people's capacity to donate their time, so it is affected by long-term trends including increasing real wages, increasing labour force participation and an ageing population. The COVID-19 pandemic also disrupted volunteering.

Where people chose not to give, tax incentives may be ineffective either because the financial incentive they offer is too weak (particularly for people on lower incomes) or because they do not address an underlying impediment (for example, a lack of information about charities).

There are three main areas where policy changes to encourage philanthropy are likely to increase the wellbeing of the Australian community – the personal income tax deduction to incentivise giving, the regulatory framework for charities and public information for donors.

The deductible gift recipient system needs reform

The design of the tax deduction for giving for individuals provided by the Australian Government has two components – a tax incentive to encourage people to donate, and the system that determines which entities (charities and government entities that conduct charitable-like activities) in Australia can receive tax-deductible donations.

People who give more than \$2 to an entity with deductible gift recipient (DGR) status and have taxable income can claim a 100% tax deduction for their donation. While all entities with DGR status must be based in Australia, most can provide support to people and communities overseas. Preliminary estimates by the Commission found that a deduction is likely to be an effective mechanism for encouraging donations of money and does not need to substantively change. This does not mean everyone who gives is motivated by a tax incentive.

However, the arrangements that determine which entities can access DGR status are poorly designed, overly complex and have no coherent policy rationale. This creates inefficient, inconsistent and unfair outcomes for charities, donors and the community.

The economic benefits (or incidence) of the tax deduction are broad. The DGR system benefits taxpayers who claim a personal tax deduction, charities and some government entities, and ultimately the people and communities that receive goods and services from eligible entities. All Australian taxpayers co-invest in charities through the DGR system. Reforms are needed so the DGR system is fairer, simpler and more transparent. The DGR system should focus on where funds are needed most and direct donations toward charitable activities that are likely to provide the greatest net benefits to the final beneficiaries of the goods and services and the community as a whole.

Income tax deductions can encourage giving

Depending on a person's motivations for giving, people may be more likely to give or decide to give more than they otherwise would, if the price of giving (or the cost of donating an extra dollar) is lowered, all else being equal (box 1). The price of giving is commonly lowered by governments through tax incentives like a tax deduction or tax credit. The question of whether – and if so, how much – a person's giving behaviour is affected by this price can be examined by estimating their 'price elasticity of giving'.

Box 1 – What is the price of giving?

The price of giving varies depending on a person's marginal rate of income tax – the higher a person's marginal income tax rate, the lower the price of giving due to the tax deduction for giving.

For example, if a person earns \$100,000 and donates \$2,000 to a charity with DGR status, their taxable income will decrease by \$2,000 and their tax paid will reduce from \$22,967 to \$22,317 (all else equal).

The effective 'price' of giving is reduced from \$1 (without a tax deduction) to about 68 cents per dollar through the deduction because, although the person donates \$2000, they pay \$650 less in tax.

In transferring \$2,000 to a charitable cause, this person paid only \$1,350 in net terms. Viewed another way, to acquire \$2,000 worth of charitable donations, an entity with DGR status only need convince a person to donate \$1,350, with the balance of \$650 covered by other taxpayers.

Drawing \$650 from other taxpayers to encourage \$1,350 to be given to a charity is not costless. It necessarily means the government will have \$650 less to spend on other priorities. There is no free lunch.

In Australia, the design of the tax deduction for giving, the graduated personal income tax system and the tendency for giving to rise with income mean that higher income earners pay a large proportion of total income tax and accrue most of the direct benefit of the reduction in tax due to this deduction (box 2). The amount a person can claim as a deduction – and therefore the tax-deductible donations a charity can receive – is uncapped, but it is limited by a taxpayer's marginal tax rate, their taxable income, and their willingness and capacity to give. Within these limits, the more a person donates, the greater the dollar amount of their deduction. To the extent that the tax deduction induces additional giving, charities – and ultimately the beneficiaries of their goods and services – also benefit.

A taxpayer dollar that is used to encourage philanthropy cannot be spent on another government priority. If tax incentives result in a dollar of revenue being forgone, government should consider whether it encourages giving to increase by more than a dollar – noting that this is only one consideration when assessing a tax deduction for giving. Comparing the total value of giving relative to forgone revenue does not fully account for the costs and benefits of giving or the other uses of forgone revenue. Despite this, if a tax deduction is not encouraging additional giving compared to what would occur without the tax deduction, there may be other uses of taxpayer funding that would have greater community-wide benefits, after taking into account the deadweight costs of taxation.

Box 2 – Who claims an income tax deduction for giving and how much do they give?

As a snapshot, 4.4 million Australians claimed \$3.9 billion in tax deductions for donations in 2019-20. Over two decades, 90% of taxpayers claimed at least one donation as a tax deduction. However, snapshots of data at a fixed point in time can, by definition, mask important underlying dynamics (for example, year-to-year income mobility and demographic trends).

People with high taxable incomes make the most tax-deductible donations

Income measure	Share of taxable income (%)	Share of total tax paid (%)	Share of donations (%)	Share of reduction in tax due to donations ^a (%)
Taxable income above the median (over \$47,800)	82	95	79	86
Highest taxable income decile (over \$122,100)	34	49	47	55
Taxable income more than \$1 million	4	7	17	21

a. Reduction in tax revenue is calculated as the difference in tax payable between i) taxable income before deductions for donations and ii) final taxable income, after the inclusion of tax, using basic income tax rates.

The Commission undertook preliminary econometric modelling to understand how Australian taxpayers change their giving behaviour in response to tax incentives. The modelling addresses the limitations of the data snapshot above by drawing on Australian taxpayer panel data, which tracks taxpayers over time. This is the first time panel data has been used in Australia to generate estimates of elasticities for giving. Panel data can help adjust for effects that either vary across:

- different people, but generally do not change over time (like a person's cultural background)
- time, but not across different people (like occurrences of natural disasters in Australia).

The Commission estimated the price elasticity of giving, which is how people change their giving behaviour in response to changes in tax incentives for giving. For example, if a person's marginal tax rate were to decrease by 1 percentage point, would they give less because they receive a smaller tax deduction for each dollar they give. The Commission also estimated the income elasticity of giving, which is how people change their giving behaviour in response to changes in their own income. For example, if a person's income rose by \$500, how much more might they give to a charity.

At a basic level, there are three ways a person could respond to a change in the price of giving and corresponding implications for government. If a taxpayer gives \$100, a 1% decrease in the price of giving could lead to a taxpayer giving:

- more than \$1. This means it costs the government \$1 to encourage more than \$1 to be given to a charity
- approximately \$1. This means it costs the government \$1 to encourage about \$1 to be given to a charity
- less than \$1. This means it costs the government \$1 to encourage less than \$1 to be given to a charity.

However, as noted above, these measures are only one factor to consider when evaluating the effectiveness of tax incentives to give. For example, the government may spend \$1 on another program which has less benefit to the community than encouraging giving. If the amount given per dollar of government subsidy was close to zero, this would raise concerns about the effectiveness of using a tax incentive to encourage giving.

The Commission's preliminary estimates show that if a taxpayer gives \$100 (and holding all other factors constant):

- a 1% decrease in the price of giving is associated with an increase of giving between 87 and 92 cents
- a 1% increase in disposable income is associated with an increase of giving between 55.5 and 56.4 cents. For example, if a taxpayer earning \$50,000 had their disposable income increase by \$500, and they already gave \$100, this modelling suggests they would give about 55 to 56 cents more than they otherwise would.

The results are consistent with previous overseas and Australian studies.

These estimates indicate that personal income tax deductions are likely to encourage people to donate more. However, in the absence of more detailed analysis, it does suggest that increasing the value of the tax deduction over 100% of the amount donated (as is the case in Singapore), is unlikely to be a cost-effective mechanism to encourage giving.

This modelling has limitations and the estimates above are an average across all taxpayer incomes. The Commission will work further on these estimates, including using different modelling methodologies, and analysing whether people with different incomes have different responses to a change in the price of giving. While the literature is limited, the available analysis indicates that people with higher incomes are more responsive to the price of giving. The extent to which people with low or high incomes in Australia behave differently in response to the tax deduction should inform the policy settings around tax incentives for giving. The Commission is planning to present this modelling and its implications in the final report. An explanation of the Commission's analysis and areas for further work are presented in appendix B.

The Australian Government also incentivises corporate giving through the corporate tax system and these incentives interact with Australia's dividend imputation system. However, data limitations mean that the Commission has not been able to assess the effect of the tax deduction on corporate giving (box 3).

Box 3 – Tax incentives for corporate giving

Corporations (and unincorporated businesses) can claim a corporate tax deduction for any donation to entities with DGR status. Businesses can also donate money or staff time to charities without DGR status and other not-for-profit organisations for the purpose of advertising, sponsorship, promotion or developing goodwill and claim a tax deduction as an ordinary business expense.

If a person has taxable income, their effective price of giving is the same whether they give directly to a charity in a private capacity or if an Australian resident company that they own shares in gives to a charity and distributes fully franked dividends. This is because under dividend imputation, company tax is effectively a withholding tax that is pre-paid on the Australian resident shareholders' behalf. When a person gives directly, they face the tax-price of their own decision to give; when a company donates on behalf of the shareholder, the tax-price relates to the decision of the resident company to give.

The Commission was not able to model the relationship between the amount given by businesses and the price of giving (elasticities for corporations) due to an absence of data on giving by corporations that is claimed through the tax system. The Commission is proposing that this data gap be rectified to improve transparency and accountability.

Government support for giving can be designed to target the total amount donated, increase participation in giving or to encourage particular types of giving, such as money, physical assets or time. Given this, the Commission examined whether the personal income tax deduction for giving should be changed – for example, to a tax credit or the government matching each dollar donated – and determined that a personal income tax deduction is likely to be the most effective mechanism to encourage giving.

Acts of volunteering create benefits for the volunteer, the person they are helping or the environment, and the broader community. Volunteering is also one way in which philanthropy generates social capital. However, whether a separate tax incentive for volunteering would encourage more people to give their time is highly uncertain. It would likely increase tax integrity risks and compliance costs given volunteer work and expenses are often undocumented or informal. Government grants for volunteering where there is a clearly identified need would likely generate greater net benefits to the community, if properly targeted and evaluated. Other actions that governments could take to minimise the barriers to volunteering are discussed further below.

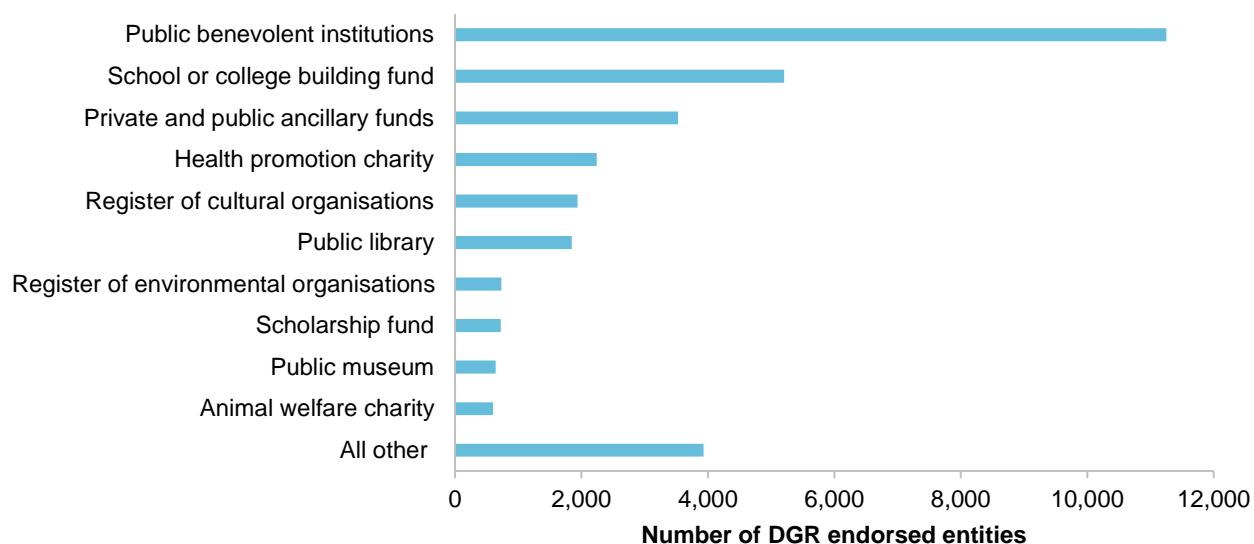
The deductible gift recipient system is not fit-for-purpose

The policy intent of the DGR system is to support certain forms of giving and the work of eligible entities with the goal of assisting the people and communities who benefit from goods and services provided by these entities. The DGR system deliberately seeks to steer donations and, with them, other resources toward certain charitable purposes and activities, and away from others. An indirect consequence of DGR status is that donors may interpret it as an indicator of a charity's 'legitimacy', quality or effectiveness. Another consequence of increased donations could be that it creates incentives for governments to withdraw support through direct funding (for example, grants).

The DGR system does not cover all charitable activities or all charities – and nor should it. Therefore, not all giving to charities by individuals is tax deductible. The activities for which a charity or government entity can acquire DGR status are mostly set via 52 endorsement categories in the *Income Tax Assessment Act 1997* (Cth) (figure 5). About 25,000 charities (or about 40% of charities) have DGR status for some or all of their activities. About 2,000 government entities also have DGR status.

The DGR system is not fit-for-purpose as a mechanism for determining which entities undertaking activities that benefit the community should receive tax-deductible donations from individuals. The scope of activities eligible for tax-deductible donations from individuals has evolved in an ad hoc way. The complexity of the system continues to increase as new DGR endorsement categories are added in a piecemeal manner.

Figure 5 – Deductible gift recipient endorsement is concentrated in a few categories^a



a. Number of endorsed entities includes both charities and government entities as at 5 October 2022.

There is no explicit policy rationale justifying why some charitable activities are within scope, but others are not (box 4). Inquiry participants were concerned about these inconsistencies. For example, the Australian Council of Social Service (sub. 263, p. 4) commented that there ‘is a broad consensus that current DGR categories are archaic, overly complex, inaccessible and not reflective of the work of contemporary charities’.

There are also some charitable activities where the reasons for DGR status have lessened over time. School building funds – which are widely, but not exclusively, used by non-government schools – are a case in point. School building funds were given DGR status in 1954 when government support for non-government schools was very limited. Since then, government support for non-government schools has expanded considerably. Providing indirect government support through school building funds means government funding is not prioritised according to a systemic assessment of the infrastructure needs of different schools.

Specific listing in legislation can be used to gain DGR status for entities that do not neatly or easily fit into a single endorsement category and can be a way to address unforeseen or exceptional circumstances.

However, the existing process lacks transparency, is time consuming for charities seeking endorsement and can lead to inconsistent outcomes. Access to decision makers can be an important factor in an entity being specifically listed.

The Commission made a draft recommendation that the specific listing mechanism should only be used in exceptional circumstances – as not all applicable circumstances can be foreseen. When it is used, the Australian Government should increase transparency about applications, how these are assessed, and the decision-making process to maintain confidence in the broader DGR system.

Box 4 – The scope of deductible gift recipient coverage is piecemeal and ad hoc

Many participants raised concerns about charitable activities that do not have DGR status.

Many of the concerns focused on ineligible activities that are similar to activities that have DGR status.

- Participants highlighted that certain animal welfare charities are not eligible, particularly those focused on advocacy rather than direct short-term care of animals (Coalition of Animal Welfare Charities, sub. 109, pp. 2–4; EAA and Effective Altruism Australia: Environment, sub. 32, p. 8; World Animal Protection Australia, sub. 111, pp. 1–3).
- The health promotion charity category is available to charities promoting prevention or control of diseases in people and the community, but this does not include prevention of injuries (Injury Matters 2023, pp. 2–3; PA, sub. 162, p. 19).
- Charities that relieve poverty or distress in the community are eligible for DGR status, but charities that focus on prevention face barriers to eligibility (Minderoo Foundation, sub. 270, p. 2; Saward Dawson, sub. 81, p. 2).

Some charities cannot easily access DGR status because they provide a broad range of support to a group of people or community, and therefore do not neatly fit into one DGR endorsement category (as is required under current policy settings). This includes charities that support women, young people, Aboriginal and Torres Strait Islander people and communities, LGBTIQA+ people, or consumers (AIIW, sub. 271, p. 2; Aurora Education Foundation and GiveOUT 2022, p. 27; Consumer Policy Research Centre, sub. 105, p. 1; Justice Connect, sub. 269, pp. 5–6; Marrie and Marrie 2013, pp. 3–7; The Foundation for Young Australians, sub. 128, p. 2). For example, the principal purpose of environmental organisations with DGR status must be the protection of the natural environment. Marrie and Marrie (2013, p. 4) commented that:

This renders most Indigenous ranger services and “caring for country” organisations ineligible because the objects of their constitutions/rules of incorporation, in keeping with their holistic approach to culture and country, generally include cultural, as well as a range of other purposes, and thus are too broad to satisfy the criteria for an environmental DGR organisation.

Some charitable purposes and activities are clearly outside the current scope of the DGR system. This includes advocacy organisations and peak bodies (Anglicare Australia, sub. 125, p. 2; Animal Defenders Office, sub. 184, pp. 5–6; Justice Reform Initiative, pers. comm., 15 March 2023; Medical Association for Prevention of War, sub. 51, p. 2; Southern Youth and Family Services, sub. 72, p. 3). For example, the South Australian Council of Social Service (sub. 83, p. 4) is a registered charity but is not eligible for DGR status because they ‘do not provide welfare services directly to the people in need’.

The deductible gift recipient system should be fairer and simpler

Reform is needed to simplify the DGR system and to help donors direct support to where there is likely to be the greatest net benefits to the community as a whole. This would create fairer and more consistent outcomes for charities, donors and the broader community.

The Commission proposed a comprehensive overhaul of the DGR system applying a principles-based framework to assess and improve the DGR system. This will simplify the current system, reduce the risk of distortions to giving due to different treatment of activities that offer very similar outcomes, and provide guidance to underpin future developments in the DGR system. The reforms would establish firm foundations

for the future of philanthropy, so that the benefits of giving can continue to be realised across Australia. There should be three steps to determine whether a class of charitable activity should be within the scope of the DGR system.

- First, there is a rationale for taxpayer support because the activity is expected to generate net community-wide benefits and would otherwise likely be undersupplied by the market.
- Second, there are net benefits from providing government support for the activity through subsidising philanthropy using a tax deduction for giving (as opposed to other government funding mechanisms, like grants). The government should take into account the alternative uses of the taxpayer funds that are supporting philanthropy, which could be more (or less) valuable to the community as a whole; there are opportunity costs to subsidising philanthropy.
- Third, the activity is unlikely to be a material risk of converting tax-deductible donations to private benefits for donors. One indication of this can be charging fees – where fees are charged there should not be significant scope for substitution between donations and fees. However, if a charitable activity is funded partly by user fees this should not necessarily prevent DGR-endorsement nor the use of tax-deductible donations for that activity.

The Commission has assessed each ACNC charity registration subtype against these principles to determine which charity subtypes would be eligible for DGR status. Charities registered under most subtypes would be within the scope of the reshaped, refocused DGR system, including many that are not currently eligible. This would expand access to DGR status to more charities and give donors more choices about which charities they make tax-deductible gifts to.

In practice, making assessments about which classes of charitable activities should be within the scope of the DGR system is challenging, subjective and contestable. The Commission attempted to balance the risk of including certain classes of activities in the DGR system (where this may not be warranted), against the risk of excluding certain activities that should be in scope.

A more diverse set of charities would have deductible gift recipient status

While simplicity, efficiency and fairness are the primary goals of the Commission's proposed reforms, one of the expected effects would be to make the set of charities with DGR status more diverse. Where increasing access to DGR status attracts additional donations, supports new charities and spurs innovation and dynamism, it would also lead to a more vibrant charitable sector, providing further benefits to donors and beneficiaries over the medium to longer term.

It is expected that the number of charities with DGR status would increase from about 25,000 charities to somewhere in the range of 30,000 to 40,000 charities.

Most charities that currently have DGR status would be largely unaffected by the proposed reforms (figure 6). For example, almost half of charities that currently have DGR status are public benevolent institutions and these charities would be unaffected.

The reforms would expand access to DGR status for animal welfare charities, charities focused on injury prevention and public interest journalism. Charities undertaking advocacy activities related to most charitable purposes would also become eligible for DGR status. This would include a range of charities which are currently ineligible, such as social welfare and human rights organisations that advocate for policy change.

Charities that pursue multiple eligible purposes would also find it easier to access DGR status because eligible entities would only need one DGR endorsement from the Australian Taxation Office (ATO), which would cover all eligible activities. This would assist charities that support groups of people rather than a

single activity. For example, charities that support women, young people, Aboriginal and Torres Strait Islander people and communities, LGBTIQA+ people, or consumers.

The proposed reforms would also increase access to DGR status for smaller charities if, for example, they have not had the resources to establish a public benevolent institution. This would include charities that are dependent on volunteers and have few or no paid staff. To illustrate, the Commission estimates that only a third of charities wholly dependent on volunteers have DGR status and about 6,000 additional volunteer-run charities would have easier access to DGR status under the Commission's proposed reforms.

Most, but not all charities, would have deductible gift recipient status

There are some classes of charitable activities where exclusions are warranted so that taxpayer support is directed to where the net community-wide benefits are expected to be largest. After applying the principles outlined above, the Commission's view is that in addition to expanding DGR status to a greater number of entities, a simultaneous refocusing toward greater community-wide benefits is also necessary (figure 6).

There are some classes of charitable activities where there is a material risk that donors could convert a tax-deductible donation into a private benefit. For example, where recipients of a good or service are charged (more than nominal) fees by a charity to access goods or services. The transaction here is closer to a market exchange of donations for lower fees and this could incentivise recipients to make tax-deductible donations to lower the non-tax-deductible price they are charged for the good or service. In these circumstances, it is unlikely that including that activity within the scope of the DGR system would provide net community benefits.

The Commission's view is that converting a tax-deductible donation into a private benefit is, in principle, a substantial risk for primary and secondary education, religious education, and other forms of informal education, including school building funds. The potential for a donor to be able to convert a tax-deductible donation into a private benefit is especially apparent for primary and secondary education, particularly where students are charged fees. Potential donors are most likely to be people directly involved with the school and benefit directly from donations, such as students, their parents or alumni. Most other classes of activities in the education charitable subtype, including formal higher education and research activities would remain within the scope of the DGR system.

Other classes of charitable activities with substantial risks of donors converting tax-deductible donations into a substantial private benefit are already outside the DGR system. These arrangements would not be changed. Specifically, extending DGR status to industry bodies, as well as aged care and childcare, is not warranted.

However, any classes of activities currently carried out through a public benevolent institution, including the provision of education, childcare or aged care, *would continue* to be eligible for DGR status. All activities undertaken by charities registered as public benevolent institutions should be in scope for DGR status because they provide services to groups of people that are in need. For example, many non-government schools in remote Aboriginal and Torres Strait Islander communities currently have DGR endorsement as a result of registration as a public benevolent institution and this would remain the case under the Commission's proposed reforms.

Religious organisations play an important role in many people's lives and communities across Australia. However, the Commission does not see a case for additional government support for the practice of religion through the DGR system, based on the first principle above.

School building funds for primary and secondary schools and religious education would be the main entities that would no longer be eligible for DGR status under the Commission's proposals. There are currently about 5,000 DGR endorsements for school building funds. Of these, three-quarters are charities and the remaining

quarter are government entities, such as public schools. Transitional arrangements so that schools can adjust would be required and are described below.

Figure 6 – Likely outcomes for charities from reforming the DGR system

The status quo is maintained for ...	Changes to DGR status for ...
charities retaining DGR status	charities gaining DGR status
<ul style="list-style-type: none"> Most charities that currently do have DGR status, including public benevolent institutions, health promotion charities, animal welfare, environmental, cultural and formal higher education charities. More than 20,000 charities are in this group. 	<ul style="list-style-type: none"> Charities that currently do not have DGR status, such as those focused on advocacy and prevention, a wider range of animal welfare charities and many charities run solely by volunteers. An estimated 10,000 to 20,000 charities could gain DGR status. 
charities not gaining DGR status	charities with DGR status withdrawn
<ul style="list-style-type: none"> Charities undertaking activities including advancing religion, advancing industry, as well as some aged care, childcare and education charities would remain outside the DGR system. About 15,000 to 20,000 charities are in this group. 	<ul style="list-style-type: none"> Mainly charities that have DGR status for school building funds or to provide religious education in government schools. Less than 5,000 charities are in this group. 

Under the Commission's proposed reforms, a charity undertaking a combination of excluded and non-excluded activities could still apply for DGR status, with a 'gift fund' used to ensure that tax-deductible donations are only directed toward non-excluded activities, as currently occurs. This would provide some flexibility for charities, whilst maintaining simplicity, with gift funds being an existing mechanism used by entities with DGR status. For example, charities (such as religious organisations) that undertake excluded activities (advancing religion) would still be eligible for DGR status for any non-excluded charitable activities they undertake (for example, advancing social and public welfare services) using gift fund arrangements.

The Commission is not proposing to extend DGR status to activities which are not regarded as charitable in Australia, such as community sport. However, consistent with this draft report's theme of refocusing taxpayer support toward activities with greater public benefits, a range of activities can be undertaken in furtherance or aid of a charitable purpose. This will remain the case under the proposed reforms – where sporting activities further another charitable purpose, such as advancing health, they may be eligible for support through the DGR system, as is currently the case.

These reforms, including the specific exclusions, will provide greater certainty and consistency for charities. They will also re-focus the system on activities that are likely to have a greater community-wide benefit.

Transition arrangements are needed, but the fiscal cost will be modest

Transition arrangements for implementing the proposed reforms to the DGR system are necessary, but the fiscal cost is likely to be modest. Implementing the proposed changes would require time and government resourcing. The Commission does not see a compelling case for grandfathering existing DGR endorsements as it would entrench complexity and inequitable treatment within the DGR system. However, there would be merit in having a transition period (for example, three to five years) for charities that would no longer have DGR status to adjust their fundraising activities.

While there is expected to be a significant increase in the number of charities that become eligible for DGR status under the proposed reforms, the effects on the overall level of giving are expected to be relatively modest, noting that this is difficult to predict with certainty. This is because charities with DGR status already receive about 80% of total giving to charities. The number of charities with DGR status would increase by between 5,000 and 15,000, but the charities entering the DGR system would be relatively small. Although small charities rely heavily on donations, most donations go to large charities. This means that even if donations to small charities with newly acquired DGR status increased substantially, this would likely only have a small effect on the total amount given to all charities.

In the medium term, the Commission estimated the net fiscal cost of the proposed reforms would be about \$70 million each year. However, there is substantial uncertainty about this estimate. It is based on indicative analysis and the Commission is not able to anticipate some behavioural responses, such as whether the reforms would increase the share of giving that is tax deductible. There would be some upfront costs as new charities enter the DGR system and the transitional arrangements for school building funds are completed.

If the Commission’s proposed approach to the DGR system is adopted, donors would have greater choice when supporting charities through the tax system and a broader range of charitable activities would receive government subsidised donations.

Regulatory arrangements that maintain donor confidence

Public trust and confidence in the charitable sector influence the likelihood a donor will give and how much they will give. There is a strong case for governments to regulate charities to maintain the trust and confidence of donors, taxpayers and the beneficiaries of the goods and services that are provided by charities. Donors (as well as regulators) are largely unable to observe whether charities use donations for their intended purposes. While most charities take their obligations to donors, the public and governments seriously and act within the law, well-designed regulation can give the community confidence that funds are being used for charitable purposes. It also assures charities that do comply with the law and regulatory requirements that the same is expected of their peers and is being monitored by effective regulators.

The analysis presented in this inquiry should not be interpreted as suggesting the Commission found or is concerned about widespread non-compliance in the charitable sector.

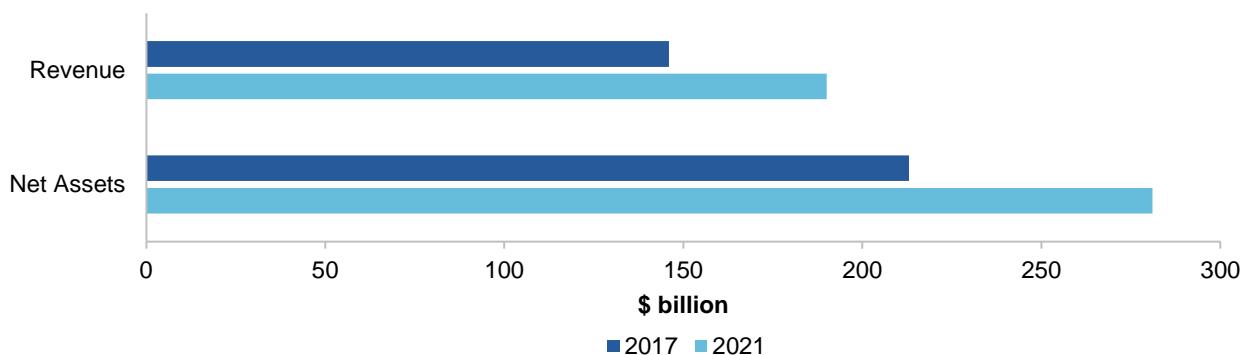
Charities are the stewards of a large pool of assets and receive billions of dollars in funding from governments and donors to support their work in the community. In 2021, charities received \$190 billion in revenue – largely from government grants and contracts, selling goods and services, and donations. The net assets of charities were \$281 billion in 2021, almost 32% larger than in 2017 (figure 7). If current trends continue, combined with the Australian Government’s commitment to double giving, it is likely that the revenue and assets held by the charitable sector will also grow.

In Australia, governments support the work of charities directly (through grants) and indirectly (through tax concessions). Under the Commission’s proposed reforms, there will also be a greater number of charities

with DGR status that will receive indirect government support through the tax system. The ways that people give are also changing, largely spurred by technological advances.

This makes effective and proportionate regulation of charities to protect donors and beneficiaries, and provide public accountability, essential. Regulation must also continue to meet community expectations as donor behaviour changes so that emerging risks are managed.

Figure 7 – Charity revenue and net assets are both growing



Reforms to the Australian Charities and Not-for-profits Commission

Charities are subject to oversight from multiple national, state and territory regulators, each with their own institutional arrangements, responsibilities, powers, priorities and resources. The Australian Charities and Not-for-profits Commission (ACNC) is the national charities regulator. However, regulatory oversight is not consolidated at the national level because the Australian Parliament does not have the constitutional power to generally legislate for charities or the full range of structures a charity can adopt.

Multiple regulators of charities across both levels of government creates inconsistencies, confusion and regulatory burden for donors and charities (box 5). For example, the ACNC must obtain legal advice from the Australian Government Solicitor confirming that a charity is a 'federally regulated entity' before it is able to exercise its enforcement powers to respond to actual or potential misconduct by a charity. This legal advice may require a nuanced assessment of financial information or activities undertaken by the charity and the ACNC lacks power to obtain necessary information from a charity to support that assessment.

One consequence of multiple regulators is that not all charities are subject to the same regulatory response in instances of misconduct, including the enforcement actions taken by a regulator. In addition, different regulators will have different priorities.

Legislation should give regulators a sufficient range of enforcement tools to adopt a graduated, risk-based approach to regulation. This means regulators can take proportionate action in response to instances of misconduct, and effectively and efficiently deter future instances of misconduct. However, constitutional constraints limit the full scope of the ACNC's enforcement powers to a small proportion of charities characterised as 'federally regulated entities' or that operate outside Australia. Overcoming constitutional constraints on the ACNC's ability to use regulatory and enforcement powers in relation to all charities, including their assets, would require legislative changes by Australian, state and territory governments.

Box 5 – The regulatory system for charities is complex

The structure of a charity, the jurisdiction(s) it is headquartered and otherwise operates in, the taxation arrangements which apply (such as access to tax concessions), and the nature and beneficiaries of its work determine which legislation and regulation applies to the charity, and which regulator(s) oversee its governance and conduct on behalf of the public. These examples illustrate some of the differences.

- A registered religious charity is structured as an incorporated association under New South Wales (NSW) law. It operates ‘opportunity shops’ in NSW and Queensland, and transfers its net profits to NSW charities that advance religion. It does not fundraise or have DGR status. It is regulated by NSW Fair Trading (legal structure), ACNC (charity registration), ATO (Australian Government tax concessions), and the Australian Securities and Investments Commission (to conduct business outside NSW).
- A registered charity is structured as an Indigenous corporation, it has DGR status, and fundraises and undertakes activities in Western Australia to advance Aboriginal culture. It is regulated by the Registrar of the Office of Indigenous Corporations (legal structure), ACNC (charity registration), ATO (Australian Government tax concessions and DGR status) and the Western Australian Department of Mines, Industry Regulation and Safety (fundraising).

A charity may want to change its structure and therefore the regulators it is accountable to if its purpose changes. For example, a charity established as an incorporated association may seek to restructure as a company limited by guarantee to help people and communities in multiple states (as incorporated associations are generally restricted to conducting business in the jurisdiction they were established in). This restructuring would involve a transfer of registration from a state- or territory-based regulator to the Australian Securities and Investments Commission.

Different regulators have different responses to the same conduct by charities. For example, a charity that makes false statements during a once-off fundraising appeal in South Australia could face a financial penalty under Victorian law. However, the charity would not face a similar penalty if it engaged in the same conduct in the Northern Territory, as the Northern Territory does not regulate fundraising activities. In both instances, the conduct may not meet the ‘in trade or commerce’ threshold requirements, such as repetitive fundraising activities, to attract the application of the Australian Consumer Law.

A referral of powers by state parliaments is likely to be the best approach to address the constitutional limitations of the ACNC that result in charities being treated differently for the same misconduct and to improve oversight of charity assets. However, there are significant implementation challenges and costs associated with referring powers from the states to the Australian Parliament. Variation across jurisdictions may still occur if some states decline to refer a matter to the Australian Parliament.

Given the complexities involved with progressing a referral of powers and the need for a high degree of evidence to prioritise such a course of action, the Commission proposed a number of other reforms which can build on the existing collaborative approach to charities regulation and can be achieved without a referral of powers. The draft recommendations propose a suite of changes to strengthen the ACNC’s information gathering and reporting powers, underpinned by the provision of test case funding and the introduction of a binding rulings scheme, that are proportionate to current and foreseeable risks. These draft recommendations include enabling the ACNC to:

- require a registered charity to provide information necessary to form an opinion on whether it is a ‘federally regulated entity’

- require a registered charity undergoing revocation of its ACNC registration to provide evidence that its assets have been transferred to another registered charity unless an exemption is granted. This would require co-operation between the ACNC, state and territory regulators, and Attorneys-General
- have standing so it can seek orders in the Supreme Courts of all jurisdictions, where necessary, to protect charitable assets.

Changes in giving motivations and practices, including the greater use of online platforms and peer-to-peer giving, means new risks may emerge. These changes, coupled with the large and increasing pool of funds managed by charities, means a referral of powers may need further consideration by governments, should it become apparent that the current sharing of responsibilities for charities regulation is not sufficient.

A sound regulatory framework will only promote trust and confidence in the charity sector if the ACNC exercises its powers when the need arises and the public has access to relevant information about its regulatory activities. The Commission notes that ACNC data suggests that it has been limited in its use of formal enforcement powers. Secrecy provisions have also limited the information it can make public on actual or potential non-compliance, and the steps taken by the ACNC and charities to address it.

The Commission was not asked to assess the effectiveness of the ACNC as a regulator and acknowledges there are several explanations for why the ACNC may not have used its formal enforcement powers more routinely. One explanation is that the ACNC focuses on educating and guiding charities to meet their obligations. It may also reflect the ACNC's evolution as a regulator. Since it was established in 2012, the ACNC has registered tens of thousands of charities, developed information collecting mechanisms and worked with other regulators to streamline reporting requirements. As the ACNC moves into its second decade of operation, it may have greater ability to assume a more assertive enforcement and compliance posture, where necessary, to support trust and confidence in the charitable sector.

The ACNC's ability to disclose information, including on the ACNC charity register, about the actions it has taken to address actual or potential misconduct by a charity is constrained by the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (ACNC Act). While all regulators need to maintain the trust of their regulated entities when handling sensitive information, there are circumstances where increased public disclosure of information by the ACNC would enhance transparency and accountability of charities and the public's knowledge of and confidence in the ACNC's regulatory activities. For example, the ACNC is unable to disclose details of voluntary compliance agreements to address concerns regarding a charity's compliance with ACNC obligations, such as governance and financial management requirements.

The ACNC should have the powers to:

- publish details of recommendations given to a charity to address actual or potential non-compliance with the ACNC Act or Australian Charities and Not-for-profits Commission Regulations 2022 (Cth)
- publish circumstances and reasons for referrals made to other Australian government agencies (including state and territory regulators), in instances where possible harm caused by the disclosure does not outweigh the public benefit of that disclosure.

The Commission is also proposing to remove the concept of a basic religious charity and associated exemptions, so that these charities are subject to the same ACNC governance and reporting requirements as other charities to enhance public transparency and accountability. As with other charities, reporting should be proportionate to the size of the charity (based on revenue). The majority of basic religious charities are small and like other small charities would be required to provide basic annual financial information to the ACNC without having it independently audited or reviewed. It would also mean if basic religious charities breach governance standards, the ACNC would be able to act.

The role, powers and functions of the ACNC would be expanded if these draft recommendations were adopted. The reforms the Commission is proposing to strengthen the ACNC are more likely to be successful if the ACNC is able – and resourced – to adopt a more assertive regulatory posture, while retaining its emphasis on supporting compliance through education and guidance.

The need for a more formalised regulatory architecture

Most charities act with integrity and seek to comply with their regulatory obligations. However, when there is misconduct, those adversely affected, including the public, expect proportionate action to be taken by regulators or law enforcement agencies against the people and/or organisation(s) responsible. The roles, responsibilities and interactions between relevant regulators should be clear so the public knows who to turn to if there is actual or alleged misconduct by a charity. Meeting these expectations are at the core of an effective regulatory framework and maintaining broader public and donor trust and confidence in the sector.

Currently, regulators in the charity sector regularly collaborate. For example, some regulators have memorandums of understanding in place to clarify the circumstances in which they will work together or share information. The Commission did not hear evidence that arrangements between regulators to deal with misconduct are inadequate and the current level of co-operation is encouraging. Rather, it is a question of whether those arrangements would be sufficiently robust in the event of major or systemic misconduct that requires clear lines of sight to protect public trust and confidence in the sector.

In the Commission's view, a more formal and comprehensive approach is needed to sharing information, and assessing and mitigating risk, given the complexity of the regulatory system and the limits of the ACNC's enforcement powers. Establishing a National Charity Regulators Forum (Forum) would build the necessary regulatory architecture so relevant regulators can easily collaborate to help prevent and manage regulatory issues, and coordinate their response in the event of large-scale misconduct. There are examples of other regulatory forums, such as the Council of Financial Regulators, that would serve as a useful model.

The terms of reference and governance arrangements for the Forum should be set out in an intergovernmental agreement. The intergovernmental agreement should set out how regulators plan to work together to maintain trust and confidence in the charity sector by outlining:

- how joint compliance actions would be undertaken, including how charity assets would be protected
- how to improve information sharing
- the process for the ACNC to exercise standing in each jurisdiction's Supreme Court
- how any current or emerging regulatory risks would be identified and managed.

The Forum could also be leveraged to manage and deliver outcomes for the fundraising reforms underway, given many regulators work across both charity governance and fundraising.

Minimising unnecessary regulatory barriers to volunteering

Volunteering is widespread in Australia. In 2022, about one in four people (about 6 million people) volunteered for an organisation (formal volunteering). However, over the past decade or so, there has been a decline in the formal volunteering rate. The volunteering rate for people was a historical high in 2010 at 36% and since then it has fallen to 25% in 2020, with a sharp decline coinciding with the COVID-19 pandemic.

Volunteers are essential to the operations of Australian charities. Volunteers may be subject to a range of background checks to determine whether they pose a risk to the people they work with. The benefits of volunteering checks are well established. For example, the Royal Commission into Institutional Responses to Child Sexual Abuse made clear the case for working with children checks. Background checks protect beneficiaries, including people who may be at-risk or vulnerable, against those who may cause them harm.

Inquiry participants expressed concern about unnecessary duplication – between different types of volunteer checks and between jurisdictions – and the costs this creates for volunteers and charities. For example, Volunteering WA (sub. 64, p. 6) submitted that ‘volunteer screening is the most frequently cited barrier and administrative burden on the sector’.

Some work is underway to implement national standards for working with children checks. This aims to establish nationally consistent parameters for the screening of persons who propose to engage in child-related work. However, this work is limited to one type of check and does not consider the implications of government policies affecting volunteer participation more broadly.

The Government is also implementing a National Strategy for Volunteering through until 2025 to address the increasing demand for volunteers and create a rewarding experience for volunteers. The Government also facilitates volunteering in a range of other ways, such as through the Aged Care Volunteer Visitors Scheme which, for over 30 years, has supported volunteers to provide friendship and companionship to older people to help them to develop social connections and reduce social isolation.

The Commission is proposing that Australian, state, territory and local governments more actively consider how changes to policies and programs would affect volunteers. Governments should, for example, consider from the outset how major reforms (such as the NDIS) may affect the demand for – and supply of – volunteers (like in the disability sector), and what steps could be taken to facilitate or ‘crowd in’ volunteer contributions, rather than crowding them out.

Structured giving vehicles could be enhanced

Just as people’s motivations for giving vary, *how* people give also reflects their personal preferences and circumstances. Some people adopt a longer-term approach to giving by using structures that allow them to commit to giving in the future, either as a once-off gift (such as a charitable bequest) or through regular distributions (including through structures such as ancillary funds).

The benefits of ancillary funds to the community could be bolstered

Government policy encouraging the formation of private ancillary funds has coincided with a noticeable increase in individual giving. Ancillary funds are trusts established for the purpose of providing money, property or benefits to eligible entities with DGR status, where donors receive a tax deduction for donations into the fund (box 6). Many family, community and corporate foundations use ancillary fund structures to facilitate their giving.

Giving into private and public ancillary funds has grown both in value (from \$692 million in 2011-12 to \$2.4 billion in 2020-21) and as a share of giving by individuals (donations to private ancillary funds have grown from 15% to 27% of individual giving). As a result, ancillary funds have accumulated a pool of net assets that has grown from \$4.6 billion in 2011-12 to \$16.4 billion in 2020-21.

By design, ancillary funds can create a timing gap between the initial act of a person or family donating into the fund, and the point or points in time when money is distributed from the fund to eligible entities with DGR status. This means there can also be a gap between the revenue cost from income tax deductions for the donations, and the flow of benefits to the community.

This upfront revenue cost will be offset by larger amounts of distributions flowing to the community (figure 8). The point in time that this happens depends on many factors, including:

- how much and how frequently people give into a fund
- the earnings of the fund and administration costs
- the preferences of donors providing, and charities receiving, funds now or later (the discount rate).

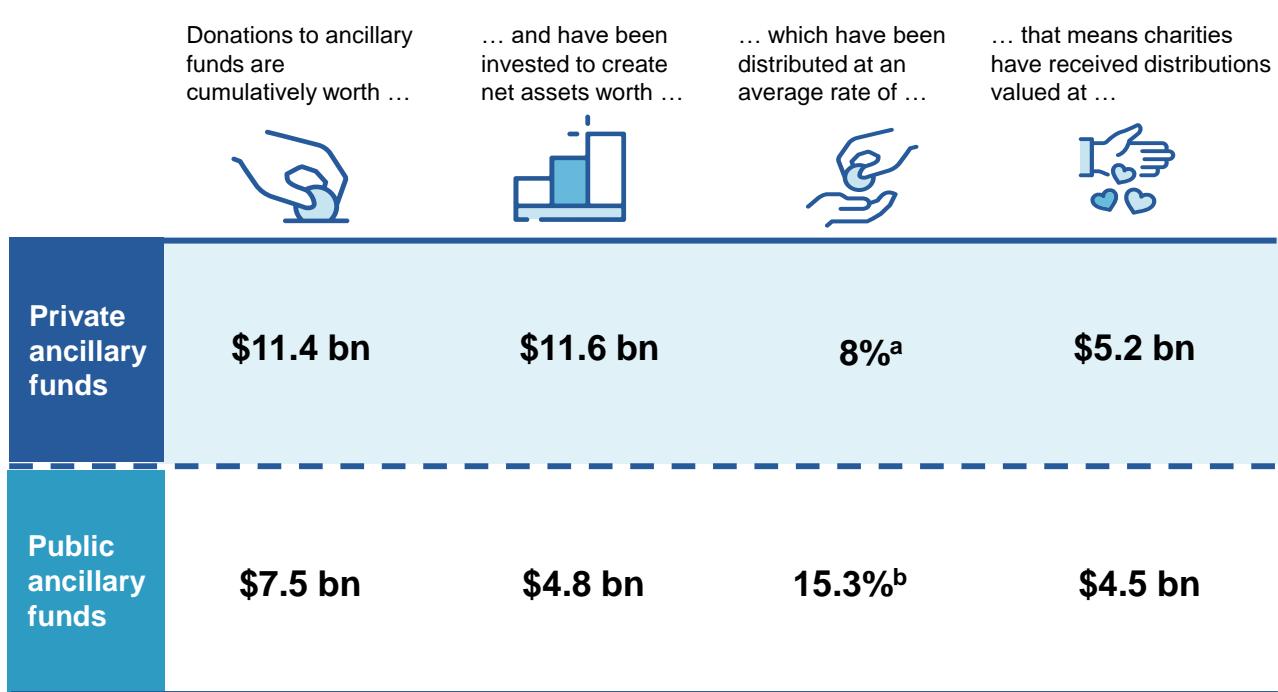
Box 6 – What are public and private ancillary funds?

Private ancillary funds are trusts established for private philanthropic giving and are largely used by family groups or businesses.

Public ancillary funds are trusts that collect donations from the public and are typically used by community and corporate foundations, wealth management providers, and as fundraising vehicles. A ‘sub-fund’ in a public ancillary fund can be used instead of a private ancillary fund.

There are exceptions for the first years of operation, but in general, public ancillary funds must distribute the greater of 4% of net assets or \$8,800 each year and private ancillary funds must distribute the greater of 5% of net assets or \$11,000 each year.

Figure 8 – Pathway of ancillary fund donations reaching beneficiaries



a. Private ancillary funds is cumulative total from 2000-01 to 2020-21. The distribution rate is the average rate for 2011-12 to 2020-21. **b.** Public ancillary funds is cumulative total from 2011-12 to 2020-21 due to data availability.

The Australian Government can influence how rapidly money is distributed from ancillary funds to the community through the minimum distribution rate. Applying some basic assumptions, if the distribution rate for private ancillary funds increased from 5% to 6%, about an extra \$60 million would be expected to flow to the community each year. For public ancillary funds, if the distribution rate increased from 4% to 5%, an extra \$5–\$15 million would be expected to flow to the community each year.

The Commission is considering whether the distribution rate for private ancillary funds is appropriate. It welcomes evidence on the benefits and costs of changes to the distribution rate, including whether this would result in people:

- deciding not to give, or not giving as much

-
- deciding to give directly to charities instead of using an ancillary fund
 - using a charitable trust or setting up a charity instead of an ancillary fund as a giving vehicle
 - using another tax effective structure.

The Commission is also proposing greater flexibility around ancillary fund distribution rates, by smoothing the distribution rate over a period of up to three years, subject to some conditions that would ensure donors cannot be better off.

No case to change taxation of superannuation charitable bequests

The decision to leave a bequest is a highly personal one, involving many sensitivities. When deciding whether to leave a charitable bequest, people are heavily influenced by their sense of family obligation and their attitudes, beliefs and social norms toward inheritance and supporting surviving family. For example, a person with a surviving spouse or child is less likely to make a charitable bequest, and if they do, it is likely to be a smaller amount compared to those without surviving dependants.

It is possible to provide a bequest from superannuation to a charity, but the arrangements are relatively complex. The restrictions on who can receive benefits from superannuation after someone has passed away means that if someone wishes to leave excess superannuation to a charity directly (their superannuation death benefit), they must complete a binding death nomination directing funds to be distributed to their estate. They must then specify in their will the amount or percentage of their estate to be donated to charity.

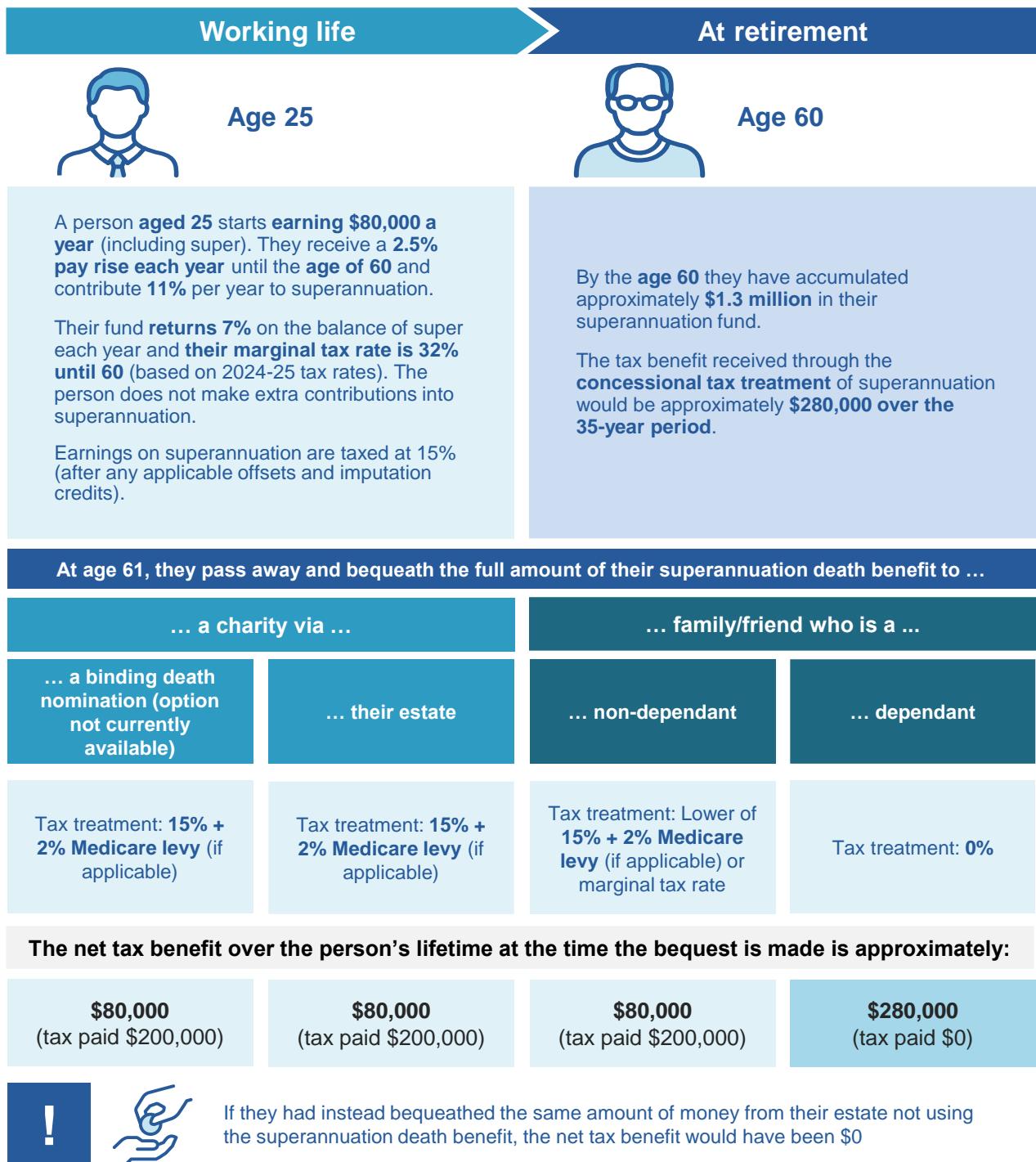
The Commission is seeking information from donors, charities and superannuation funds on options to allow people to nominate excess superannuation to a charity directly, rather than via their estate.

The tax treatment of money as it exits the superannuation system depends on a range of factors, including whether the recipient is a dependant under tax law. Bequests of excess superannuation to charities are generally taxed at 15% (plus the 2% Medicare levy, if applicable). This is the same as the tax treatment of excess superannuation at death that is distributed to people who are not dependants, such as an independent adult child.

Some submissions argued that removing the tax on excess superannuation donated to charities after death would increase the amount given to charities and support the Government's goal of doubling philanthropy.

The Superannuation (Objective) Bill 2023 (Cth) defines the objective of superannuation as 'to preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way'. Money placed in superannuation receives a significant net tax benefit over its life cycle – that is, the amount of tax someone would have paid in the absence of receiving a tax concession through the superannuation system (figure 9).

Figure 9 – Taxation of charitable bequests from excess superannuation



The case for greater tax concessions for bequests from excess superannuation has not been made. The current taxation arrangements for superannuation treat a donation to a charity in the same way as a payment to any other non-dependant beneficiary. Superannuation is concessionally taxed throughout its life cycle, so adding further concessions at the time of death may be a relatively costly way (in terms of any increase in giving per dollar of revenue forgone) for the Australian Government to incentivise giving.

Supporting donor choice and public accountability

There are 60,000 registered charities in Australia and tens of thousands more charities internationally. It can be difficult for donors to navigate which charities align with their preferences and motivations to give. Charities have strong incentives to publish information that could attract donations or volunteers, or promote the sector, but may be less likely to publish information that does not benefit them directly.

This means that governments also have a role to provide the public with reliable information based on data they collect from charities to achieve their policy and regulatory goals. This can inform a person's decision about whether and how to give, as well as promote trust and confidence in the charitable sector.

Information provided by charities and the government is an important part of the exchanges that take place in the charitable sector. There are instances where government information on charities and giving should be enhanced so it is better tailored to promote informed donor decisions and public accountability. However, this does not imply that more information would necessarily lead to more giving. More information may help donors make choices that are more aligned with their preferences, but a person's capacity to give is influenced by many other factors including income, cultural background and life experiences.

Improving information that is available to donors and the public

The ACNC and the ATO should create more value from the data they collect about charities for donors and the public.

Participants had two broad concerns about government information on charities, which is largely published by the ACNC and the ATO (figure 10). First, governments provide insufficient information to assess and compare the effectiveness of charities and inadequate public disclosure of information about charities' activities (particularly distributions by ancillary funds). Second, some participants commented that public accountability of charities should be improved. This includes reducing inconsistencies in information reported to the ACNC by charities and improving the accessibility of public data. About one in five people were aware of the ACNC charity register in 2017.

The Commission is proposing that the ACNC and the ATO enhance government sources of information on charities and giving for donors and the public by:

- collecting and presenting data in ways that are more meaningful and accessible to the public (such as providing more aggregate information about sub-funds within public ancillary funds, and differentiating between bequests and other types of donations to charities in the ACNC annual information statement)
- raising public awareness of the ACNC charity register.

This provides an indication of the ways in which the Australian Government should create more value from the data it collects from and publishes about charities, but it is not intended to be an exhaustive list.

A possible impediment to the ACNC being responsive to the perspectives of donors and the public could be real or perceived limits on its legislative responsibilities and mandate. While the purpose of the regulatory system is to help the public understand the work of charities, perspectives of donors appear less evident in the ACNC objectives, consultation processes and regulatory performance measures, compared to the perspectives of registered charities. For example, the composition of ACNC stakeholder groups and expert panels, appears on its face to be largely drawn from regulated entities or people who advise them.

Figure 10 – Limitations of Government provision of public information on charities

Lack relevance to giving decisions		Inadequate public disclosure	
<ul style="list-style-type: none"> Overemphasis on financial information Insufficient information on charity effectiveness 		<ul style="list-style-type: none"> Data on distributions by ancillary funds lack sufficient detail of benefits to community Secrecy provisions that prevent the public being informed about actions against charities Unjustified reporting exemptions (basic religious charities) 	
Lack reporting consistency		Lack of data accessibility	
<ul style="list-style-type: none"> Inconsistencies in how charities report information and what they report (such as financial information) 		<ul style="list-style-type: none"> Databases that are difficult to navigate Low awareness of information Difficulties extracting data 	

Engagement processes that capture the views of donors and the public are a key enabler to improve the charity register and other government sources of information (figure 11). The Commission is proposing that the ACNC embed donor and public views in its regulatory approach and that the charity register should collect and present information with the needs of donors and the public more clearly in mind. This should be shaped by research on the information donors and the public would find valuable and evaluation of future changes to the charity register should inform its content and presentation. The ACNC should also include more perspectives from donors and volunteers when:

- forming consultative or expert committees
- making decisions about whether to withhold or remove information from the charity register.

Figure 11 – Ways to improve the ACNC charity register

There appears to be limited understanding of:		
which cohorts of donors do and do not access the charity register	why people do and do not access the register	how the information on the register could be made easier to access

Although there is scope to enhance public information sources, such as the charity register, mandating standardised measures or metrics of charity effectiveness across all charities would be impractical, could lead to unintended consequences and may not increase giving. While there is evidence that some people do not give because they lack information necessary to verify whether a charity is effective, it is unclear whether the proportion of people who do not give for this reason is sufficiently significant to warrant such a change, particularly when other organisations outside of government can publish assessments of charity effectiveness.

Enhancing public data on giving and volunteering

Total giving in Australia is worth billions of dollars each year. Despite this, there is little detailed public information on giving aside from tax-deductible donations by individuals. For example, it is uncertain how

much charities receive each year from corporate donations or donations that are not tax deductible (including bequests). Until 2019, official data on volunteering only captured whether people formally volunteered with an organisation (and excluded informal volunteering). The Australian Bureau of Statistics (ABS) should improve the usefulness of its data collections by amending the Census to include or improve questions on informal and formal volunteering.

Good information plays an important role in developing and evaluating government policies to incentivise giving and volunteering. Better public information about different forms of giving could also help increase giving by making it more visible and establishing social norms around giving. But it needs to be balanced against costs and other practical limits to collecting further information on giving.

Increasing the transparency of corporate giving

Corporate giving in Australia is significant. An Australian study estimated that corporate giving – in the form of donations, non-commercial sponsorships and partnerships – was \$17.5 billion dollars in 2015-16, with donations alone worth \$6.2 billion. However, the precise value and make up of corporate giving is highly uncertain because many businesses report giving as an expense and do not separately report it to the ATO.

There is scope to increase the transparency of – and improve accountability for – corporate giving.

First, the Australian Government should require listed companies to publicly report itemised information on their donations of money, goods and time to entities that have DGR status using a consistent approach and methodology. This would increase the accountability of boards and management of large companies to their shareholders, consumers, employees and the broader public.

Second, the ATO should require listed companies to report charitable donations of money and assets as a distinct line item in their company tax return. The change would enable the ATO to regularly publish aggregated data on corporate giving and enhance the information available to researchers. This would inform policy and regulatory work on corporate giving.

Better measuring the contribution of volunteering to the community

Over the past decade the ABS – in consultation with other government agencies and Volunteering Australia – has sought to improve how it collects and reports on volunteering data, recognising the evolving and broadening understanding of the role volunteering plays in the community. Participants to this inquiry, and in earlier consultations undertaken by the ABS, identified several opportunities to further enhance how governments measure volunteering in Australia which have not been implemented.

The ABS should improve the usefulness of public information sources on volunteering by gathering data on informal volunteering and time spent in formal and informal volunteering in the Census. Collecting informal volunteering data could provide a more nuanced understanding of volunteering in Aboriginal and Torres Strait Islander communities, culturally and linguistically diverse communities, and the country as a whole. Collecting data on the frequency of (formal and informal) volunteering will help inform policies that aim to increase volunteering and recognise the contribution it makes to the community.

The ABS should also develop methodologies to reduce underreporting of volunteering by Aboriginal and Torres Strait Islander communities and culturally and linguistically diverse communities in instances where volunteering has different cultural meanings, in consultation with these communities.

Assessing mechanisms that could complement tax incentives

The Commission assessed a range of complementary measures for increasing people's participation in giving, recognising that tax deductions for donations do not encourage all types of givers or all types of giving (figure 12). Addressing these barriers will often entail the government working with the charitable sector and professional organisations to develop solutions. In some cases, the sector and professional organisations should play a leading role rather than government.

Figure 12 – Governments can encourage giving using more than tax incentives

The aims of policies to encourage giving can extend beyond increasing total dollars given				
				
Increase the number of people who give	Encourage certain types of giving (money or time)		Increase the total amount donated	Encourage giving among certain groups
Other types of policy measures could complement income tax deductions to achieve these aims				
 Persuasive policies to encourage giving	 Policies that make giving easier	 Measures to provide access to quality advice on giving	 Measures to help charities access philanthropy	
Encourage giving by appealing to people's sense of community and social responsibility	Reduce transaction time and cost of making donations	Public resources and regulations to improve the quality and accessibility of advice	Resources to help charities overcome barriers to accessing philanthropy	
These policies measures can take several forms				
				<ul style="list-style-type: none"> • Mass public campaigns on giving • Campaigns targeting specific types of giving or donors • Matching platforms for volunteers • Avoiding regulatory burden on volunteers • Education resources • Mandatory training • Accreditation • Staff/volunteer training • Funding for capacity building

Several participants to this inquiry argued for the government to invest in public information campaigns for giving. A public campaign, supported by government, could help broaden participation in giving, but there is insufficient evidence to conclude that it would be effective or that it would produce net benefits for the Australian community in the context of support that is already provided. The Commission did not recommend that governments undertake such a campaign. More evidence is needed, including through rigorous evaluations from Australia or overseas to demonstrate whether a government-funded campaign would be effective at increasing giving and would produce net benefits for the community.

Notwithstanding this lack of evidence, should such a campaign be undertaken, governments could maximise the chances of success (and learning opportunities) by ensuring any public campaigns that involve government funding (whether it be a campaign run by a government agency or public funding of a sector-led campaign) adhere to basic principles of program design, evaluation and transparency.

During consultations, several participants raised concerns about the availability of quality professional advice on giving. The Commission is seeking further information on whether the inability to access good-quality professional advice on philanthropy is preventing some people from identifying giving opportunities or making decisions that align with their preferences.

Practical reforms to support philanthropy

This is the first government-commissioned review that examines all aspects of philanthropy in Australia. The Commission's analysis takes the perspective of collectively improving outcomes for donors, charities, taxpayers, people who receive goods and services from charities, and the community as a whole.

The Commission's draft recommendations are designed to provide a package of practical reforms to improve the policy settings that govern, support and incentivise philanthropy.

If the Commission's proposed approach to the DGR system is adopted, donors would have greater choice when supporting charities through the tax system. This means access to relevant, trustworthy information – so that people can make donations that align with their preferences and motivations – will become more important. It is also incumbent on governments and the charitable sector to support donors' trust and confidence in the sector as these changes occur.

The regulatory burden for volunteers should be eased and data on volunteering published by the ABS should be improved to provide a more nuanced understanding of formal and informal volunteering, particularly in Aboriginal and Torres Strait Islander communities and culturally and linguistically diverse communities.

More charities would have access to tax-deductible donations, including smaller charities. This would also include many charities that are dependent on volunteers and have few or no paid staff. The Commission's draft recommendations are designed to improve the regulatory environment for charities to provide greater certainty and reduce any unnecessary regulatory burden. While most charities act with integrity and within the law, increased access to tax-deductible donations creates a greater need for charities and regulators to keep the maintenance of trust and confidence front of mind.

If adopted, this suite of draft recommendations would establish firm foundations for the future of philanthropy, increase the wellbeing of the Australian community and support the Australian Government's commitment to double giving by 2030.

Draft recommendations and findings

Chapter 3: Philanthropy in Australia



Draft finding 3.1

Rising income and wealth are the major reasons behind rising tax-deductible donations

Tax-deductible donations by individuals made directly to charities have increased in value, but fewer people are making such donations. From 2000-01 to 2020-21, tax-deductible donations tripled (in real terms) despite the number of taxpayers increasing by only 38%. The available evidence indicates that this coincided with individuals' financial capacity to donate increasing.

The Australian Government also made policy changes that provided additional or more flexible financial incentives to give, which likely also played a role in increasing giving. Giving into private and public ancillary funds has grown in value (from \$692 million in 2011-12 to \$2.4 billion in 2020-21). The relative importance of private ancillary funds has also grown from 15% to 27% of individual giving.



Draft finding 3.2

Volunteering is widespread in Australia, but the formal volunteering rate has declined

In 2022, about one in four people in Australia (about 6 million people) volunteered for an organisation. Nearly twice as many people volunteered informally.

However, the formal volunteering rate fell from 36% in 2010 to 25% in 2020. Data indicates that by 2022, the volunteering rate had recovered slightly following the COVID-19 pandemic.

These figures likely underestimate total volunteering given official data sources use language and definitions that may result in underreporting of such giving because of different cultural meanings of volunteering.



Draft finding 3.3

People give or do not give for a range of personal reasons

People give for a range of complex and multifaceted reasons that can change over time. Specific events can also prompt people to give. Conclusions can be drawn from patterns of giving behaviour.

- People affected by natural disasters are likely to donate more to help others in their own community.
- Some people with high net worth use giving vehicles to connect with family through giving, leave a legacy or teach skills to the next generation.
- Many businesses use high-visibility giving, including pro bono work, to bolster their corporate reputation, and attract and retain employees and customers.

People choose not to give for a variety of reasons. A lack of financial resources is one of the main reasons people do not donate money and common reasons people do not volunteer are work and family commitments. A lack of trust in how charities will use donations and financial constraints on volunteering are also common reasons people choose not to give.

Chapter 4: How governments can incentivise giving



Information request 4.1

Data on giving that is not tax deductible

While there are estimates of the proportion of people who have given, but do not claim an income tax deduction, more complete and recent data would inform the Commission's final recommendations on policy options that seek to improve incentives to give. The Commission is seeking information, such as survey or other data, about instances where people make donations, but do not claim a tax deduction for reasons including they:

- do not have taxable income
- choose not to claim the deduction
- donate to entities that do not have deductible gift recipient status and therefore the donations are not eligible for a tax deduction.

The Commission is also seeking information on the reasons why people choose not to claim a tax deduction for giving if they *do* have taxable income and the donations are eligible for a tax deduction.



Draft finding 4.1

People respond to incentives, with those on a higher income more likely to give

Preliminary modelling undertaken by the Commission indicates that people give more than they otherwise would because of the personal income tax deduction for donating to entities with deductible gift recipient status. The modelling draws on Australian taxpayer panel data and is the first time panel data has been used in Australia to estimate how people respond to personal income tax deductions for donations.

The Commission estimated the price elasticity of giving – which is how people change their giving behaviour in response to changes in tax incentives for giving – and the income elasticity of giving, which is how people change giving behaviours in response to changes in their own income.

The Commission's preliminary estimates for:

- price elasticity of giving in Australia ranges from -0.87 to -0.92, meaning a 1% increase in the tax deduction for giving is associated with a 0.87% to 0.92% increase in giving
- the income elasticity of giving in Australia ranges from 0.555 to 0.564, meaning a 1% increase in income is associated with a 0.555% to 0.564% increase in giving.

However, these estimates are only one factor to consider when evaluating the effectiveness of tax incentives to give.

The share of taxpayers claiming a deduction for giving increases with income. Most of the tax benefits from giving that accrue to people in the lowest taxable income decile go to people who had high incomes before claiming any tax deductions.

The Commission will present final estimates, using different modelling approaches, of the price elasticity of giving and the income elasticity of giving in the final report.



Draft recommendation 4.1

Remove the \$2 threshold for tax-deductible donations

The Australian Government should amend the *Income Tax Assessment Act 1997* (Cth) to remove the \$2 threshold for tax-deductible donations to entities with deductible gift recipient status.



Information request 4.2 Government policies to support giving

The Commission is seeking feedback on the advantages and disadvantages of using alternative government policies to support giving, including a tax credit and matched giving, as opposed to a tax deduction.

- How would donors likely change their giving behaviour under different types of tax incentives, such as a tax credit, and what would drive those changes?
- What would be the effect on charities of moving to a tax credit if more people were likely to give smaller amounts, but the overall amount of giving decreases?
- If it were to be adopted, how should a tax credit be designed?
- What would be the effect on donations of moving to a matched giving scheme, like Gift Aid, given it does not provide a direct personal benefit to encourage all taxpayers to give?
- Would such a matched giving scheme be an improvement compared to a tax deduction and, if so, how should it be designed?



Draft finding 4.2 A personal income tax deduction is likely to be an effective way to encourage giving

Tax incentives can be designed to target the total amount donated, increase the number of people participating in giving or to encourage particular types of giving, such as money, physical assets or time. The current design of the personal income tax deduction is likely to be the most cost-effective way for the Australian Government to encourage giving.

A flat tax credit would likely incentivise more people to give, but the total amount given overall would likely fall if people who have a high income faced a higher price of giving than they currently do. Adjustments to a tax credit to account for the likely fall in overall giving, including a hybrid approach – a tax deduction for some income cohorts and a tax credit for others – would add complexity and the effect on total donations would be uncertain.

Whether a tax deduction or tax credit would encourage more people to volunteer is highly uncertain, but they would likely increase tax integrity risks and compliance costs given volunteer work and expenses are often undocumented or informal. Government grants to support volunteering where there is a clearly identified need would likely generate greater net benefits to the community than tax incentives for volunteering, if properly targeted and evaluated.

Chapter 5: An assessment of the deductible gift recipient system



Draft finding 5.1

The deductible gift recipient (DGR) system is poorly designed, overly complex and has no coherent policy rationale

The DGR system is not fit-for-purpose as a mechanism for determining which entities should be eligible to receive indirect government support through tax-deductible donations. There is no coherent policy rationale for why certain entities are eligible for DGR status and others miss out. The complexity of the system continues to increase as new DGR endorsement categories are added in a piecemeal manner.

The DGR system creates inefficient, inconsistent and unfair outcomes for donors, charities and the community. It needs reform.

Chapter 6: Reforming the deductible gift recipient system



Draft recommendation 6.1

A simpler, refocused deductible gift recipient (DGR) system that creates fairer and more consistent outcomes for donors, charities and the community

The Australian Government should amend the *Income Tax Assessment Act 1997* (Cth) to reform the DGR system to focus it on activities with greater community-wide benefits. The scope of the reformed system should be based on the following principles.

- There is a rationale for Australian Government support because the activity has net community-wide benefits and would otherwise be undersupplied.
- There are net benefits from providing Australian Government support for the activity through subsidising philanthropy.
- There is unlikely to be a close nexus between donors and beneficiaries, such as the material risk of substitution between fees and donations.

In applying these principles, the Australian Government should:

- extend eligibility for DGR status to most classes of charitable activities, drawing on the charity subtype classification in the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) to classify which charitable activities are eligible for DGR status and which are not
- expressly exclude the following classes of charitable activities or subtypes:
 - primary, secondary, religious and other informal education activities, with an exception for activities that have a specific equity objective (such as activities undertaken by a public benevolent institution)
 - the activities of childcare and aged care in the social welfare subtype (other than activities undertaken by a public benevolent institution)
 - all activities in the subtype of advancing religion

Draft recommendation 6.1

A simpler, refocused deductible gift recipient (DGR) system that creates fairer and more consistent outcomes for donors, charities and the community

- activities in the other analogous purposes subtype that are for the purpose of promoting industry or a purpose analogous to an exclusion in another subtype
- activities in the law subtype that further another excluded subtype
- only grant DGR status to government entities where they are analogous to a charity and undertake activities that would be eligible for DGR status if undertaken by a charity
- continue to limit the scope of the DGR system to registered charities and equivalent government entities
- only use the specific listing mechanism in exceptional circumstances. When it is used, the Australian Government should increase transparency about applications, how these are assessed, and the decision-making process to maintain confidence in the broader DGR system.



Information request 6.1

Improving the specific listing mechanism

The Commission expects that, under its proposed reforms of the deductible gift recipient system, specific listing would be used only in exceptional circumstances, but welcomes further feedback on:

- what role it should play, if any
- how applications should be assessed
- how transparency could be improved, including what further information should be published about the entities that apply for specific listing, how applications are assessed and decision-making processes about why or why not an application is approved
- whether specific listing should be done through regulation rather than legislation.



Information request 6.2

Reporting obligations for entities that have deductible gift recipient (DGR) status

The Commission invites feedback on the costs and benefits of changing reporting obligations for entities that receive donations through the DGR system.

- Is there a case to require charities to provide information that disaggregates donations received for activities that are eligible for DGR status and activities that are excluded?
- How large would the compliance costs of this reporting requirement be? How would it vary between different sized charities?
- What reporting, if any, should be required of government entities with DGR status? How should this be enacted and administered?
- How would these additional reporting obligations improve the integrity of the DGR system or inform policy settings?
- Are there any other areas where the benefits of additional reporting would outweigh the costs?



Draft recommendation 6.2

Supporting reforms to improve the deductible gift recipient (DGR) system

To facilitate the implementation of reforms to the DGR system, and provide greater clarity to both charities and the Australian Charities and Not-for-profits Commission (ACNC), the Australian Government should:

- amend the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) to require the ACNC to register all new and existing charities with all applicable charitable subtypes. This should include any necessary amendments to enable the ACNC to compel the provision of necessary information to assess eligibility for subtype registration where that registration has not been applied for by an entity. Charities should continue to be able to seek review of subtype registration decisions through the Administrative Appeals Tribunal or its successor
- develop a legislated definition of what constitutes a public benevolent institution to delineate its scope more clearly.



Information request 6.3

Transition arrangements for reforming the deductible gift recipient (DGR) system

The Commission's proposed reforms seek to simplify the DGR system and help donors direct support to where there is likely to be the greatest net benefits to the community as a whole, but there would be transition costs. The Commission invites feedback on transition arrangements to minimise the costs of reforming the DGR system.

- The Commission is considering how long the transition period should be for the proposed arrangements to come into force. What are the pros and cons of a transition period for activities where existing eligibility for DGR status is withdrawn? How long should the transition period be?
- Is there a case for other transition arrangements, such as grandfathering, or a gradual reduction of tax deductibility that would provide a glide path from current arrangements to the new arrangements? If so, in what circumstances and how would the complexities of two different DGR systems be managed?
- Are there likely to be any consequences for the operation of ancillary funds that should be considered in implementing the proposed reforms?
- Are there any other factors that should be considered in designing and implementing transition arrangements?



Information request 6.4

How expanded access to deductible gift recipient (DGR) status would change giving

The Commission is seeking information, including survey and data information, on how people would change their giving behaviour if DGR status is expanded to most charitable activities (subject to the exclusions described in draft recommendation 6.1).

- Would the expansion in the scope of the DGR system likely result in additional giving overall? If so, by how much?
- Would donors give less to entities with existing DGR status and more to those that gain DGR status under the proposed reforms? If so, by how much?

Chapter 7: A sound regulatory framework



Draft recommendation 7.1

A more transparent and consistent approach to regulating basic religious charities

The Australian Government should amend the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) to remove the concept of 'basic religious charity' and associated exemptions, so all charities registered with the Australian Charities and Not-for-profits Commission have the same governance obligations and reporting requirements proportionate to their size.



Draft recommendation 7.2

A suite of reforms to strengthen the Australian Charities and Not-for-profits Commission

The Australian Government should:

- amend the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (the Act) to enable the Commissioner of the Australian Charities and Not-for-profits Commission (ACNC) to require a registered charity to provide the information necessary to assess whether the charity is likely to be a 'federally regulated entity'
- amend the Act to enable the Commissioner of the ACNC to require a registered charity undergoing revocation of its ACNC charity registration to provide evidence that its assets have been transferred to another registered charity unless an exemption is granted. This will require co-operation between the ACNC, state and territory regulators, and Attorneys-General, which should be outlined in the intergovernmental agreement as set out in draft recommendation 7.4
- work with state and territory governments to ensure the Commissioner of the ACNC has the necessary enforcement powers to fulfil their role within the regulatory framework for charities. This should include implementing or reforming laws, where necessary, to confirm that the Commissioner of the ACNC has standing to make applications in a state or territory Supreme Court for orders regarding the administration of charities, including the protection of assets held in trust for charitable purposes, regardless of a charity's structure.



Draft recommendation 7.2

A suite of reforms to strengthen the Australian Charities and Not-for-profits Commission

To improve transparency for donors, the Australian Government should amend the Act to enable the Commissioner of the ACNC to:

- publish details of recommendations given to a charity to address actual or potential non-compliance with the Act or the Australian Charities and Not-for-profits Commission Regulations 2022 (Cth)
- publish circumstances and reasons for referrals made to other Australian government agencies (including state and territory regulators) under section 150-40 of the Act, in instances where harm caused by the disclosure does not outweigh the public benefit of that disclosure.



Information request 7.1

Building a stronger regulatory framework

The Commission is seeking information on options that would support implementation of draft recommendation 7.2.

- What changes would be needed to enable the Australian Charities and Not-for-profits Commission (ACNC) to direct a registered charity undergoing revocation of its ACNC registration to transfer surplus assets to another registered charity, without impinging or duplicating the powers available to state and territory regulators? For example, should it be done through an administrative power or by specifying co-operation in the intergovernmental agreement (draft recommendation 7.4)?
- Whether providing the ACNC standing in each jurisdiction's Supreme Court should be in relation to charitable trusts only or other charity structures and, if so, what legislative changes would be necessary to give effect to this?

The Commission is also seeking further information about options for ensuring that the assets of dormant charities are directed toward benefiting the public, including what test may be appropriate for determining whether a charity is 'dormant' and what steps could be taken in response.



Draft recommendation 7.3

Increasing certainty about Australian Charities and Not-for-profits Commission regulation

The Australian Government should:

- provide test case funding for the Australian Charities and Not-for-profits Commission (ACNC) to distribute to charities for the purpose of developing the law in matters of public interest
- amend the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) to introduce a binding rulings scheme for the ACNC, modelled on Part 5-5 of Schedule 1 of the *Taxation Administration Act 1953* (Cth), to support certainty in regulatory outcomes.



Draft recommendation 7.4

Regulatory architecture to improve coordination and information sharing among regulators

The Australian Government should:

- establish a permanent National Charity Regulators Forum comprised of Australian, state and territory regulators
- develop and agree to an intergovernmental agreement to, among other things:
 - give effect to the National Charity Regulators Forum and determine its terms of reference, how the chair is selected and the corresponding secretariat support, frequency of meetings, and any other operational matters
 - clarify roles, responsibilities and information sharing arrangements between the Australian Charities and Not-for-profits Commission (ACNC) and relevant state and territory regulators, and Attorneys-General, through the development of memorandums of understanding, including in relation to joint compliance approaches, appointments of a lead regulator and processes to protect charity assets
 - set out the circumstances and process for the Commissioner of the ACNC to exercise standing in each jurisdiction's Supreme Court, in relation to seeking orders regarding the administration of charities and the protection of charitable assets (draft recommendation 7.2)
 - identify any regulatory risks in the sector and collaborative approaches for managing, mitigating and responding to these risks, including the development of legislative or policy responses where needed.



Draft recommendation 7.5

Explicitly consider the effects on volunteers when designing policies and programs

To support volunteering, Australian, state, territory and local governments should give greater consideration to how changes to policies and programs would affect volunteers. This includes adopting measures that may mitigate any adverse effects on volunteer participation and identifying opportunities for volunteers as part of policy or program design.



Information request 7.2

Regulation to strengthen donor protection through online giving platforms

Online giving platforms have changed how people donate and can create new risks and challenges for donors and charities. The Commission is seeking further information and evidence on the costs, benefits and need for changes to regulation of online giving platforms, for example requiring:

- a regulator to be notified of fundraising appeals once a certain threshold of donations is met
- online giving platforms to make reasonable efforts to notify a charity of appeals being conducted in their name
- online giving platforms or a regulator to halt a fundraising appeal being conducted in the name of a registered charity upon that charity's request.

Chapter 8: Structured giving vehicles



Information request 8.1

Effect of changes to the minimum distribution rate for ancillary funds

The Commission is considering whether the current minimum distribution rate for ancillary funds maximises the net benefit to the community. The Commission is seeking views on the likely response to a change in the minimum distribution rate (higher or lower) for public or private ancillary funds, including how it would affect:

- decisions faced by donors about whether to use a structured giving vehicle, which giving vehicle to use including alternatives, such as setting up or donating to an existing charity or giving vehicle, and whether to donate at all
- decisions made by trustees of existing public and private ancillary funds about how much to distribute and when.

The Commission welcomes views on how the distribution rate for public and private ancillary funds should be determined and the advantages and disadvantages of different methods.



Draft recommendation 8.1

Enabling distributions of funds to be smoothed over three years

The Australian Government should increase the flexibility of the regulatory regime by amending the private ancillary fund and public ancillary fund guidelines to enable smoothing of the distribution rate over a period of up to three years, with integrity measures to ensure the resulting distributions are at least equal to (or higher than) the amount that would have otherwise been payable under existing rules.



Information request 8.2

Timely distributions of donated funds for charitable purposes

The Commission is seeking views on whether, and in what circumstances, the regulatory framework for entities that have deductible gift recipient status should encourage timely distributions for charitable purposes, and whether there should be regulatory consistency between giving vehicles to encourage distributions.



Information request 8.3

Regulatory arrangements for charitable trusts by licensed trustee companies

The Commission is seeking further evidence regarding the administration of charitable trusts by trustee companies, given changes over the past 10 years that have led to further concentration in the market for licenced trustee services. This includes information about arrangements for switching providers or charging fees, particularly for funds held in perpetuity.

The Commission invites views on whether there is a need for policy reforms in relation to the administration of charitable trusts by licensed trustee companies, and if so:

- the nature and rationale for any proposed changes
- accompanying evidence, such as data or case studies
- any potential role or implications for Australian regulators.



Information request 8.4

Making bequests through superannuation easier

The Commission is seeking information, including from donors, charities and superannuation funds, on options to allow people to nominate their superannuation death benefit to a charity. The Commission welcomes further information on the:

- potential design of a mechanism to enable people to direct a portion of their superannuation death benefit to nominated charities, including the roles and responsibilities of parties such as trustees and estate executors
- benefits, costs, risks, necessary safeguards, and potential unintended consequences of policy options enabling a person to direct their superannuation death benefit to nominated charities
- factors, such as family or financial circumstances, that would contribute to a person deciding whether to take up the option to direct their superannuation death benefit to nominated charities.



Draft finding 8.1

There is no case for reducing superannuation taxes for bequests

The current taxation arrangements for superannuation treat a donation to a charity in the same way as a payment to any other non-dependant beneficiary. The tax system is not neutral in death and provides a larger tax benefit for the superannuation component of an estate. Adding further concessions at the time of death would be a relatively costly way for the Australian Government to incentivise philanthropic giving.

**Information request 8.5****Barriers and opportunities for innovative giving vehicles**

The Commission invites evidence such as data or case studies on the use of innovative giving vehicles. The Commission is seeking further evidence on the extent to which the existing regulatory framework and tax arrangements impose barriers or facilitate the development of innovative giving vehicles.

Chapter 9: Public information about charities and giving

**Draft finding 9.1****Administrative expenses are not an accurate reflection of the performance of a charity**

An overemphasis, amongst donors and other stakeholders, on the amount of revenue that charities spend on administrative expenses can lead to incorrect conclusions about charity effectiveness and create perverse incentives for charities. For example, it can result in the underreporting of administrative costs or underinvesting in core capabilities and capacity, such as staff training, which undermines long-term capacity to further charitable purposes and benefit the community.

Charities have incentives to provide information about effectiveness to donors, and this information is shared in various ways. Introducing additional requirements, including standardised quantitative measures, would be impractical and may lead to significant unintended consequences.

**Draft recommendation 9.1****Creating more value from the data held by Australian Government agencies**

The Australian Charities and Not-for-profits Commission (ACNC) and the Australian Taxation Office (ATO) should work together to enhance the utility of Australian Government sources of information on charities and giving for donors and the public.

The ACNC should:

- present data on the ACNC charity register in ways that are more meaningful and accessible to donors and the public (such as more prominently presenting charities' deductible gift recipient status), where it is enabled to do so by the Australian Government.

The ACNC and the ATO should work together to:

- publish additional information on distributions by ancillary funds, including collecting and publishing additional information by sub-funds within public ancillary funds
- raise public awareness of government sources of information on charities, including the ACNC charity register.

The Australian Government should:

- implement reforms to enable the ACNC to publish circumstances and reasons for referrals made to other government agencies (draft recommendation 7.2)
- address regulatory impediments to the ACNC presenting more meaningful information on the ACNC charity register, where necessary.

Draft recommendation 9.2

Embedding donor and public views in the Australian Charities and Not-for-profits Commission's (ACNC) regulatory approach

To provide clarity on how the ACNC balances the views of charities, donors, volunteers and the wider public in its regulatory approach, the responsible Australian Government minister should issue a statement of expectations that sets out how these views should be balanced, when:

- designing the content and the presentation of the ACNC charity register and other public resources
- making decisions about what information to collect through the annual information statement
- making decisions about whether to withhold or remove information from the charity register
- forming consultative committees.

The design of the ACNC charity register should be shaped by research on the information needs of donors of all sizes, and evaluation of the charity register should inform its content and presentation.

Draft recommendation 9.3

Introducing enhanced disclosure and reporting of corporate giving

The Australian Government should introduce a requirement for listed companies to publicly report itemised information on their donations of money, goods and time to entities with deductible gift recipient status. This would enhance accountability to shareholders, consumers, employees and other stakeholders within the community.

The Australian Taxation Office (ATO) should amend the company tax return to require listed companies to report donations of money and assets to entities with deductible gift recipient status as a distinct line item in deductions, similar to what is required for individuals.

The ATO should regularly publish aggregate information on corporate giving in Australia (for example, in the Australian Taxation Statistics) including, at a minimum, donations by company size, taxable status and industry.

Draft recommendation 9.4

Improving data on charitable bequests

To provide more information about giving through charitable bequests, including trends over time, the Australian Charities and Not-for-profits Commission should: require registered charities to separately report income from bequests in their annual information statement; and publicly report the aggregate data.



Draft recommendation 9.5

Improve the usefulness of public information sources on volunteering

The Australian Bureau of Statistics (ABS) should improve the usefulness of public information sources on volunteering by amending the questions on volunteering in the Census to capture:

- whether respondents engaged in informal volunteering (in addition to whether they engaged in formal volunteering with an organisation)
- the amount of time the respondent engaged in formal or informal volunteering (for example, hours each week).

Following engagement with communities, the ABS should develop methodologies that enable better measurement of volunteering by Aboriginal and Torres Strait Islander communities and culturally and linguistically diverse communities.

Chapter 10: Increasing participation in giving



Draft finding 10.1

A government-funded public campaign could help broaden participation in giving, but there is insufficient evidence to conclude that such an intervention would be effective

More evidence is needed, including through rigorous evaluations from Australia or overseas, to demonstrate that a government-funded campaign would be effective at increasing giving and yield net benefits to the community.

Governments could maximise the chances of a successful public campaign (and opportunities for learning) by ensuring any public campaigns that involve public resources (whether it be a campaign run by a government agency or public funding of a sector-led campaign) adhere to sound program design, evaluation and transparency principles.



Draft recommendation 10.1

Establishing an Aboriginal and Torres Strait Islander philanthropic foundation

The Australian Government should support the establishment of an independent philanthropic foundation controlled by Aboriginal and Torres Strait Islander people.

The foundation would focus on strengthening the capacity of Aboriginal and Torres Strait Islander communities to build partnerships with philanthropic and volunteering networks, and supporting new and existing Aboriginal and Torres Strait Islander giving vehicles. It would be able to administer grants programs to fulfill these functions.

The design of the foundation should be led by Aboriginal and Torres Strait Islander people.

The Australian Government should provide funding toward an initial endowment, with additional contributions to the endowment provided by philanthropic funders. The endowment should be of sufficient size to ensure that the foundation is financially sustainable and independent.

Appropriate governance arrangements will be necessary to ensure that the foundation's functions do not duplicate the roles and responsibilities of other bodies, including government agencies, and to set out reporting arrangements on the outcomes of its activities. This should include an evaluation of the foundation's impact after five years of operation.



Information request 10.1

Supporting charities to engage with different sources of philanthropy

Some charities may face greater challenges accessing philanthropy because of their size, location or the nature of their services. The Commission is seeking information on possible measures to assist charities to access philanthropy.

- Examples of government-funded programs in Australia or overseas that help charities access philanthropy or volunteer networks, and any related evaluations.
- The role of intermediaries, such as community foundations, and opportunities to enhance this role.
- What additional support governments could provide to help charities access philanthropy or volunteer networks, and the reasons why this support is needed.
- Further ideas and perspectives on options to support Aboriginal and Torres Strait Islander organisations that are seeking to access philanthropy, where they wish to do so, including feedback on draft recommendation 10.1.



Information request 10.2

Accessing professional advice on philanthropy

The inability to access high-quality professional advice on philanthropy could prevent some people from identifying giving opportunities or making decisions that align with their preferences. The Commission is seeking information on professional advice on philanthropy.

- Evidence that people who use professional financial services would value and are willing to pay for professional advice on philanthropy, but are unable to source that advice.
- Information on specific regulatory or other impediments (if any) to people accessing advice on philanthropy and ways to address them.
- Evidence that an inability to access professional advice is materially affecting giving or resulting in harm to donors.