PO Box 518
Dickson ACT 2602

Ph: (02) 6249 6717
Fax: (02) 6249 8715
Email: mail@nat.unitingcare.org.au
Website: www.unitingcare.org.au

Mr Robert Fitzgerald AM
Commissioner
Productivity Commission
GPO Box 1428,
Canberra City ACT 2601

Dear Mr Fitzgerald

I am pleased to provide you with UnitingCare Australia's comments, on behalf of the UnitingCare network, on the draft research report on the Contribution of the Not-for-Profit Sector. Our response to the draft report is provided at Attachment 1

We are generally pleased with the overall direction of the Commission's findings. The review is a comprehensive study of a large and complex sector and the Commission has done an exceptional job in identifying many of the key issues which affect providers of social services. While we are comfortable with most of the recommendations we are concerned about some of the analysis and comments in relation to the issues of competitive neutrality and tax concessions.

Accordingly, many of the comments contained in the attached submission seek to articulate our concerns in the hope that the Commission will re-examine some of its findings in relation to these matters.

If you have any questions about this response, you can in the first instance contact Mr Joe Zabar, Director of Organisational Development on ph: 6249 6717 or email: joe@nat.unitingcare.org.au .

Yours sincerely

Lin Hatfield Dodds
National Director
UnitingCare Australia
4 December 2009

Attachment 1

Response to Draft Report on the Contribution of the Not-for-Profit Sector

UnitingCare Australia congratulates the Productivity Commission (the Commission) on the quality and depth of the draft research report on the Contribution of the Not-for-Profit (NFP) Sector. The draft report demonstrates the Commission's comprehensive understanding of the social services sector and how it operates in Australia.

UnitingCare Australia supports and welcomes the following very important draft recommendations that if adopted would enable and extend the sustainability and effectiveness of NFP social services:

- Introduction of a definition of Charity, as outlined in the Inquiry into the Definition of Charities and Related Organisations;
- Establishment of a national registrar to consolidate Commonwealth regulation and registration for NFP organisations to lead significant improvements for a sector grappling with an inconsistent and complex regulatory regime;
- Australian governments purchasing community services need to base funding on relevant market wages for equivalent positions;
- Harmonisation of state/territory fundraising legislation;
- Recognition of the need to enhance access to capital for the sector;
- Government support to lower the transaction costs of giving, to promote and support planned giving;
- Expansion of DGR status to all charitable institutions and funds endorsed by the proposed national registrar; and
- Ensuring the length of service agreements between governments and NGOs reflects the period required to achieve agreed outcomes.

UnitingCare Australia also supports the vast majority of the well considered analysis and proposals contained in the report. That said we are concerned about some of the analysis and comments in relation to the issues of competitive neutrality and tax concessions covered in Chapters 7 and 8 of the draft report.

NFP Funding and Resourcing

As outlined in our previous submission UnitingCare agencies employ a holistic approach to supporting individuals and communities to access the resources, supports and opportunities needed to live a decent life, the building blocks of which are being able to access appropriate food, clothing and healthcare; safe and secure housing; meaningful work, education, rest and enjoyment; and the opportunity to participate in and contribute to communities. UnitingCare agencies, through their community linkages are also able to provide people of goodwill – either as individuals or as organisations – a vehicle to make their own contribution to improving the wellbeing of people and communities that are disadvantaged and vulnerable.

Funding of services provided by our network come from a variety of sources including:

- Commonwealth Government
- State Government
- Local Government

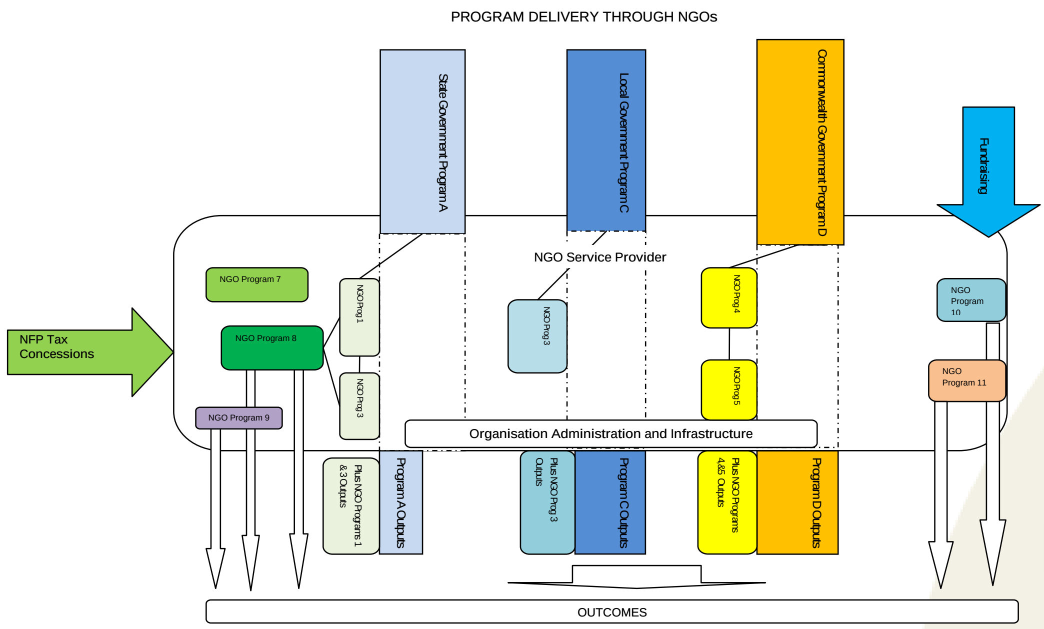
- Philanthropic Gifts
- Self generated and other income

This diversity of funding is both important and problematic for our sector but is a complex reality which our agencies manage on a regular basis. In addition to receiving direct funding for services the sector also receives indirect support from Australian governments (Commonwealth and State) through tax concessions. As the Commission has noted, tax concessions work by allowing organisations within our sector to devote more of their funding to their mission[1] and hence these concessions serve to further the social objectives and contributions of these organisations.

In effect, concessions such as income tax concessions and deductible gift recipient status, supplement all sources of funding of NFPs because they increase the amount of funding available for services delivered to the community. Input tax concessions (such as FBT and payroll tax concessions) have a similar effect to the other concessions in that they also supplement all sources of funding but do so through lowering the cost of labour across all the activities of the organisation.

Diagram 1 below illustrates how the different funding and taxation mechanisms interact to support and enhance the delivery of services to the community. This diagram illustrates how philanthropic gifts and self generated income, supported by tax concessions, allow the organisation to both enhance programs funded by government and to offer additional programs which are not funded by government.

Diagram 1: Program delivery through NGOs



[1] Lyons, M. 2001 Third Sector – The Contribution of Nonprofit and Cooperative Enterprise in Australia, Allen and Unwin, Crows Nest

The Commission has implied that “full funding” would replace the need for FBT and payroll concessions. There are a number of questions which arise from such an assertion but the most important of these is - how will “full funding” replace the supplementation currently derived from the FBT and payroll concessions for non-Commonwealth funded activities – that is funding from State Government, Local Government, Philanthropic Gifts and self generated and other income?

Further, we believe that the Commission needs to address questions around the proposed mechanisms to deliver the “full funding” for all income sources. While we welcome “full funding” of all services we are concerned that the adoption the recommendation in its current form would result in insufficient funds to address the short fall which would result from the loss of FBT and payroll concessions. This would be of particular concern for organisations that receive a significant portion of their funding from non-Commonwealth sources.

A wider range of funding and other support mechanisms are required to ensure the sustainability of service provision. Full cost funding of Commonwealth government programs is unlikely to support other programs such as those funded by the State, Local Government and philanthropy to the extent that tax concessions do presently. Hence full cost funding of Commonwealth services, at the expense of tax concessions such as FBT, will only improve the funding position of NFPs if the additional government funding also compensates for the loss comparable to the current tax concessions across all funding sources.

Service sustainability is a key strategic issue for the social services sector and funding adequacy is an essential precondition. We have concerns that reliance on direct funding of Commonwealth services will not be sufficient in itself to ensure service sustainability – services need to operate in an environment in which access to funding (both government and private, as well as direct and indirect funding) is simple, transparent and accountable, and taxation treatment of that funding is fair and simple and supports the work of the sector over the long term.

UnitingCare Australia is also concerned that one of the stated drivers for the recommendation for the removal of FBT and payroll concessions is that direct funding would be more transparent. We agree that services need to operate in an environment in which access to funding (government and private as well as direct and indirect funding) is simple, transparent and accountable, and that taxation treatment of that funding is fair and simple and supports the work of the sector over the long term. The replacement value of the FBT and payroll tax concessions to NFP organisations will be significant and would require considerable new money to sustain the current level of services. If an improvement in transparency does not also focus on delivering improvements in the efficiency of administration and accountability of service funding and provision, or guarantee greater service sustainability, funding will continue to be unnecessarily diverted from service delivery to administration. What will then happen to those people currently unable to access services they need at a time, intensity and duration that is required?

While a cleaner and more transparent tax system is desirable it should not be the sole driver for change. In this context the key driver for reform must be that the proposed changes ensure better access to services, address current and anticipated services gaps and reduce administrative and compliance burden that diverts funding from service delivery to administration.

Tax concessions provide predictability and sustainability of funding for services over the long term. Indirect funding is, in the medium and long term, less volatile than direct funding mechanisms which may be subject to cyclical and political changes in government policy and budgetary priorities, a point recognised by the Commission. Whilst these changes are part of Governments attending to their priorities, there are also unintended consequences especially on services that are needed over the long term, and those that need to grow as a result of economic and demographic change.

Those working in the field of social services, both domestically and overseas, recognise that addressing the causes of social disadvantage requires long-term investment beyond the normal budgetary and political cycles. This has been recognised by the Commission in draft recommendation 12.5 which argues that service agreements and contracts should reflect the length of period required to achieve agreed outcomes.

Security of service provider funding is crucial in developing sustainable responses to disadvantage, vulnerability and exclusion. Any changes to the tax and transfer systems which fails to provide for this is not consistent with the social inclusion agenda led by the Australian Government.

Finally, any changes to tax concessions that would increase the cost of labour for service providers would need to be carefully examined. In reality, the impact of the removal of the FBT concession, without a replacement of equivalent efficacy and value, would result in either a reduction in the net pay of the staff of PBIs or a reduction in services delivered to the community, and most likely both. UnitingCare analysis of our service network demonstrates that the impact of this change would primarily and substantially reduce the incomes of people earning less than $50,000 a year.

The Commission has identified that partial funding of many services has already resulted in substantial wage gaps arising for NFP staff working in community services. This has subsequently led to challenges in recruiting and retaining professional staff. Any further loss of income will discourage many more staff from working in sector altogether.

Similarly, reduction in services would be disastrous for the community. Recent figures from the Australian Community Sector Survey (ACSS) 2009[2] reveal a 17.3% increase in the number of eligible people being turned away from community services in 2007-2008, as compared to 2006-2007. Housing, youth and child welfare services experienced the most marked mismatch of supply and demand, with almost one in four people accessing a housing or youth service being turned away, and one in three people accessing a child welfare service being turned away.

Community services are already under strain. Unless alternative funding mechanisms can ensure that neither workforce sustainability nor human service delivery will be negatively affected, the current FBT concessions for the sector must be retained and enhanced. In its recent submission to the Henry Tax Review[3], UnitingCare Australia flagged the need for government to consider measures such as indexation of the FBT concession as a means of assisting NFP organisations to attract and retain staff, especially staff with well developed direct service delivery and management skills.

---

[2] Australian Council of Social Service (ACOSS) (2009), *Australian Community Sector Survey*, Australian Council of Social Service, Sydney. Available at: http://www.acoss.org.au/upload/publications/papers/5961__CSS%20combined%20report%20final.pdf

[3] UnitingCare Australia, Submission to the Australian Treasury's Tax Review, May 2009 p10

Competitive Neutrality

Whilst we acknowledge that the Commission's examination of competitive neutrality is focused largely on the hospital sector and clubs, the report also implies that the issues raised for these sectors have relevance for providers of social services.

The report suggests that it would be preferable for governments to provide direct and transparent grants to NFPs so that those organisations are fully funded in a transparent fashion rather than relying on input tax concessions. While we have already argued that the removal of the FBT and payroll tax concessions would be detrimental to social service sustainability we also believe that the Commission needs to further consider and demonstrate the implied distortion of these concessions.

There is little or no empirical analysis of either the impact of the suggested distortion of the concessions on competitive neutrality or the potential impact of the removal of the concessions. We believe it is incumbent on the Commission to demonstrate that these concessions actually cause distortive behaviour before making any recommendation to remove them. While it is true that the FBT concession lowers the cost of labour for a NFP, it doesn't automatically follow that the concession distorts the labour market on that fact alone. If the Commission believes that staff migrate from for profit entities to NFP entities as a direct result of the FBT concession then the evidence for that assertion must be demonstrated.

In any review of the taxation and funding arrangements for the NFP sector there are likely to be "winners and losers" however it is not sufficient to recommend significant changes without fully exploring who those winners and losers will be and what will be the effect on the delivery of services to the most disadvantaged and vulnerable people in our communities.

UnitingCare Australia urges the Commission to re-examine some of its findings in relation to these matters and we would welcome the opportunity to provide additional input into further discussion or analysis of these issues.

Conclusion

The draft report is a comprehensive study of a large and complex sector and the Commission has done an exceptional job in identifying many of the key issues relevant to the providers of social services.

However, prior to completion of the report and presentation of recommendations to government regarding indirect tax concessions, such as the FBT concession available to PBIs, there must be adequate analysis of both the actual market distortions the current tax setting create and research into the potential impacts of the change in funding mechanisms on the adequacy and sustainability of delivery of services to disadvantaged and vulnerable Australians.

Any change which will reduce the ability of NFP organisations to attract, remunerate and retain skilled staff will need to be replaced with a new regime which does not result in a loss of staff or a reduction in service delivery.

As the Draft Report suggests, transition to a more equitable, simple and transparent system of support warrants careful consideration. The emphasis must necessarily be on the careful consideration of an alternative before further recommendations are made.

There would be merit in exploring the possibility of an equivalent concession (of equivalent value) which would deliver greater transparency, ease of administration and which would provide a long-term and reliable support mechanism for sustaining the sector's workforce.

A genuine engagement between the sector and the government is required to resolve these funding and concessions issues in the medium to long-term.