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Check against delivery

Intro: the importance of regulatory reform

It's a pleasure to be here at the ACOSS National Conference to discuss the Gillard Government's national reform agenda for the not-for-profit sector.

I'd like to start by thanking Simon Schrapnel, President of ACOSS, for the invitation to address this important topic.

Regulatory reform is seldom a topic that sends a shiver down the spine.

And often it's the sort of session on a conference agenda that could easily inspire a suddenly- urgent catch up with an interstate colleague over a coffee or a beer.

So I'd like to thank all of you for attending this session and devoting some time from your busy schedules to this topic.

I suspect nearly everyone in this room has an aspect of their job that they consider more important than governance structures or tax reform.

This may be especially so given the work that many of your organisations carry out for some of the most vulnerable people in our society.

Sometimes the enormity of the task at hand – be it trying to meet relentless unmet demand of the disability service system, creating hope

for the long term unemployed, or delivering crisis accommodation to the homeless – must be overwhelming.

I warmly applaud each and every one of you for the work that you do.

But I'm here to tell you that, in the job description of the Assistant Treasurer at least, governance and regulatory reforms are, in fact, front and centre of responsibility.

And at their core these reforms are about making life easier for you and the organisations that you represent, so you can get on with the delivery of services that make a difference to so many Australians.

And I'd like to tell you a little bit more about the direction of those reforms today.

The NFP sector

The Government truly understands the diverse and wide-reaching nature of the not-for-profit sector.

It is a sector comprising at least 600,000 not-for-profit organisations, 180,000 bodies corporate, 100,000 incorporated associations, 12,000 companies limited by guarantee and 3,500 cooperatives.

It has been growing in size at an annual average rate of 7.7 percent since 1999-2000, and currently contributes around \$43 billion to Australia's GDP.

It employs around 8 percent of Australia's workforce, and has 4.6 million volunteers - contributing an additional \$14.6 billion in unpaid work.

To put it into some context, the not-for-profit sector's contribution to the Aussie economy is comparable to that of the transport and storage sector.

While its economic contribution is significant, even more important is the sector's social, cultural and environmental contribution.

The sector enriches communities and builds upon core government services that help Australians, especially the most vulnerable and disadvantaged, to live more enriched lives.

As ACOSS only knows too well, the not-for-profit sector has been the subject of numerous reviews by governments and parliaments over the years.

And I know all of you will know what I mean when I say that the symptoms of 'inquiry fatigue' seem, regrettably, to be visible on many of the faces that walked through the door this morning.

Over the past decade there have been a total of five reviews.

Some of these reviews have been comprehensive while others have looked at specific aspects of the sector's operational environment.

These reviews have each outlined considered recommendations aimed at strengthening the performance of the sector.

Consistently these reviews have concluded that the sector's regulatory and taxation arrangements are complex, lack coherence and transparency, have high compliance burden, and could be detracting from the sector's effectiveness.

Commonwealth, state, territory and local governments regulate different parts of the not-for profit-sector for different and overlapping purposes.

Such uncoordinated regulation of the sector has resulted in complex, overlapping and inconsistent regulatory systems.

As an example of this complexity, there are more than 178 pieces of Commonwealth, state or territory legislation that involve 19 separate agencies regularly determining the charitable purpose or status of an entity.

Recommendations have in the main being supported by stakeholders, particularly those aimed at addressing regulatory complexity.

Sadly in my view, Australia has not achieved significant reform of the not-for-profit sector over this time.

And this is in stark contrast to trends observed internationally including in the UK, Ireland, New Zealand, the US and Canada, where significant reform has been implemented.

We need to catch up and, thankfully, the symptoms of inquiry fatigue are not without cure.

This Government is committed to significant reform of the 'third sector' and has developed an approach which is grounded on a strong and mutually beneficial partnership with those of you who operate in this space.

Our Election Commitments

During the 2010 election campaign the Gillard Government committed to driving a major reform agenda for Australia's not-for-profit sector to deliver smarter regulation, reduce red tape, and improve transparency and accountability of the sector.

The Government's reform agenda is a significant and complex undertaking. It will take time to finalise and implement; be staged across different segments of the sector to reduce complexity; and require cooperation between Commonwealth, state and territory governments.

It will also require the Government and the sector to form a partnership and work in unity. An effective partnership would provide the reform process with valuable insights and perspectives that would otherwise be missing.

The Government is mindful that reform should not add just another bureaucratic layer to the sector's regulatory and taxation framework. A national regulatory framework and a national regulator for the sector with the goal of 'report once, use often' would ensure regulatory burden is reduced rather than duplicated and increased.

The '*Strengthening the Non-Profit Sector*' election commitment outlined a reform agenda to reshape the way the Australian Government regulates, supports and funds the not-for-profit sector.

The Government's reform agenda includes:

- the establishment of a new not-for-profit Sector Reform Council and Office for the not-for-profit sector to coordinate and drive reforms in partnership with the sector;
- a scoping study for a national 'one-stop-shop' regulator to remove the complex regulatory arrangements and streamline reporting arrangements;
- greater harmonisation and simplification between the Commonwealth and state and territory governments; and
- reduced red-tape for Government funded not-for-profit organisations.

We have committed to taking action in regard to the recommendations in the 2010 Senate Economic Legislation Committee inquiry into the Tax Laws Amendment (Public Benefit Test) Bill 2010 and the 2010 Productivity Commission report on the Contribution of the Not-for-Profit Sector.

The parameters of reform (or what the Government's dealing with)

I'd like to outline for you today how the Government is delivering on its election commitment and commitment to consultation with the sector.

But you will also understand that any piece of significant public policy reform is inevitably a complicated balancing act between competing priorities and perspectives.

The Government does not resile from these issues – indeed, not talking about a problem doesn't make it go away.

But compromise, pragmatism and patience will be required if Government and the sector are to partner together in a set of ambitious and sustainable reforms.

I'd like to address just some of the significant reform issues to explain.

The national 'one stop shop regulator'

Take, for example, the prospect of a national regulator.

I also know there has been quite a lot of buzz and talk about this regulator since we made the election commitment last year.

It has taken a long-time to get to this point. But there is light at the end of the tunnel.

It is clear from the submissions on the scoping study that the sector has strong views about the location, functionality and independence of any national regulator.

It is clear to me that in a contest between independence and functionality - independence is the priority. We all know that functionality of any regulator can be built up over time.

But the Government is keen to strike a balance between giving this sector what it wants, cost and the risk of creating a new layer of bureaucracy.

Given the fiscal climate in which we find ourselves, one cost-effective option for the Government is to reform the existing Commonwealth regulatory arrangements by enhancing the activities ATO as a primary regulator for the sector. After all, the ATO houses a significant body of expertise on charitable law and taxation, and could easily make this transition. The Government could move to reduce reporting costs and task the ATO to establish a comprehensive information portal, to put in place structural separation to distinguish the different functions of the ATO from those relating to not-for-profit regulation.

But no doubt many of you would have concerns about a potential conflict between the role of the ATO with a dual role as regulator and protector of the revenue base. Indeed, many of you might ask why we consulted on the regulator only to maintain a version of the status quo.

Alternatively, Government could establish an independent, stand alone regulator. This would address the perception of conflict and give the sector an independent identity with the hierarchy of Government. Yet the cost of reinventing back office operations, attracting the requisite expertise, and day-to-day operational overheads (minus the economies of scale in an entity like the ATO) would be significant.

The solution may in fact lie somewhere in between the two options.

The precise role and functions of a Commonwealth regulator is also complicated. The vast majority of the 600 odd thousand not-for-profits are state based entities, with little or no appetite to operate beyond their immediate domain. As a corporate regulator, the Commonwealth is formally responsible for, comparatively, a handful of entities. And so a truly national regulator would require the cooperation and engagement of the States and Territories.

And not every State may be in the mood to cooperate.

Taxation reforms

Likewise, in considering the implications of recent court decisions on the tax treatment of charities, the Government must balance its role as a prudent fiscal administrator with its desire to provide financial support to NFP sector and encourage it to innovate and expand its own revenue streams.

Only this week, you will have seen reported in the Financial Review that the Full Bench of the Federal Court found that a community bank operator was established for the "main or dominant purpose" of a community service, and thus could avail itself of valuable NFP tax concessions.

This adds to the Word Investments case handed down in 2008 that, in effect, allows not-for-profit entities to apply tax concession for the benefit of their unrelated commercial activities.

Many in this room may hold the view that such concessions are a reasonable way for Government offering indirect support for the community sector. But others would question whether the commercial operations of these entities are, in fact, charitable in nature. The Treasury boffins among us would also question the impacts of such policy upon the principle of competitive neutrality or, in laymen's terms, whether there is a level playing field for like businesses if some benefit from tax concessions by virtue of their business associations.

Defining what is charitable

Similarly, the question of 'who and how' we should define what is a 'charity' may elicit a range of views.

One option for Government is to introduce a statutory definition of a charity. A statutory definition could provide greater clarity around whether a particular organisation or activity is charitable, and remove such deliberations from the hands of the ATO (and ultimately the Courts).

Once brought into statute, the Government and Parliament of the day would have the opportunity to alter the definition to ensure that it reflected modern society and community needs.

Yet the support of each of you – I suspect – would depend on what precisely falls within that definition. And your view on this may well be different to that of the Government of today, or indeed the Government of tomorrow.

Political advocacy, for example, may seem like a no brainer when the subject of that advocacy is the delivery of aid to developing countries. But, let me assure you, the halls of Parliament are filled with advocates for many things – not all of them as pure of heart as the litigants who developed the recent jurisprudence on this point.

And in the new parliamentary paradigm, the views of our crossbench friends and colleagues on this topic would no doubt be of interest to all of you.

In addition, increasing the breadth of the definition will come at a revenue cost.

My point in outlining some of these challenges is by no means an attempt to create an excuse. Rather it is an attempt to illustrate that reform will not be easy, it will not always be popular, and it will inevitably involve some trade-offs.

Progress and Consultation

But I am confident that reform will and can happen in partnership with the sector.

Working in partnership ensures that the Government can leverage from the insights and experiences of the sector, and that reform is implemented in pressing areas.

Already we have made progress. My colleague, the Minister of Human Services and Social Inclusion, the Honourable Tanya Plibersek, has led work to establish the not-for-profit Sector Reform Council.

The Council includes respected and experienced representatives from the not-for-profit sector - including Dr Cassandra Goldie, CEO of ACOSS, and Mr Frank Quinlan, Executive Director of Catholic Social Services Australia.

The Council is already playing an important role in providing sector advice to the Government on the role of a national regulator, the streamlining of Australian Government tendering and contracting processes; and the harmonisation of fundraising and other Commonwealth, state and territory laws.

The Government has also established the Office for the not-for-profit sector in the Department of the Prime Minister and Cabinet to coordinate and drive reforms and to support the Reform Council.

The relationship between Government and the not-for-profit sector has also been enhanced by the signing of a National Compact. The National Compact was launched in March 2010, with ACOSS joining as one of the foundation signatories.

The National Compact is the result of more than two years of consultation, and is an agreement that sets out how Government and the not-for-profit sector will work together in order to improve the lives of Australians.

To date, 565 organisations have committed to the shared vision, purpose and principles by becoming a Compact partner.

My colleague and friend Michael Danby MP has recently been appointed as an advisor to the Deputy Prime Minister on corporate philanthropy and is engaging with stakeholders, including on issues related to the proposed national regulator for the not-for-profit sector.

I am sure that many of you in the room would have met with Michael over the past 6 weeks to talk about the type of national regulator that would like to see.

The Government has committed to reducing red-tape and compliance burden faced by the sector, including by streamlining tendering and contracting processes for government funded not-for-profit entities. The Government has made progress in achieving these objectives.

The Government is working with COAG to harmonise and simplify fundraising legislation across state and territory governments.

From 1 July 2011, not-for-profits can elect to provide their different government funders financial information in a standard format based on the standard charter of accounts. Standard reporting will help reduce the reporting burden of not-for-profits. It would also allow government

agencies to efficiently aggregate and compare data to better inform policy development.

The Department of Finance and Deregulation has introduced simplified general conditions of contract and procurement documentation, including standard contracts. This would help to reduce red-tape and compliance burden faced by government funded not-for-profit entities. It would also improve the efficiency of Commonwealth agencies for low risk and/or low value procurements.

The Gillard Government has also implemented policies aimed at encouraging philanthropic activities.

The introduction of the successful Private Ancillary Fund (PAF) reforms in 2009 has contributed to increased philanthropic engagement.

The new regulatory framework for PAFs improves the integrity of private philanthropic trust funds while maintaining their attractiveness as a vehicle for philanthropy.

It includes updated guidelines that specify a new minimum distribution rate.

Friends, it has been good to speak with you today about NFP reform, your reasonable expectations and the parameters the Gillard Government is working in.

As I hope I've made clear, the reform process will take time, and we are at an early stage. But importantly the Government is committed to

working in partnership with crucial and responsible community leaders like ACOSS.

The consultation process on a national regulator, the establishment of the Reform Council and the Office of the not-for-profit sector, and the signing of the National Compact are testaments to this, and provide the framework for a constructive and valued relationship.

Conclusion: the MRRT and reducing the corporate tax rate

If you'll allow me - what I don't think can be overlooked, or left unsaid by an Assistant Treasurer at this conference's second day, is addressing matters relating to the MRRT and what the revenue is to be spent on - particularly given the public comments made here by the Leader of the Greens Party around this time yesterday morning.

We do profoundly need the MRRT passed through the Federal Parliament in coming months, and we need people advocating for it and what it pays for, outside Canberra and the Parliament in coming days.

And as this audience is no doubt quite aware after yesterday's intervention by Senator Brown, in addition to infrastructure investment and 12 percent compulsory superannuation – and the retirement savings reform is something I have to say is particularly close to both my heart and my portfolio – in addition to these things the MRRT also pays for reduction in the corporate tax rate to 29 percent.

I want to politely urge, straight up, that ACOSS members should recognise that this piece of corporate tax reform – as committed to by

the Gillard Government and not the Greens – this is good for all of us. It's not only good for big business.

Reducing the corporate tax rate via the MRRT smooths the economic effects of Mining Boom Mark II. And good Government is about dealing with the patchwork economy, not just identifying and describing it.

Reducing the corporate tax rate via the MRRT shares the proceeds of the mining boom across the whole country – our mineral wealth is a national, not just natural, resource. And a progressive Government of real fairness accepts that we need to share the proceeds as widely as possible.

That is why you'll see an MRRT that pays for stronger retirement savings, better national infrastructure, tax cuts for small business and tax cuts for big business.

There is something in the MRRT for everyone and that's how it should be.

Reducing the corporate tax rate via the MRRT sets us up beyond the boom, by leveraging more growth into our non-resource sectors and helping them grow and help secure the next wave of national prosperity.

We need to be smart about how we pay or way in the world once commodity prices come down off these historic highs.

Reducing the corporate tax rate via the MRRT sees more capital flowing into our domestic economy, which will then flow on to workers in the form of higher wages - thereby improving standards of living.

And because reducing the company rate is an economic growth instrument, reducing the corporate tax rate via the MRRT is also an investment in the Australian people – including people who might now be on welfare and require the services of ACOSS members.

It frees up more capital for business to invest in skills and training and apprenticeships and mentoring – thereby easing the skills squeeze in a way that is, frankly, more sophisticated than simply increasing the quota of 457 visas.

This makes reducing the rate a productivity improver – given its more capital available per person in the company's workforce and more capital available for potential investment in research and development.

Meanwhile lowering the corporate rate for smaller businesses only (as the Greens propose) creates an artificial incentive for Australian businesses to downsize.

In worse case scenarios some businesses might actually lay people off to get smaller - and the size based different tax treatment would create a glass ceiling on business workforce growth.

Instead we want a level playing field regardless of the size of the company.

Senator Brown yesterday also told you that revenue from the MRRT should be used to put in place a national dental care scheme or an increase of \$50 a week for NewStart, youth allowances, Austudy and Abstudy and single parenting payments.

What this proposal, as well meaning as it might seem, what it fails to recognise is that we need to encourage employment participation, not greater welfare dependency.

Friends, corporate tax reform helps Australia's private sector grow and it creates jobs right up and down the income ladder.

It's this simple – the MRRT and the use of its revenue is another way of the Gillard Government meeting its social objectives through reform of the tax system.

We want to help Australian business help the Australian community.

That is our goal.

So let me be abundantly clear, in part to those who are probably not in this audience, let me be clear that reducing the company tax burden is a quid pro quo - and a key part of this two-way street is greater corporate social responsibility, generosity and philanthropy.

Not for profit organisations that are represented by ACOSS already have strong and developing partnerships with corporate Australia.

Some examples of these great corporate-NFP partnerships include:

- Vodafone and the Kids Help Line – and their free calls (and confidential billing) of counseling on abuse, violence & suicide prevention
- OzHarvest's relationship with food donors including cafes and restaurants, function centre managers and food retailers (which is also backed by the Macquarie Group Foundation)
- ANZ matched savings programs with the Brotherhood of St Lawrence
- NAB's no-interest loans - working with Good Shepherd
- BHP Billiton's work with Conservation Volunteers Australia on their 'revive our wetlands' program
- Colgate-Palmolive's work with the Smith Family on their 'Learning for Life' program
- Virgin Unite's work with the Oasis Youth Support Network on youth homelessness; and
- A strategic partnership between Westpac and Mission Australia

There are of course many more.

And I am so pleased to see these initiatives are happening in our community today.

And I'm sure most in this room would give the warmest acknowledgement of those businesses who are displaying such innovative thinking, such generosity of organisational heart and such community spirit.

But what we do want is to see more of these partnerships - and the Gillard Government doesn't just encourage it, we see it as a core responsibility of corporate Australia as it helps write the Australian story.

Frankly, any good progressive party should. Including the Greens.

So I do think their leader's intervention yesterday was short sighted, lacking in social and economic policy sophistication and I think it was more about political positioning than carefully thought through public policy objective.

But look that wouldn't be the first time.

Let me quickly and simply wrap up by saying thank you all very much for your time today, and for your continued dedicated efforts to improve the lives of Australians.

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