



Senator the Hon Penny Wong
Minister for Finance and Deregulation

Senator the Hon Nick Sherry
Minister Assisting on Deregulation and public
Sector Superannuation

20 April 2011

C/o Senator Sherry: minister.sherry@innovation.gov.au

Dear Ministers Wong and Sherry,

Thank you for providing ACOSS with the opportunity to contribute to the setting of priorities for the future agenda of the Business Regulation and Competition Working Group. We commend you and your Department on this process. Following our engagement with the work of the BRCWG over the past two years, ACOSS was pleased to be able to attend the stakeholder forum in Canberra on 25 March 2011 and remains committed to the Government's deregulation agenda.

ACOSS' primary commitment to that agenda relates to reforms that will affect the not-for-profit sector. I set out our submissions in that respect below. However, as one of the few organisations invited to represent non-business interests at the recent stakeholder forum, I also address some other aspects of the deregulation agenda as they relate to the interests of consumers and the community at large.

As ACOSS expressed at the stakeholder forum, the Government's commitment to reduce red tape in the not-for-profit sector has widespread support amongst the community sector. While the not-for-profit sector is incredibly *heavily* regulated, it is not *well* regulated, in terms of adequacy, effectiveness or consistency. Through the swathe of consultative and reforming processes that have engaged the not-for-profit sector over the past two decades, the overly burdensome and duplicative regulation in this sector has been a common refrain from community organisations. We support effective regulation as an important element of accountability and of maintaining the public's confidence in the work of community organisations. We see the role of the BRCWG in continuing to improve regulation in this respect as incredibly important.

The establishment of a standard chart of accounts was an important first step. We urge the BRCWG to build on that work through additional reforms to bring nationally consistent, appropriate standards into the not-for-profit sector. Our key priorities here include:

- developing national accounting standards;
- developing national reporting standards, particularly in relation to the financial and governance information that is required by government funding bodies; and
- developing a nationally consistent approach to fundraising.



These priorities are vital if we want to reduce the unnecessary red tape and enhance the effectiveness of regulation of not-for-profit organisations. Each is an area where there is either considerable inconsistency or duplication across jurisdictions that diverts social services away from their core mission and reduces productivity in this sector.

These priorities are also vital steps in the establishment of a national regulator for the not-for-profit sector. ACOSS and our members are strongly supportive of a national regulator and have urged the government to introduce the requisite legislation in this term. However the effectiveness of any national body will require considerable negotiation across jurisdictions of government and not-for-profit sub-sectors. The role of the BRCWG in developing national standards is vital in paving the way for improved, nationally consistent regulation.

There is already some work underway that can inform these processes. There are also some key lessons from recent attempts by governments in particular jurisdictions that point to the dangers of this work taking place outside the context of COAG. Crucially, the need for high-level coordination across the states and territories, including incorporating the best from existing practices in national developments, cannot be a process for which the Commonwealth alone is responsible. It requires the truly national approach of COAG and is best driven by the BRCWG within that structure.

Regulation in the not-for-profit sector is a core area for ACOSS policy development and I welcome future opportunities to discuss this further. However there were several other issues that were raised at the stakeholder forum in March that I now address.

One area is in relation to the deregulation of energy markets. ACOSS is funded through the Consumer Advocacy Panel to undertake policy and advocacy on issues affecting low income households in the national energy markets, including regulation of retail customer matters, affordability, energy efficiency and amenity, the roll-out of smart meters and climate change and related policy responses. The deregulation agenda as it relates to energy markets must take account of the needs of consumers, particularly those on low incomes who are already struggling against severe price rises. Any identification of BRCWG priorities in this area must be informed by the recognition - as agreed by COAG - that deregulation should be a priority only where competition is proven to be effective. The determination of effectiveness should include *whether competition actually benefits consumers*, amongst other factors. By extension, price de-regulation must be contextualised by strong consumer protection arrangements including for community service organisations as well as for individual low income consumers facing energy hardship. Beyond this, we reiterate ACOSS' policy that the resolution and implementation of a carbon price mechanism is the essential first step to encouraging serious investment in the energy market.



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Another area that was discussed at the stakeholder consultation was the liabilities faced by individual Board Director. It was put to you that current liabilities on company board directors are so harsh as to limit the capacity of Board Directors to make decisions that encourage innovation and productivity amongst business, thereby curtailing national productivity. An important counter-point to that argument arises from the interests of consumers and the broad community: that unnecessarily risky or reckless actions by board directors can significantly impact on members of the public, for which those directors should be accountable.

This was no more apparent than in the business practices that contributed to the global financial crisis internationally, many of which have received widespread public condemnation as their detail has been revealed. The level of Australian regulation that curtailed many of those practices domestically was widely praised as one of the key factors that insulated this country from many of the worst effects of that crisis. These same protections are under threat from those who argue that Australian businesses have their hands tied by regulatory policy. As ACOSS understands it, this element of the deregulation agenda is a legacy of reforms first introduced under former Prime Minister John Howard. The importance of the global financial crisis as a significant game-changer since that time must be taken in to account in any decisions about this area of reform. In particular we urge Government to take account of the public interest and community regard for strong, effective regulation in this context.

Please don't hesitate to contact me should you wish to discuss any elements of this submission further. I look forward to hearing about the next steps in this consultative process.

Yours sincerely,

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