

Comments on the Productivity Commission's Draft Research Report
on its Study of the Contribution of the Not-for-Profit Sector
25 November 2009

Executive Overview

The Alcohol and other Drugs Council of Australia (ADCA) is the national non-government, not-for-profit peak body for the alcohol and other drugs (AOD) sector, providing an independent voice for people working to reduce the harm caused by alcohol and other drugs. As the national peak body, ADCA occupies a key role in advocating for adequate infrastructure support and funding for the delivery of evidence-based alcohol and other drug (AOD) initiatives. In this regard, ADCA represents the interests of a broad group of AOD service providers and individuals concerned with prevention, early intervention, treatment, supply reduction, and research.

ADCA wishes to congratulate the Productivity Commission on its Draft Research Report and welcomes the majority of draft recommendations made in this report. ADCA was pleased to see that its comprehensive initial submission (sub. 123) has been quoted extensively in the Draft Research Report, and that key recommendations made in ADCA's submission have been adopted.

ADCA considers the recommendations made by the Commission in its Draft Research Report to be substantial, far-reaching and adequately addressing the complex issues the NFP sector is faced with, and subsequently urges the Federal Government to adopt the majority of them. Adopting the Commission's key recommendations would formalise the Government's commitment to enhance relationships with the Third Sector, deregulate not-for-profit organisations' operations, and streamline their reporting requirements.

ADCA believes that the adoption of the majority of recommendations is imperative if the not-for-profit sector is to maximise its outcomes, and thus its contribution to social inclusion. At present, not-for-profit organisations face too many operational impediments to work most effectively and efficiently. Streamlining administrative and reporting requirements in order for NFPs to be able to focus on delivering the services they have been contracted for, would appropriately acknowledge their contribution to enhance social inclusion.

ADCA considers recommendations made in chapter 11 on improving the effectiveness of direct government funding as well as the comprehensive set of recommendations made in chapter 12 on improving impediments to better value government funded services to be of particular importance. ADCA especially welcomes recommendations 12.5 and 12.7. The former one calls for reliable longer-term funding agreements to appropriately reflect the longer periods of time which in many cases are required to achieve the desired outcomes. This recommendation addresses important issues around recognition of not-for-profit organisations' contributions and outcomes, as well as their internal viability and sustainability. Further suggestions to reduce NFPs' compliance costs are being made in recommendation 12.7, and ADCA highly recommends they be adopted by Government.

While the majority of recommendations address obvious issues as raised in the submissions the Commission received, ADCA in relation to a number of recommendations, questions however, to what degree they actually reflect the feedback that was received in the consultation process. For instance, the Commission proposes

the creation of a number of new bodies, and it has to be asked to what degree these would enhance efficiency and effectiveness of, and for the sector. Also, who is the driving force for creating these bodies, how would they be funded, and how does the National Compact link into these proposals. It has to be determined in further consultations to what degree the recommendations in question are supported by the wider NGO sector.

In the following, ADCA addresses the majority of recommendations in greater detail.

Building a better knowledge base

The Commission has a number of recommendations for improving understanding of the contribution of the NFP sector. ADCA acknowledges the data sets already being compiled by ABS, AIHW, and researchers, but agrees on the need to establish more comprehensive data sets and to build an evidence base of the significant role the NFP sector plays.

Draft recommendation 5.1

ADCA welcomes the recommendation to establish an Information Development Plan (IDP), and considers it appropriate to allocate responsibility for formulating it to the Australian Bureau of Statistics (ABS). ADCA agrees that more frequent publications of the NFP sector's satellite account and the scope for expanding measurement in the satellite account beyond economically significant entities to better reflect the economic contribution of the whole not-for-profit sector are important matters to be addressed as part of this IDP.

ADCA considers it vitally important that policy making at all levels is informed by comprehensive evidence and has in the past urged governments at all levels to resource the collection and evaluation of data to inform best practice as well as policy and program development. Comprehensive data sets to inform and support analysis of net impacts of sector activities, as well as to obtain accurate estimates of size and composition of the not-for-profit sector are considered of crucial importance to enhance understanding about the sector's contribution.

A coherent strategy for future statistical data development and research established and enacted at the national level through the ABS, would help to identify gaps in data collection and recommend appropriate actions to improve the scope and coverage of current data sources. ADCA welcomes this, but questions how financial aspects in relation to the IDP would be managed. Would Government allocate additional funding to the ABS not only for the establishment of an IDP, but also for its implementation? Once gaps in the data sets have been identified, would it then fall to the ABS to address these deficiencies, or who would be responsible for amending and maintaining administrative and other longitudinal data sets?

Draft recommendation 5.2

ADCA welcomes the recommendation of a common framework for measuring the contribution of the not-for-profit sector as this would assist in enhancing understanding of the whole not-for-profit sector.

Draft recommendation 5.3

ADCA endorses the Productivity Commission's recommendation that governments should commit to a number of best practice principles in data reporting and evaluation, as well as to the principle of "reporting once, using many times". ADCA will continue to advocate for reporting and evaluation requirements to be elements of service delivery contracts on a common measurement framework.

A common measurement framework which would allow not-for-profit organisations to conduct single annual reporting, but inform a number of funding sources, following the principle of "reporting once, using many times", would decrease the regulatory burden imposed on not-for-profit organisations. This would eliminate the duplication caused by not-for-profit organisations having to report back to multiple funding bodies under different reporting requirements. Standardisation of reporting requirements and establishment of efficiency benchmarks would furthermore allow comparing different not-for-profit organisations' performance and expenditure patterns. ADCA considers the ability to assess and compare not-for-profit organisations' performance against the available funds to be of crucial importance for evaluating the efficiency and effective of their operations.

While the Productivity Commission seems to recommend a common measurement framework only in relation to community service providers delivering Government-funded services, ADCA considers it of importance that such a framework not only be established for NGOs delivering government-funded services in a direct sense, but also for organisations involved with service delivery in the wider sense such as representing and advocating on behalf of those most marginalised. ADCA considers the ability to assess and compare not-for-profit organisations' performance against each other, as well as against the available funds, to be of crucial importance for evaluating the efficiency and effective of their operations. This is whether they contribute to economic, social, or civic outcomes by delivering services, advocating, connecting the community, or enhancing the community endowment.

ADCA endorses the recommendation to enhance feedback mechanisms as a crucial part of reporting and evaluation procedures. This part of the reporting cycle currently seems to be insufficiently addressed in a large number of funding arrangements as organisations do not receive comprehensive feedback after submitting their reports to the funding source. Proper funding evaluations to be returned to the service provider would enable the service provider to address deficiencies where required. Benchmarking organisations' performance would overall enhance the productivity of not-for-profit organisations.

As indicated, ADCA further endorses the principle "report once, use often". ADCA in its submission recommended single annual reporting to a separate agency that monitors

the acquittal and management of reporting on behalf of all government departments. Reporting on an annual basis back to one central agency, using a template that accounts for all grants received by one not-for-profit organisation, possesses high potential to substantially decrease the amount of red tape that not-for-profit organisations currently facing and hence increase NGO capacity.

Smarter regulation of the not-for-profit sector

Draft recommendation 6.2

Due to not directly being affected by fundraising legislation, ADCA did not comment on fundraising legislation in its submission, but in principle supports the recommendations made by the Commission.

Draft recommendation 6.3

In its submission, ADCA did not comment on definition and processes for determining charitable and other tax concessional status, but in principle supports the Commission's recommendation that the Australian Government adopts a statutory definition of charitable purposes in accordance with the recommendations of the 2001 Inquiry into the Definition of Charities and other Organisations.

Draft recommendation 6.4

ADCA endorses the multi-stranded approach that the Productivity Commission is adopting to address the present regulatory regime for NFPs. ADCA welcomes the Commission's recommendation to establish a one-stop shop for Commonwealth regulation by consolidating various regulatory functions into a new national Registrar for Community and Charitable Purpose Organisations.

ADCA recommends that this proposed national Registrar be an additional function of the Australian Securities and Investments Commission, and not a separate agency as it believes creating an additional division of an already existing organisation to be more cost-effective than establishing a completely new agency.

ADCA welcomes streamlining regulatory requirements and respective legislation, and in particular the creation of a single reporting portal for public record corporate and financial information. It is considered this would be a valuable contribution in reducing the red tape burden that NFPs are faced with. ADCA proposes that all Commonwealth incorporated associations, companies limited by guarantee, and Indigenous Corporations be required to register and check/ update their registration on an annual basis in alliance with the beginning of each new financial year, or as circumstances change. ADCA believes that registration for those organisations should be compulsory and penalties could be considered for organisations not providing information as requested.

ADCA believes that increased efforts should be placed on raising awareness of the benefits associated with such a one-stop shop registrar and its potential to reduce the regulatory burden for NFPs as currently exist. ADCA however, is not certain that

accumulating a number of regulatory functions into one national registrar is supported by the majority of NFPs.

Realising funding opportunities for the sector

Draft recommendation 7.1

ADCA welcomes suggestions made by the Commission to streamline the process of accessing tax concessions and thereby reducing the costs to all parties involved. ADCA endorses the suggestion to introduce a single application process to determine eligibility for all relevant tax concessions, and to streamline both the endorsement process and the categories for tax concessions.

The fact that there are currently 40 statutes which provide tax concessions to charitable organisations, and 19 separate agencies that have to regularly make determinations of charitable status, as well as the administrative and compliance burden associated with applying for concessional status or fundraising endorsement for organisations, is unacceptable and requires addressing. ADCA welcomes research into the question whether the costs associated with implementing a streamlined system would be outweighed by the long-term benefits.

ADCA believes that in order to utilise the full potential of streamlining access to tax concessions, the number of NFPs requiring formal endorsement for Commonwealth tax concessions should not only be expanded, but the option of self-assessment be abandoned and formal endorsement be made compulsory. This would further enhance data sets for the sector and thus the knowledge base about the sector's composition and contribution.

Draft recommendation 7.2

ADCA welcomes the Commission's suggestion to widen the scope of DGR eligible organisations as it would reduce the amount of resources used by organisations in accessing DGR status and government in administering DGR register, and thus enhance efficiency in registration. Whether widening the scope of DGR eligible organisations overall increases giving remains to be seen.

Draft recommendation 7.3

In principle, ADCA welcomes the suggestions made by the Commission in relation to planned giving, but considers that these need to be subject to affordability.

Draft recommendation 7.4

ADCA regrets that the Commission did not make more concrete recommendations in relation to enhancing the sector's access to capital. While the Commission discussed the difficulties to access equity capital, it did not address the impediments NFPs are facing when it comes to generating their own funds. ADCA further questions whether the matter of exploring obstacles to not-for-profits raising capital and accessing capital should be

addressed by a specific Working Group, or be one of the first agenda items addressed by the proposed National Compact.

Many not-for-profit organisations dependent on funding from Government face a number of impediments when it comes to generating their own funds. First and foremost, not-for-profit organisations obviously do not wish to compromise their core funding which often means that they cannot seek funding for their day-to-day operations, and have to focus on additional funding related to a specific project. Project funding, however, cannot be used to cover increased operational and staff costs which in most cases are the areas where additional funds are needed.

Secondly, proactively seeking additional funding requires at least one staff member to spend a substantial amount of time writing tenders, funding proposals, and applications. While time and effort spent on this does not guarantee success, it certainly means that this staff member is not contributing to the direct service delivery the organisation is funded for, and clients may have to be neglected because of a staff member not engaging in the actual service delivery.

Thirdly, most not-for-profit organisations which receive their core funding from Government are in no position to generate a surplus as their income barely covers operational costs: “Non-profits that mainly rely on Government grants or contracts to fund their activities will generally find it difficult to generate a sufficient surplus to build a capital fund” (Lyons 2007, p.5). There is also no incentive for not-for-profit organisations to build a surplus as funding guidelines require them to return this surplus to the funding body instead of enabling them to create a capital fund. Not being able to keep a possible surplus is another constraint for longer-term financial planning.

ADCA is concerned about the fact that many small not-for-profit organisations are not only faced with a lack of capital funds, and that this funding does not cover all operational expenses. Consequently, this leaves them with little or no money at all to invest in their organisational capacity on an ongoing basis such as internet and telecommunications, office maintenance, travel, support for Boards, and Occupational Health & Safety, to name just a few (Mr David Crosbie’s opinion piece in the Weekend Australian on 7 June 2008). These expenses often force organisations to operate at a deficit.

Different forms of investment funds for not-for-profit organisations such as charitable tax free bonds have been explored in both the United States and the United Kingdom. However, it should be noted that these methods of charitable fundraising only work for large charitable not-for-profit organisations and do not present an alternative way for small or medium sized not-for-profit organisations to generate additional funds. While in the longer-term, ADCA certainly welcomes and recommends the exploration of new funding streams, it believes that something needs to be done soon to take the financial burden off small and medium sized not-for-profit organisations. ADCA proposes that as a first step and as part of its social inclusion agenda, Government be encouraged to raise funding arrangements of central not-for-profit organisations, especially those in the field of social service provision and AOD services. While an increased need for their services has been identified, this need has not yet been addressed.

Facilitating social innovation and sector development**Draft recommendation 9.1**

ADCA in principle welcomes the Commission's recommendation that Governments should explore options to expand existing programs that encourage and support social innovation. ADCA however, believes that this recommendation should be accompanied by a supporting recommendation in order to enable the expansion of existing programs which encourage and support innovation, as well as the establishment of new such programs.

ADCA believes that a recommendation should be put to Government to address the external constraints to innovation by NFPs such as prescriptive government contracting, lack of funding for experiments or for diagnostic evaluation, and the requirement to return any surplus generated by productivity improvements to be returned to the funding agency. As the Commission stated in its Draft Research Report: "a public strategy to promote social innovation must address all the constraints as there is no point removing one when the others are binding" (p. 9.13).

Addressing these external impediments to social innovation will have to be accompanied by also addressing internal constraints on NFPs innovation such as risk aversion and lack of skills and funding for evaluation that might assist in stimulating innovation. ADCA believes that before looking at specific programs and collaborations with potential to enhance social innovation, it is important that Government agencies and NFPs share the same mindset about the benefits and potential costs of social innovation. An administrative framework needs to be in place where not only impediments to enhancing social innovation have been removed, but where actual incentives for pursuing social innovation exist.

ADCA believes that investing in research into innovative solutions to social problems is important as it establishes the evidence-base for future policy and decision-making and informs best practice. However, it is stressed that importance of research findings then being translated into program and policy development. Presently, ADCA is concerned about the relationship between research and actual programs and policies, e.g. a public strategy to promote social innovation that addresses all the constraints as the Commission's recommendations prove to be highly research focussed.

ADCA asks the Commission to spell out more precisely that it recommends Australian Governments invest in research into innovative solutions to social problems, as well as investigate costs associated with removing external constraints on innovation by NFPs such as NFPs' ability to keep any generated surplus. It is time that all Governments not only promote commercial innovation but also social innovation.

Draft recommendation 9.2

ADCA agrees with the Commission that more needs to be done at the level of effectiveness or impact assessments for NFPs delivering government funded services, and endorses the Commission's recommendation that programs should include specific

guidance and training on undertaking evaluations. ADCA considers evaluations to be of vital importance as they assess efficiency and effectiveness of an organisation's performance by assessing outcomes against expenditure. Including evaluation into NFPs reporting requirements would enable assessing not-for-profit organisations' efficiency and capability to function as major providers of social services against each other as part of a meta-analysis of the evaluations and thus inform funding allocations.

From a funder perspective, the guiding objective of allocating funds is understandably to receive the best possible outcomes, thus maximising the return on its investment. Funders do not only want to know how their money has been spent, but how effectively. ADCA agrees with the point made by the Commission that Governments therefore need to be willing to invest in evaluation over time if they want to promote innovation in service delivery. ADCA urges the Commission to spell out more clearly the recommendation that funding bodies are to invest in evaluation if they want to promote innovation in service delivery and adopt informed best practice approaches.

While streamlining reporting requirements as recommended by the Commission should reduce compliance burden, introducing evaluation as part of reporting requirements will in many cases introduce a new element to reporting. This may imply that staff need to be trained to be able to address these new reporting requirements and allocate the respective time as evaluation can often be harder than simply reporting activities and expenditures.

Streamlining reporting requirements will hopefully save time but adding evaluation is yet again another time-consuming aspect of reporting and has to be met by respective funding if organisations are to be in a position to not only report, but also to evaluate. There will be increased pressure on NFPs as their activities will be monitored and assessed more closely to assess the effectiveness of their programs and services, and modifications will have to be implemented should deficiencies be detected.

Sustaining the not-for-profit workforce

Draft recommendation 10.1

ADCA endorses the Commission's recommendation that all State and Territory Governments should explore a system of "Working with Vulnerable People Checks" similar to that proposed in the Australian Capital Territory. ADCA recommends that these checks should be portable between organisations for a designated period of three to five years.

If similar systems are to be established in different States, ADCA recommends these checks should not only be portable between organisations within one State/ Territory, but also Inter-State. By covering the costs for background checking, State/ Territory Governments would provide a valuable contribution to NFPs ability to engage volunteers, as costs associated with volunteer work can be a reason why NFPs do not involve volunteers. If some of the costs are met by Governments and assistance is provided in managing the administrative side of volunteering, then more NFPs may be inclined to engage volunteers.

Draft recommendation 10.2

ADCA welcomes and fully endorses the Commission's recommendation 10.2 as it aligns with one of ADCA's key recommendations to the Productivity Commission's study.

Draft recommendation 10.3

ADCA in principle welcomes the Commission's recommendation that the Australian Government undertakes workforce planning for the community services sector.

ADCA does, however, believe that conducting workforce planning and addressing impediments to workforce development are not tasks that fall solely under the responsibility of the Government, but rather require a collaborative, consolidated approach by both Government and the Community Services Sector, or at least nominated representatives of it. Rather than Government looking at the sector from an external perspective and determining what has to be done to address workforce challenges, it should be ensured that information is sought on these issues directly from those community service providers which are affected by impediments to retaining and attracting staff. Those will have the best insight into what is required and what incentives would support workforce development.

Further, it has to be said that workforce planning is of course an important first step in addressing impediments to workforce development, but it is probably even more important that the workforce strategy, which might result from the planning activities, is implemented and that actual incentives to join the NFP community services workforce are put in place and impediments to attract and retain staff are removed. ADCA considers pay parity, skills development and training opportunities, as well as portability of long service leave to be of high importance in this regard. As has been stated by the Commission, these options are often costly and are not feasible under present funding arrangements.

Draft recommendation 10.4

ADCA welcomes the Commission's recommendation that Governments should provide support to develop and promote training for not-for-profit management and boards in governance and related areas.

ADCA over the past two years has developed new governance arrangements which were formally endorsed at its Annual General Meeting in November 2008, and which have now been put in place. The new governance arrangements saw the establishment of two new bodies. The ADCA Federal Council contains the nine ADCA Board Directors and a representative from each of the State/ Territory AOD peak organisations and is a key mechanism for cooperation and coordination with the State/ Territory AOD peaks. The other body is the ADCA Policy Forum which contains the members of the ADCA Federal Council together with the Chairs of ADCA's seven Working Groups. The main objective is to establish a deliberative, inclusive and advisory forum on key policy issues for the AOD sector. ADCA is subsequently well-positioned to advocate on behalf of the AOD sector and to represent it at the national level.

ADCA is of the opinion that expenditures in relation to Board and management structures of not-for-profit organisations are often not adequately considered in funding arrangements. As referred to by the Commission, there are not only face-to-face meetings which an organisation needs to facilitate and pay for, but ideally the organisation also needs to be in a position to build the capacity of Managers and Directors through training, much as there should be training opportunities for staff. Board Directors of not-for-profit organisations are mostly volunteers, and both they themselves and the organisation they are Board Directors of, would benefit from training in governance and related areas. However, such courses are costly and often cannot be afforded. This is a matter that requires more attention in future funding arrangements between community service providers and funding agencies.

Improving the effectiveness of direct government funding

Draft recommendation 11.1

ADCA fully endorses the Commission's draft recommendation 11.1 and urges Australian Governments to adopt this recommendation as a guideline for future funding arrangements as expectations would be articulated in a transparent way. This would enhance the relationship between funder and funded not-for-profit organisation as well as improve the overall efficiency and effectiveness of the sector in its funded activities.

ADCA endorses the recommendation that Australian Governments should fully fund those services and activities that they would otherwise provide directly. As they are "shopping" for these services, covering the full costs of them only seems appropriate.

Draft recommendation 11.2

ADCA welcomes the Commission's recommendation that Governments should undertake an independent costing exercise to determine the costs of new or significantly changed services or activities, where all relevant costs are taken into account in assessing the minimum cost for effective provision of the service or activity.

ADCA feels, however, that this recommendation is substantially weakened by the last sentence included in the recommendation which suggests that despite this independent costing exercise, Government can ultimately still set the fixed fee for service or user contribution. The question arises whether the costs of conducting an independent costing exercise are justified if their main purpose is to only give an indication of the minimum costs to deliver a service effectively, but governments in the end still decide autonomously on the extent to which they fund the service or activity.

ADCA believes that in this relation, recommendation 11.1 is indeed of vital importance, urging Governments to fully fund those services and activities which they would otherwise provide themselves. ADCA further believes that an independent costing exercise should only be conducted if it actually contributes to some outcomes, e.g. Governments commit to conducting an independent costing exercise to determine the actual costs of new or significantly changed services under the premise of then contributing at least a minimum percentage of the total calculated costs, thereby

investing into NFPs' capabilities, and thus the capability and productivity of the whole NFP sector.

Draft recommendation 11.3

ADCA welcomes the Commission's recommendation that Australian Governments should ensure that funding agreements include compensation arrangements for providers for the costs imposed by changes in government policy that affect the delivery of the contracted services. This would ensure greater security for not-for-profit organisations providing their services on a shoe-string budget and not being able to self-generate funds to meet changes imposed by government policy changes.

This recommendation relates to the concerns expressed in a number of submissions to the Productivity Commission's study about short-term funding arrangements which prevent NFPs from planning longer-term as they cannot be sure about future funding allocations and the services they prevent. ADCA in its submission addressed the benefits of longer-term funding arrangements. ADCA considers compensation for providers of the costs imposed by changes in government policy a commendable first step in creating a securer working environment for NFPs. However, ADCA believes that more needs to be done to ensure highest levels of NFPs' responsiveness to arising problems, flexibility, as well as efficiency and effectiveness in service delivery.

ADCA acknowledges that the community services and the not-for-profit sectors as a whole are highly dynamic sectors, constantly undergoing changes and providing an increased variety of services to an increasing number of clients. Obviously, the socio-economic changes that occurred over the past decades changed the scope and size of the not-for-profit sector which has been expanding and adopting to meet the needs, and to deliver an increased number of services on behalf of the Government. The fact that Governments contract NFPs to deliver services on their behalf implies that the sector is not only required to be flexible, but that stability in service provision also has to be an important objective when looking at its functions. In the case of Government-funded services, it is therefore also the responsibility of the funder to ensure a certain level of security and stability. The possibility that the scope of the service provided by an NFP can change at rather short notice, if funding runs out, has to be eliminated by incorporating compensation mechanisms into funding arrangements and in general, moving towards longer-term funding arrangements to enhance stability and thus productivity of NFPs.

Draft recommendation 11.4

ADCA endorses the Commission's draft recommendation 11.4 and urges governments at all levels to adopt it as a guiding principle of future funding arrangements and grants making.

Removing impediments to better value government funded services

Draft recommendation 12.1

ADCA welcomes the Commission's recommendation that Australian Governments should determine the most suitable model of engagement with not-for-profit organisations on an individual basis. ADCA shares the Commission's belief that Australian Governments' objectives of engagement should be "best value for money", "maximisation of outcomes", and "enabling the best possible service provision to those in need of them". ADCA urges that any model of engagement is informed by these objectives, and that the actual services to be delivered determine the model of engagement between funding agencies and not-for-profit organisations, instead of the purchaser-provider model being applied in a "one size fits all" approach.

Draft recommendation 12.2

Draft recommendation 12.2 aligns closely with draft recommendation 12.1 as it is guided by the same objectives as draft recommendation 12.1. As such, ADCA welcomes and sees both recommendations as aiming to maximise outcomes and achieve the best value for money by establishing higher levels of flexibility and responsiveness to actual needs. This is from both a not-for-profit organisation's and a client's perspective, and relates to the levels of engagement between funding bodies and service providers.

The necessity to include evaluation processes and mechanisms for the regular review and revision of service delivery approaches in light of findings from evaluations as part of funding arrangements under any model of engagement, have been emphasised earlier in this document as an important means to establish greater levels of responsiveness and flexibility in funding arrangements, and thus to ensure the most efficient use of funds by maximising outcomes and enhancing levels of service provision.

Draft recommendation 12.3

In ADCA's comments on recommendations 12.1 and 12.2, ADCA emphasised the importance of the principle of obtaining the best value for money for the community, and that the best model of engagement is determined on a case-by-case basis. ADCA subsequently fully endorses the Commission's draft recommendation 12.3 and would strongly suggest that this recommendation be moved to the beginning of section 12 as the principle should guide any form of engagement between Australian Governments and not-for-profit organisations, and therefore should be seen as a pre-supposition to recommendations 12.1 and 12.2.

Draft recommendation 12.4

ADCA has previously expressed concerns about the trend that Government agencies seem to increasingly prefer to deal with bigger and fewer parties to minimise their transaction costs with the not-for-profit sector. A number of stakeholders identified this development as a mean to increase the agencies' efficiency in dealing with the sector. ADCA strongly believes that this development needs to be reversed, and that instead of

reducing the number of contacts between Government agencies and the not-for-profit sector, interaction between the two needs to be streamlined and made more efficient and effective. Attempts to minimise transaction costs with the not-for-profit sector by limiting contact with the sector to its big players, directly opposes the Government's claim that not-for-profit organisations contribute greatly to promoting social inclusion. The solution to minimising transaction costs for Government agencies should not be reduced contact with the majority of not-for-profit organisations, but by streamlining the required level of interaction, thus making it more efficient for both the not-for-profit organisations and government agencies.

ADCA subsequently does not support recommendation 12.4 as it stands, as it believes the lead agency model reduces interaction between Australian Governments and not-for-profit organisations and seems to streamline Governments' interactions with the sector. While it may reduce Governments' transaction costs with the sector, it does not contribute to encourage frequent and open interaction between Australian Governments and the Third Sector. It should be noted that this is one of the underlying principles of the National Compact between the Australian Government and the Third Sector. ADCA believes that the recommendation to increase appliance of the lead agency model contradicts the principles underlying the National Compact.

As referred to by the Commission in other recommendations, ADCA believes there are more preferable approaches to addressing duplication of reporting and accountability requirements, such as recommendations 5.3, 5.4 and 6.4.

Draft recommendation 12.5

ADCA endorses the recommendation that the length of service agreements and contracts should reflect the length of the period required to achieve agreed outcomes as this is in alignment with one of the key recommendations that ADCA made in its submission. ADCA had argued that short-term funding arrangements present serious impediments to not-for-profit organisations as they generate uncertainty, inhibit innovation, make it difficult to retain staff, render longer-term financial planning and proper investment extremely difficult, and stop organisations from pursuing more holistic strategic and organisational goals.

On the other hand, focusing on the desired outcomes and the time required to achieve them, emphasises the importance of a consistent and secure funding stream over a longer period of time. This would ensure the effectiveness and sustainability of not-for-profit organisations' services and operations, a pre-supposition for achieving the identified, desired outcomes.

Draft recommendation 12.6

As stated by the Commission, this recommendation is uncontroversial and is supported by ADCA as it believes that good risk management practices and explicit risk management frameworks should be compulsory elements of each funding contract.

Draft recommendation 12.7

ADCA endorses the Commission's recommendation that Australian Governments should urgently review and streamline their tendering, contracting, reporting, and acquittal arrangements as these requirements in many cases have become overly prescriptive and process driven, and impose significant, but avoidable costs on providers.

ADCA believes that the use of master agreements and pre-qualifying panels would be a valuable tool to reduce the extent to which providers have to verify their corporate and financial health on multiple occasions. That said, it is imperative that these master agreements be updated on a regular basis to contain up-to-date financial data.

ADCA recommends that the potential of a pre-qualifying panel style of tendering for some service models, as applied by the NSW Department of Ageing, Disability and Home Care, be further examined and its application in jurisdictions be considered. Providing critical information once, and having that information held by the relevant Government department for a determined period of time, would certainly reduce compliance costs for not-for-profit organisations, especially if submitting this information occurs on a voluntary basis. However, it could be necessary for those not-for-profit organisations wishing to be considered in relation to a specific tender by a pre-qualifying panel which "qualifies" a number of not-for-profit organisations which subsequently are invited to submit additional, tender-specific information. This pre-selection ensures that not-for-profit organisations which are not considered suitable in relation to a particular tender do not "waste" their time completing an extensive tender application.

It could be argued that the establishment of pre-qualifying panels undermines the autonomy of not-for-profit organisations as it limits their ability to autonomously decide which tenders to apply for. It could, however, equally be argued that master agreements and pre-qualifying panels present a time/ cost-effective way to manage interaction between funding agencies and not-for-profit organisations. By establishing eligibility criteria on an individual tender basis and inviting organisations to apply, it could ensure that NFPs which are not considered suitable do not "waste" their time on an application which may be unsuccessful. Master agreements and pre-qualifying panels can therefore be considered as additional measures to ensure that value for money is maximised.

On the other hand, Governments at all levels would be required to fund and establish sections to manage the master agreements and the pre-qualification process. While this implies up-front costs, ADCA would argue that there are longer-term benefits implied in this as application numbers for tenders will decrease, and only the most suitable not-for-profit organisations will be considered. Having been pre-selected might be an incentive for NFPs to improve the quality of their application, given the enhanced chance of actually being successful.

Building stronger, more effective relationships for the future**Draft recommendation 13.1**

ADCA welcomes this recommendation as it reflects a point made by ADCA in its submission into the drafting of a National Compact. While it is important that compacts between Australian Governments and the sector outline vision, purpose and principles to inform interaction between both parties, it is equally important that these compacts are accompanied by concrete action plans that outline ways to achieve the identified vision and purpose. Otherwise, a Compact would only be a theoretical document.

ADCA agrees that there needs to be practical measures that help assessing the proposed relationship, but in the case of the National Compact questions who would be monitoring the progress and functionality of this agreement. While in the case of contracts between the not-for-profit sector and States/ Territories it could be a Commonwealth agency monitoring the progress and interaction at the State level. The National Compact at the Federal level would require the establishment of a separate, independent agency if the interaction is to be monitored and evaluated independently.

There are not only questions in relation to monitoring the relationship between Government and the Third Sector, but also representational issues, as it is presently unclear how and by whom the sector would be represented in its interactions with Government. In the National Compact's consultation paper, it is stated that governance mechanisms for the sector and the Government will need to be implemented, including a body labelled National Compact Council comprising Third Sector champions, without actually identifying who these champions could/ should be.

For a comprehensive discussion on the proposed National Compact, ADCA refers the Commission to its submission into the drafting of a National Compact which is accessible on ADCA's website:

<http://www.adca.org.au/index.php?option=content&task=view&id=222>.

Draft recommendation 13.2

ADCA acknowledges the need for leadership in implementing the comprehensive reform process that has been proposed by the Commission to improve efficiency and effectiveness of not-for-profit organisations' operations. ADCA also supports the enhancing of relationships between Australian Governments and the NFP sector. These objectives are also informing the development of a National Compact between the Australian Government and the Third Sector.

However, ADCA is concerned about the administrative and regulatory duplication which appears to be inherent in the Commission's recommendations, and it is suggested that recommendations made in relation to establishing new bodies regulating interaction between Governments and not-for-profit organisations be revisited to ensure there is no overlap in their functions and responsibilities. Presently, functions and responsibilities of the proposed Office for Not-for-Profit Sector Engagement within the Prime Minister's portfolio, the proposed Centre for Service Effectiveness, and the already existing

Department of Prime Minister and Cabinet's (PMC) Social Inclusion Unit seem to intertwine and overlap. It has to be questioned how all these proposed bodies will be funded and whether there will indeed be competition for funding allocations between them.

ADCA shares the Commission's view that implementation of the NFP reform agenda needs a policy home at the national level, and supports the Australian Institute of Company Directors' proposal to nominate a dedicated Minister for the Third Sector at the Commonwealth level. If that proposal is realised, the question would arise whether the Office for Not-for-Profit Sector Engagement should actually be established within that Minister's portfolio. Further, it should be examined to what degree the functions and responsibilities of the other two bodies, namely the proposed Centre for Service Effectiveness and the PMC's Social Inclusion Unit could be addressed by this Office in order to streamline administrative and regulatory matters. Implementation of the reform process could then be coordinated by this one body which would establish some leadership and policy coordination mechanisms.

Dealing with the Third Sector at the national political level would further suggest establishment of a single peak body of the Third Sector whose composition would have to be determined. While it is considered important that Federal Government focuses on its engagement with the Third Sector and nominates a dedicated Minister, it is equally important that the Third Sector itself is represented at this level to ensure that interaction and dialogue between both parties occurs at the highest political level, and that there is some leadership executed on both sides to drive change and support implementation of the reform agenda.

ADCA suggests that recommendations made by the Commission are cross-checked with the proposed National Compact as there seems to be a certain degree of overlap. For example, the Commission proposes that the Office of Not-for-Profit Sector Engagement be responsible for implementing the Government's proposed contract with the NFP sector. This is not reflected in the National Compact Document which only mentions a National Compact Council with different functions. If this Office of Not-for-Profit Sector Engagement is to oversee implementation of the proposed Centre of Community Sector Effectiveness, it has to be questioned whether its functions should not be allocated with the Office in the first place. No matter where this Office would be located, ADCA considers it of vital importance that reporting on the reform process and progress is conducted on an annual basis.

Conclusion

As the national peak NGO for the AOD sector, ADCA welcomes the Productivity Commission's study on the contribution of the not-for-profit sector, and was encouraged by the release of its Draft Research Report.

ADCA considers the recommendations made by the Commission in its Draft Research Report to be substantial, far-reaching and adequately addressing the complex issues the NFP sector is faced with, and subsequently urges the Federal Government to adopt the majority of them. Adopting the Commission's key recommendations would formalise the

Government's commitment to enhance relationships with the Third Sector, deregulate not-for-profit organisations' operations, and streamline their reporting requirements.

ADCA believes that the adoption of the majority of recommendations is imperative if the not-for-profit sector is to maximise its outcomes, and thus its contribution to social inclusion. At present, not-for-profit organisations face too many operational impediments to work most effectively and efficiently. Streamlining administrative and reporting requirements in order for NFPs to be able to focus on delivering the services they have been contracted for, would appropriately acknowledge their contribution to enhance social inclusion. In this regard, ADCA considers Government's adoption of recommendations made in chapters 11 and 12 to be of particular importance.

ADCA would be pleased to assist the Productivity Commission further in developing its final set of recommendations for the Government's consideration, and to expand on any of the issues addressed in this response to the Draft Research Report.

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