



Australian Government



Australian  
**Charities** and  
Not-for-profits  
Commission

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### **Submission to the Treasury Consultation on Modernising Business Registers**

1. The Australian Charities and Not-for-profits Commission (**ACNC**) welcomes the opportunity to provide a submission to the Treasury Consultation on Modernising Business Registers (**the Consultation**). The ACNC made a submission to Treasury's 2017 Consultation on the Business Registers. This submission will build on that earlier submission, which is reproduced at Attachment A for ease of reference.

### **ACNC Act Review**

2. The *Australian Charities and Not-for-profits Commission Act 2013 (Cth)* (**the ACNC Act**) was recently reviewed by an independent panel. The Panel's report has been provided to the Assistant Minister to the Treasurer and is due to be tabled in Parliament shortly. The Review Panel's recommendations, and the government's response, may impact on the work of modernising the business registers. The ACNC therefore recommends that Treasury consider the Review findings in its deliberations on the business registers.

### **Proposals for law change**

3. The ACNC notes the requirements for legislative changes to enable the Business Registers to be modernised. This presents an opportunity for alignment between the various pieces of legislation relating to the registers and the ACNC Act. An example where alignment would provide efficiencies for both business and the government is in relation to withholding information from the various registers. The ACNC Commissioner may withhold or remove information from the Charity Register under s 40-10 of the ACNC Act. However, it may be that information withheld from the ACNC Register remains available on other government registers.





4. The ACNC suggests that consideration be given to whether the legislation should enable a decision to withhold information from one register to flow through to all related government registers. The proposed information technology changes may facilitate such a process.
5. Under the ACNC Act, the Commissioner is able to display charity information on the Charity Register. However, only a specific set of data items may be included (see s 40-5 of the ACNC Act). The Treasury Consultation paper seems to contemplate that the Registrar or Registrars will be given more freedom to determine the types of information to be collected and displayed. Depending on the draft legislation, this may create inconsistencies with the ACNC Act.
6. The Consultation also suggests that the Registrar/s be granted legislative powers to update information on the Register/s if they have access to more up-to-date information. The ACNC would be interested in exploring what such a provision would mean in practice. Currently, the ACNC Act requires charities to inform the ACNC should certain circumstances change, or to correct identified errors. The ACNC is not able to update the Register independently.
7. Further to the above, the ACNC can provide up-to-date information to other registers with respect to registered charities under s 150-40 of the ACNC Act. For example, the ACNC currently provides updated information about charitable companies to ASIC.

### **Charging Framework**

8. The Consultation indicates that Treasury is considering the development of a charging framework for access to certain information on the registers.
9. The ACNC provides information to the public on all registered charities via the Charity Register. There are no fees for accessing information on the charity register. Providing information on registered charities assists the ACNC to meet its object of maintaining, protecting and enhancing public trust and confidence in the Australian not-for-profit sector (see s 15-5 of the ACNC Act). The ACNC also makes data available on [data.gov.au](http://data.gov.au), for use by researchers and the private sector. This should be taken into account in developing the charging framework.
10. Some searches on business registers are currently free. The ACNC would encourage Treasury to consider the benefits of continuing to make as much information as possible freely available to the public.



### **Making changes to data held on business registers**

11. As noted in the ACNC's earlier submission, the ACNC receives complaints from charities regarding the difficulty of accessing registers to create or update information. The ACNC is pleased to note the focus on ease of use and simplification of registers in the Treasury Consultation paper.
12. The ACNC exchanges new and updated charity entity and responsible person information with federal and state government agencies and regulatory bodies including the Australian Business Register (**ABR**) and the Australian Securities and Investments Commission (**ASIC**). This information is transferred in accordance with arrangements set out in MOUs, including agreed formats, frequency and methods of transmission.
13. The ACNC sends applicable updated charity information to both the ABR and ASIC to update their registers both automatically and on regular schedules. The ACNC also receives Australian Business Number (**ABN**) status updates from the ABR on an ad-hoc basis. Further discussion, consultation or collaboration may be required should the Register Modernisation project require different data schedules or integration methods requiring ACNC system changes.
14. From September 2018, the ACNC will also use the public ABR API to pre-populate a new online forms system with the relevant entity details, such as status and legal structure.

### **Director Identification Number**

15. There are over 7,000 companies limited by guarantee which are registered as charities with the ACNC. Once registered, these charities are only required to report via the ACNC, mostly through ACNC online systems. The required updates include charity entity and responsible person (Director) information, which is subsequently sent to ASIC.
16. While the introduction of a Director Identification Number (DIN) will potentially alleviate shared issues in relation to uniquely and persistently identifying and managing individuals and relationships, it will also have ramifications for charities and the ACNC. Legislative, business process and system changes will be required to enable the allocation of a DIN to an individual who has not previously been a director and becomes a director of a charitable company after it has registered with the ACNC and for the ACNC to administer or display the DINs of responsible persons for charitable companies. The ACNC suggests that Treasury consult with the ACNC on these issues in developing the proposals and implementing legislation.



### Further information

17. The ACNC is able to provide further information on any the above, should this be useful to Treasury. Contact information is provided below.

Contact:

[Redacted contact information]

[Redacted contact information]