

MEDIA RELEASE

Centre for Corporate Law and Securities Regulation,
The University of Melbourne

STUDY SHOWS NEED FOR NEW REGULATORY FRAMEWORK FOR NOT-FOR-PROFIT SECTOR

The Centre for Corporate Law and Securities Regulation at the University of Melbourne has published findings from a major survey of not-for-profit companies (conducted in conjunction with Philanthropy Australia Inc). For the first time, the results provide large-scale, national profile data on this important group. *The findings support the need for a new national regulatory framework, with provisions designed to meet the specific needs of both large and small not-for-profit organisations and their stakeholders.*

Context

Currently, there is a myriad of legal structures in the not-for-profit (NFP) sector - even more varied than in the business or 'for-profit' sector. This complexity gives rise to a lack of nationally consistent reporting obligations, which in turn has important implications for accountability and corporate governance. The findings indicate that NFP organisations and their stakeholders are very different from the 'for-profit' sector, and this needs to be reflected in the regulatory framework.

Importance of the sector

The NFP sector plays a vital role in our society. In economic terms:

- Australians give \$2.8 billion annually to NFP organisations
- NFP institutions contribute 4.7% of GDP and account for 6.8% of total employment, and
- in comparative terms, NFP institutions add more to GDP than the mining industry.

Importance of the study

This is the first study to provide large-scale, national profile data on this important group. The research was conducted via a survey sent during 2002 to all registered companies limited by guarantee. Over 1,700 replies were received.

Key survey findings

- Over 10,000 NFPs are registered under the Corporations Act. 70% of respondents from this group said that the Corporations Act, and the way it is implemented, is inappropriate for their needs.
- NFPs and their needs differ from 'for-profits' in several ways, for example:
 - they rely heavily on volunteers
 - they enjoy exemption from income tax
 - they have more stakeholders to consider (members, volunteers, grant makers etc - not just shareholders interested in 'the bottom line').
- Nearly a third of NFP's reported difficulty recruiting directors.
- The majority are in favour of the establishment of a new administrative body to oversee NFPs (as recommended by a recent Federal Government Inquiry).

- There was considerable dissatisfaction about the expense and paperwork involved with complying with the existing regulatory framework.

Reforms needed

The findings support the need for a national regulatory framework, with legislation designed to meet the specific needs of both large and small NFP organisations and their stakeholders. This could be achieved via a referral of powers from the States to the Commonwealth along the lines of the company law referral in 2000. Ideally, it should also be combined with the introduction of specific NFP corporate structures and a specialist unit within the Australian Securities and Investments Commission.

Sue Woodward, primary author of the study, said that reform would be timely: "Although much needed reforms for small business have been introduced over recent years, much more needs to be done for NFP organisations given the importance of this sector. After more than a decade of a dual NFP regime - State and Territory based associations' legislation and also national regulation of companies - it is time for serious reconsideration of the regulation of NFP bodies generally."

A Summary of Preliminary Findings is available at:

<http://cclsr.law.unimelb.edu.au/activities/not-for-profit/>

A copy of the questionnaire and a more detailed report is available on request.

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