



12 August 2022

Director
Not-for-profit Unit
Treasury
Langton Cres
Parkes ACT 2600

Via email: charitiesconsultation@treasury.gov.au

Dear Director

Submission in response to draft *Australian Charities and Not-for-profits Commission Regulations 2022* (the 'draft Regulations')

Thank you for the opportunity to respond to the consultation on the draft Regulations.

The Australian Pro Bono Centre ('**APBC**') is the national centre of leadership for pro bono legal services, aiming to grow participation and excellence in pro bono.

The APBC submits that section 45.15 of the draft Regulations relating to 'Governance Standard 3' should not be included for the following reasons:

- (1) **Inappropriately wide discretionary powers** - The effect of including Governance Standard 3 would be to give the ACNC Commissioner the power to deregister a charity suspected of committing an offence, even in the absence of a conviction. This inappropriately puts the Commissioner in the position of a de facto enforcement and judicial agency.
- (2) **Silencing advocacy** - Government Standard 3 may have the unintended consequence of silencing legitimate and lawful advocacy. For example, charities would risk being deregistered if they contravened laws governing peaceful protests in NSW, Victoria and Tasmania.
- (3) **Redundancy** - Charities are already subject to all applicable laws. Government Standard 5 further holds charities accountable for serious misconduct and breaches of the law. Government Standard 3 is therefore redundant, does not assist the purpose of protecting and enhancing public trust in the sector and inappropriately adds an additional and disproportionate penalty of deregistration on top of criminal penalties.

We hope our submission is of assistance.

Yours faithfully,

Gabriela Christian-Hare
Chief Executive Officer