

Introduction

The Voluntary Sector Initiative announced in June 2000 is a joint undertaking of the voluntary sector and the Government of Canada. It is a unique opportunity to focus on the voluntary sector of Canadian society – a sector equal in importance to the public and private sectors.

The long-term objective of the Voluntary Sector Initiative is to:

- strengthen the voluntary sector's capacity to meet the challenges of the future and to serve Canadians; and
- improve the relationship between the sector and the federal government in order to better serve Canadians.

Canada's voluntary sector

The voluntary sector is one of three pillars that make up Canadian society, together with the public¹ and private sectors. Voluntary sector organizations operate in a wide variety of areas such as arts and culture, sports and recreation, education, health and social services, faith, human rights, social justice and environmental protection. Through their staff and volunteers, these organizations work in communities across Canada every day, identifying needs, raising funds and delivering services vital to improving the lives of Canadians. These organizations make a valuable contribution to social cohesion by developing and supporting social, cultural, economic and political values in Canadian communities.

The voluntary sector, in its broadest sense, is composed of all not-for-profit organizations that exist in Canada. Some are incorporated; some are not. Organizations range from community-based self-help groups to national organizations, and include such organizations as neighbourhood associations, service clubs, symphonies, universities, schools, and hospitals. Some, perhaps most, are designed to provide some form of public benefit, while others are professional or focus on member benefits. All are dependent on volunteers, at least on their board of directors.

¹ The public sector includes all levels of government – federal, provincial, territorial, regional and local.

Process leading to the current review

In 1995, 12 national umbrella organizations covering most parts of the voluntary sector came together as the Voluntary Sector Roundtable (VSR) to strengthen the voice of the voluntary sector. The goals of the VSR were to enhance the relationship between the sector and the Government of Canada, to strengthen the sector's capacity, and to improve the legal and regulatory framework governing the sector.

The VSR commissioned an independent panel of inquiry on how to promote accountability and governance in the voluntary sector. Known as the "Broadbent Panel," its report – *Building on Strength: Improving Governance and Accountability in Canada's Voluntary Sector* – was released in 1999.

During this same period, the Government of Canada was also looking at its relationship with the voluntary sector. The Government recognized the need for a strong, vital voluntary sector to meet the government's goal of improved quality of life for Canadians.

Following the release of the Broadbent Panel report, voluntary sector members and federal officials met in three groups, called "joint tables," to make recommendations on sector/government relationships, to strengthen the voluntary sector's capacity, and to improve regulations and legislation.

One of the joint tables was the Table on Improving the Regulatory Framework. It was established to explore ways to:

- improve the regulation, administration and accountability of charities and other non-profit organizations; and
- examine federal funding support.

On August 29, 1999, the three joint tables released their combined report called *Working Together*. This joint exercise delineated three distinct areas requiring strategic investment and attention:

1. improving the relationship between the government and the sector;
2. enhancing the capacity of the sector to serve Canadians; and
3. improving the legislative and regulatory environment in which the sector operates.

The Joint Regulatory Table was formed in November 2000 to address this third area.

A focus on charities

We have focused our attention on issues connected with registered charities.

The regulation of charities involves various levels of government. The federal government's authority over charities comes primarily from the *Income Tax Act*.² That Act makes charities exempt from the payment of income tax. It also allows registered charities to issue receipts for donations, and these receipts allow donors to claim a tax credit for their contributions.

There are, currently, about 80,000 federally registered charities in Canada. In 2001, federal tax revenue from individuals and corporations was reduced by about \$1.5 billion as a result of contributions to these charities.³

We also recognize that the regulation of charity is not a matter involving only government and the sector. The public has an important “stake” in how charities are regulated.

Charities, as part of the broader voluntary sector, help to cultivate a strong civil society and a federal government connected to citizens. They act as a vehicle for social cohesion and provide opportunities for individual Canadians to volunteer or work on issues of importance to themselves and their communities. Because donors to charities receive tax credits, all Canadians have a financial stake in who is allowed to issue charitable-donation receipts, since it is not simply the donor who is giving money – it is also the taxpayer.

In making final recommendations to ministers, we have attempted to balance the interests of the sector, government and the public.

² This does not mean that the *Income Tax Act* is the only federal legislation that affects charities. There are several other federal statutes affecting charities. For example, the *Canada Corporations Act* identifies the terms and conditions for incorporating non-profit organizations. The *Competition Act* prohibits deceptive fundraising practices, and the *Personal Information Protection and Electronic Documents Act* specifically prohibits the sale of donor, membership and other fundraising lists without the active consent of individuals on the list.

³ This figure is a conservative estimate of the total tax assistance provided to charities as it excludes the sales tax rebates for charities and the benefits associated with the tax-exempt status of charities. If one were to include provincial revenue not realized, this figure could increase to \$2 billion.

The current review

The Joint Regulatory Table examined four fundamental policy issues related to the regulation of charities.

The first issue is **accessibility and transparency** of the regulatory regime. The concern has been that there is not enough information available about registered charities and about how the Canada Customs and Revenue Agency (CCRA) makes decisions, especially decisions on registration and deregistration. Our recommendations in this area focus on increasing public trust in the regulator by making its operations more transparent, and public trust in the sector by making more information about charities available.

The second issue is a **system of recourse** for organizations that disagree with decisions made by the regulator. Under the existing system, appeals of CCRA decisions to deny or revoke charitable registration must be made to the Federal Court of Appeal. We consider how the appeal process can be made easier without making it more cumbersome and costly for charities. At the same time, we look at how more cases can be brought before the courts, so that the decisions can clarify charity law in complex or novel cases. Our recommendations deal with access to lower levels of appeal before a case reaches the Federal Court of Appeal.

The third issue is the possibility of introducing **intermediate sanctions** for charities that are not complying with the rules for continued registered status. Under the *Income Tax Act* there is only one consequence for not complying with the rules for continued registered status and that is deregistration. This penalty is considered by many to be too harsh except for severe breaches of the law. To ensure public confidence in the sector is not undermined, we are recommending that new sanctions be introduced. However, we place an emphasis on the need for the regulator to better educate charities about the rules and to work with charities to remedy problems.

Finally, we examine the issue of **institutional reform**. Building on the work of the 1999 Joint Tables process, four models for the federal charities regulator are considered. The models include an enhanced Charities Directorate that would continue to operate within CCRA, a complementary agency that would work alongside CCRA, a hybrid model that would split regulatory functions between two institutional bodies, and an independent commission. Each model can be assessed in terms of its ability to:

- ensure public confidence in voluntary organizations;
- maintain the integrity of the tax system; and
- ensure a supportive and enabling environment for voluntary organizations.

In addition to these four broad policy issues, the Joint Regulatory Table also worked on two other regulatory matters.

The first was to simplify the annual information return (T3010) filed by all registered charities. We worked with the CCRA to develop the shorter annual reporting form that is now in use. The second issue was to clarify the rules on related business activities under the *Income Tax Act*. We worked with the CCRA to develop draft guidelines on the type and degree of business activity in which charities can legally engage. These draft guidelines served as the basis for further consultations, both inside and outside the charitable sector.

Consulting with Canadians

In August 2002, we released a report containing our interim recommendations. We held consultations in 21 cities across Canada in the Fall of 2002 to seek the views of those in the voluntary sector; their advisors; federal and provincial government officials; people currently involved – directly or indirectly – in regulating or supervising charities; and the general public. For a report on the consultations, please see Appendix 2.

The recommendations in our interim report were largely supported in the consultation process. We have made some changes of detail and emphasis to reflect what we heard during the consultations. For example, the need for education has received more attention in this report.

Organization of the report

The next chapter provides a sketch of the current regulatory system. It contains background information that readers will need to understand our recommendations. Next, we discuss the requirements, in our view, of a sound regulatory framework for charities. The remaining chapters each cover a specific area of the Table's mandate.

Within each chapter, we have included what we initially said in our interim report, what we heard during our consultations, our conclusions and recommendations. We believe this organization will assist the reader in following the reasoning behind our recommendations and the evolution in our thinking.