

Appendix 1:
ACFID Code of Conduct – Historical Contexts

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Any review of the Code of Conduct would be inadequate without a broad understanding of the contexts that led to its development and contributed to its formulation. A substantial review of the history of the Code is as follows: .

1.1. Global Context

During the 1970s and early 1980s, 'Northern'¹⁴ NGOs enjoyed almost unquestioning support and popularity with donors and public alike. They were perceived as front line organisations that were effectively delivering critical assistance to the poorest and most needy sectors of global society and doing so with great efficiency. Their accountability, ethical and professional standards were rarely questioned.

This favourable climate contributed to a significant numerical and operational growth of NGOs in both the 'North and South'. Emphasis for many was on 'getting the job done' and the huge range of organisational diversity and understanding of mission contributed to differing ethics and standards of accountability across the NGO global industry. Governments and multilateral organisations increased their support 'tenfold'¹⁵ over this period.

Although this support enabled a greater operational breadth in NGO programming, it also had the effect of showcasing the different operational standards, or in some cases, lack of them. These inconsistencies did not go unnoticed, either by the NGO community itself or by other stakeholders interfacing with NGOs. At the same time, there was an increasing emergence of 'Southern NGOs' who began to question the role and operational ethics of 'Northern NGOs'.

In the '80s', national, regional and international peak bodies for NGOs responded to the evident need for common operating principles and standards to guide member operations by developing some form of code. ICRC and ICVA (Geneva, Switzerland), InterAction (USA), CCIC (Canada), CID (NZ), are examples of this with the ICRC Code being one of the earliest of them.

NGOs had begun to face significant critique of their development programming particularly with regard to their capacity to really impact poverty. In the early eighties, a well-published author on foreign aid from the Overseas Development Institute, ODI, UK, Roger Riddell demonstrated in a report to SIDA¹⁶ that NGOs often did not reach the 'poorest of the poor'. Articles and reviews from this era demonstrate that NGO performance was uneven with many questions about NGO participation, mobilisation of communities, lack of innovation and targeting assistance aimed above the poorest 40% of the population. In the USA, Estes, Binney and Berthgold in 1989 wrote that the 'non-profit sector was losing its legitimacy with the American public'¹⁷.

The Ethiopian famine in 1984-5 was 'publicised' in a manner that brought the field realities right into the 'global living room'. The donor public were informed as never before. Successively, a number of mega disasters followed. In 1989, the Liberian Civil War, in a matter of weeks, sent more than 850,000 Liberians as refugees into Guinea and Côte d'Ivoire. This was soon followed by the Balkan Conflict in Europe, and then the Rwandan

¹⁴ NGOs from affluent, well developed economies as compared with 'Southern' NGO's based in developing countries most of which were perceived as being in the South. Australia and New Zealand were considered as part of the 'North' under this definition.

¹⁵ S.Hellinger, et al. 'Aid for Just Development, p.100, Lynne Rienner Publishers. USA, 1988

¹⁶ R.C Riddell, et al, 'Promoting Development by Proxy' SIDA Report

¹⁷ Estes, C, et al, 'The Future of the Nonprofit Sector', p23 1989. Jossey-Bass publishers, San Francisco

Genocide in East Africa, in 1994. The result was unprecedented global and national media coverage of these events and a massive outpouring of resources by the public, governments and multi-lateral organisations. Humanitarian assistance was placed in the spotlight as never before. In the face of a much better ‘informed’¹⁸ public and increasingly more rigorous demands from government and multilateral donors with regard to the usage of their funds, the imperative for NGOs to demonstrate greater accountability to their donors as well as more consistent and transparent standards of practice in their operations, was acknowledged as critical to the global sector.

1.2. Australian Context

Russell Rollason, Executive Director of ACFOA (Australia,) during this period recalls¹⁹ that discussions on the development of an ACFOA code had begun as early as 1985. Some of the drive at that time arose from a LiveAid fundraising concert in Australia that had raised significant funds for the famine in Ethiopia. LiveAid was a UK organization and wanted all funds sent to the central office in the UK before programming in Ethiopia. ACFOA, as the peak body for Australian NGOs, intervened and insisted that the funds must be programmed from Australia to ensure proper accountability and ownership of the process by Australian NGOs. During this period there were also broader discussions in the Australian NGO sector relating to NGO performance and behaviour towards their partners in the field. ACFOA had established a ‘Quality of AID committee’ that led this initiative. Work started on a Code and the ACFOA ExCom approved, in principle, the first draft of a Code of Ethics in September 1986. A second draft was then developed and presented in a paper to the ACFOA Executive for consideration²⁰. It contained a set of general ethical goals and principles with particular emphasis on operational integrity and accountability towards the recipients of Australian aid. This initial Code of Ethics sought voluntary sign on and adherence by ACFOA members.

The ACFOA ExCom considered this second draft on May 14th and 15th 1987 and the following action was taken:

“AGREED that the Executive recommend the Code of Ethics and it be circulated to member agencies for consideration and comment before Council. The final document to be presented to the Annual Council (1987) for consideration by each member agency for endorsement”.

In a letter to the ACFOA membership on 24th June 1987, the Executive Director of ACFOA sent out the recommended code and put the membership on notice that it would be moved for adoption at the Council. The letter concludes by saying:

“The executive strongly urges support for adoption of the Code as it will be a most significant step in self-regulation. It will assist all aid agencies by clearly indicating to the [Australian]²¹ community and the Government that we are responsible, professional, organisations with an agreed set of ethical standards.”²²

Interestingly, five days before the council, a letter was received from a member agency in which a significant number of issues were raised regarding the proposed Code of Ethics. The letter raised issues relating to the need for the Code to be mandatory rather than voluntary and to not be limited to only ACFOA membership. Legal opinion on these suggestions was sought from Crowley & Chamberlain and comments made as to the legal implications of Rule 7 of ACFOA’s Association structure regarding termination of membership if the ‘Member has been guilty of conduct detrimental to the interests of

¹⁸ I.e. Informed by the media’s interpretation of events which was often not the complete story

¹⁹ Telephone interview with author, May 1st 2007

²⁰ Code of Ethics for ACFOA Members, Draft 2, 11th May 1987. Quality of Aid committee Executive paper

²¹ Authors’ insertion

²² Rollason R, Memorandum re Code of Ethics, 24th June 1987

ACFOA.’ The letter also recommends that the term ‘Code of Ethics’ be replaced with ‘Code of Behaviour’, which was thought to better describe the content and intent of the document.

The 1987 Council recommended the adoption of the document as a recommended Code of Behaviour for ACFOA members and that the ACFOA Executive appoint a working committee to prepare a Code of Ethics for adoption at the 1988 Council. In retrospect the iterative consultation and development of the final Code of Ethics took another two years before it was formally adopted at the 1989 Council as a mandatory Code of Ethics for ACFOA members. However, as early as November 1988, records show that NGDO’s had started the process of formally adopting the draft code. ACFOA’s membership at this time represented “around 75% of NGDOs, accounting for approximately 90% of both public donations and Government grants (*in Australia*) to NGDOs”²³.

²³ COPAC, p.i Report to the Minister for Development Cooperation and Pacific Island Affairs, August 1995

Appendix 2: Towards a Code of Conduct

The Hon. George Gear, Assistant Treasurer of the Australian Government, in December 1993 tasked the Industry Commission (IC) to undertake a comprehensive inquiry into Community Social Welfare Organisations, (CSWO) as part of a broader review of all charitable entities²⁴. The main focus of the inquiry was on “the scope, efficiency, effectiveness, funding and administrative arrangements of the services provided in Australia by charitable organisations”²⁵. A month before the release of the draft report in October 1994 the Minister for Development Cooperation, the Hon. Gordon Bilney MP requested the Industry Commission should pay particular attention to the issue of the accountability for public donations raised by NGOs with particular reference to possible legislative or regulatory requirements²⁶.

The commission released its draft report in October and included a recommendation that all CWSO's become subject to specific accounting standards that would be developed in line with those required of incorporated companies. This included NGOs. The CSWO community at large expressed serious concerns about this recommendation and its potential for compromising their diversity, flexibility and autonomy. However, by contrast the NGO sector was basically supportive of the recommendations.

In 1995 serious allegations were made publicly against one non-ACFOA member NGO. During a Channel Nine exposé, a series of claims were made against the organisation's integrity, particularly in regard to the handling and reporting of their use of funds and resources. The Minister called for an immediate audit of the agency. The resulting coverage in the public media and government concern about accountability fed into the ongoing discussion regarding accountability and transparency and became an impetus for the rapid development of a sector wide Code of Conduct. It is probable that the Minister believed that the process of implementing the IC's recommendations would be protracted and so he seized the opportunity to appoint an advisory committee to make recommendations on interim codes of practice and reporting, relating to NGO accountability. The Chair of the Industry Commission supported his proposition as a way forward.

In March 1995, the Minister consulted with NGOs and other stakeholders with a view to moving forward. The meeting agreed on three points:

- A Code of Practice Advisory Committee (COPAC) would be established with the support and participation of the NGO community.
- A working group from AusAID and ACFOA would finalise COPAC's terms of Reference with due recognition given to ACFOA for the Code of Ethics already in place and their ongoing attempts to raise standards across the NGO sector.
- ACFOA could make suggestions to the Minister as to the membership of COPAC.

There is conflicting evidence as to whether the Minister intended government or voluntary regulation. In the context of a Code and maintenance of tax exemption status he reportedly used the notion of ‘voluntary compliance’ however interviews with some individuals closely involved with COPAC indicate that the intent was government regulation and that the minister had to be lobbied repeatedly for a self regulatory code option. Dr Gerard Guthrie²⁷ seems to endorse this view when he wrote²⁸ “... *there is little doubt that NGO's, having won the victory for industry self –regulation, have taken some time to come to terms with the associated responsibility*”. For the NGO sector representatives on COPAC and the ICC, which followed it, the threat of government-imposed regulation remained a continuing fear. COPAC was appointed by the Minister in May 1995, and had its first meeting on May 29th.

COPAC was called upon to review and report on accountability standards extent in Australia with

²⁴ Research Note. No 43, 6 June 1995, Parliamentary Research Service ISSN 1323-5664

²⁵ Ibid

²⁶ COPAC, p1, Report to the Minister for Development Cooperation and Pacific Island Affairs, August 1995

²⁷ Former AusAID, Director of NGO programs 1993 -1998

²⁸ p3, Codes of Conduct for Partnership in Governance, G.Guthrie, Code of Conduct for Non-Government development Organisations (1996) Commentary, The United Nations University, 1999

special reference to issues of transparency in reporting as well as deliver a draft code of practice to the Minister within three months. COPAC worked on an Interim NGDO Code of Conduct drawn from a variety of codes including ACFOA's 'Code of Ethics', which had been predominantly drawn from InterAction's²⁹ 'PVO Standards' in the USA. COPAC also commissioned Coopers & Lybrand "to assess the quality of financial reporting across the NGDO sector and to suggest financial reporting standards to rectify identified shortcomings" 30. The Industry Commission's report, in fact, had already recommended that "The Commonwealth Government should provide funds to the Australian Accounting Standards Board and the Public Sector Accounting Standards Board to develop within two years suitable accounting standards for Community Social Welfare Organisations" 31(including NGDOs)32.

COPAC supported this recommendation in their report, as did most NGDO's and ACFOA. However, the Minister had asked COPAC to examine the possibility of developing interim arrangements to strengthen immediately the levels of transparency and comparability within the NGDO sector.

Coopers & Lybrand recommended in summary:

- Utilisation of the General Purpose reporting standard
- Preparation of full and abbreviated financial statements
- Reporting of revenues and expenditure by activity
- Audited financial statements

It is noteworthy that the IC report had found that "in many respects the accountability requirements of NGDOs for the use of government funds are more satisfactory than those of CSWOs as a whole"³³. Neither statutory nor self-regulatory controls were new to the NGDO community. They were already subject to a diverse range of requirements relating to their own legal, tax exemption and fund raising status. These included:

Regulatory Controls

- Corporation Law
- Association Incorporation Acts
- Charities / Fund raising Legislation
- ATO tax exemption
- AusAID reviews and Audits
- Organisation Reviews 34
- Audits
- Project Reviews / Evaluations
- Program Effectiveness reviews

Self Regulation by NGDOs

- ACFOA Code of Ethics 1989 - ACFOA members only
- International Affiliate standards of practice

The existence of these various control mechanisms and the ACFOA Code of Ethics, not withstanding, there remained a number of major operational inconsistencies in the NGDO sector. These were due to; the diversity of requirements that altered depending upon the legal structure of the NGDO; where it fund raised and whether it received Australian Government funding or not. A number of NGDOs were not subject to any kind of regular review or assessment. These inconsistencies and the obvious need to have a practical set of ethical and quality standards that would embrace the whole NGDO sector and independently monitored were to become important

29 Peak body for US based Private Voluntary Organisations

30 COPAC report to Minister august 1995, p17

31 Recommendation 24, Report #45 'Charitable Organisations in Australia' 16 June 1995. AGPS, Melbourne

32 Authors addendum based upon p.33, Recommendation 24, Report #45 'Charitable Organisations in Australia' 16 June 1995. AGPS, Melbourne

33 Ibid p.33

34 Precursor to the current AusAID NGDO Accreditation scheme

pre-conditions in the development of the Code of Conduct.

COPAC delivered their report to the minister on August 31st 1995. In summary, the report recommended that:

- NGDO self-regulation through a NGDO Code of Conduct Committee that “has, and is seen to have, a degree of independence from the sector”³⁵
- The Code was to apply to all NGDOs to which donations are an eligible tax donation
- ACFOA establish a sector wide committee by October 1995 ‘under the auspices of the minister for Development Cooperation’ and chaired by a person not from the sector and appointed with the Ministers approval. Members were to drawn as follows:
- ACFOA Council elects 3 members plus
 - Non-ACFOA member NGDO representative
 - Australian Consumers’ Association nominate member
 - Australian Society of Certified Practicing Accountants and Institute of Chartered Accountants in Australia nominated representative
- Development of a Code of Conduct by the Committee to be promulgated by July 1st 1996
- Development of a short-term *interim*³⁶ financial reporting standard.

The report was delivered to the Minister on August 31st 1995 and that same day he released to the Media an announcement incorporating COPAC’s recommendations.

“This will be the first time that a Code of Conduct covering ethical principles, operational arrangements and detailed financial reporting standards has been developed for this sector. It will represent a major step forward in self-regulation and will build on the clear commitment of NGO’s to greater public accountability”, he said.³⁷

It is interesting to note that the COPAC report and the Ministers Press release contain the principle of self-regulation. According to one member of COPAC, it had only occurred in that form after ‘intense lobbying of the Minister by ACFOA’³⁸. It also appeared to be constrained from an NGDO perspective, by the recommendation that the Interim Code of Conduct Committee (ICCC) was to be “established and financed by ACFOA under the auspices of the Minister for Development Cooperation and Pacific Island Affairs”³⁹. Further the Chair was to be approved by the Minister and have access to him.

Self-regulation was to remain one of the four under girding issues of all that was to come. The second was that the development of some aspects of the Code (the financial accounting and reporting standards) were at the outset to be interim measures until the sector supported recommendations of the Industry Commission report regarding the same were implemented. The third was to be the possible ongoing role of ACFOA’s Code of Ethics Committee given the uncertainty about the Governments real commitment to a self-regulatory code. The fourth was the issue of whether granting or maintenance of tax exemption would be dependent upon compliance.

³⁵ COPAC report to Minister august 1995 Ibid p.33

³⁶ ‘Interim’ i.e until either Australian Accounting Standards Board or the Public Sector Accounting Standards Board develop specific standards for the sector. Some ICCC members however differ with this interpretation. (see footnote 24)

³⁷ G.Bilney MP, ‘Code of Conduct for NGOs’ MDC 73 31st August 1995 (Emphasis the author’s)

³⁸ Interview quote from a member of COPAC

³⁹ COPAC Report, pi, August 1995

Appendix 3: Genesis of the Code of Conduct 1995 – 1996

The day after the Minister released his statement to Parliament and the Press, ACFOA started the nomination process for membership of the Interim Code of Conduct Committee. Elections were made by postal ballot on 3rd October 1995. On the 24th October 1995 ACFOA wrote to the Minister nominating Ms Kay Setches, former member of the Victorian Parliament, as the independent Chair of the ICCC. This nomination was accepted by the Minister.

The following is a summary of the COCC meetings:

Inaugural COCC meeting - Sydney on 22nd November 1995

Chair:
Ms Kay Setches

Members:
Mr John Birch – ACFOA agency Representative
Fr Jim Carty – ACFOA agency Representative
Ms Beris Gwynne – ACFOA agency Representative
Mr Peter Westerway – Non-ACFOA agency Representative
Ms Chris Franks – Representative of donors nominated by the Australian Consumer Association
Mr Boyne Alley – Accounting Profession Representative
Ms Janet Hunt – ACFOA Secretariat
Ms Christine Vincent – ACFOA Secretariat

The orientation of the ICCC was primarily carried out by Janet Hunt from ACFOA (who had been a member of COPAC) and an invitee, Mr Bill Leslie, a member of ACFOA's Code of Ethics Committee. Several important themes arose out of the orientation that was to form the basis of future discussion and decision-making:

- The ICCC was established under the auspices of the Minister.
- AusAID had withdrawn from the process because self-regulation was the recommended approach but should a decision be made to link compliance with the granting of funds, then AusAID would expect to play a role.
- The COPAC Illustrative Code had not yet received final input from the NGDO sector although significant consultation with the NGDO sector had taken place prior to its completion. This strong commitment to a consultative process continued under the ICCC with meetings in Melbourne and Sydney with NGDO stakeholders.
- Development of financial reporting standards had already commenced with ACFOA finance managers prior to COPAC and to build on experience of both.
- The incorporation of non-ACFOA NGDO's into the process and ACFOA's jurisdiction over them.
- The ICCC task was an 'interim'⁴⁰ process.
- The ICCC brief was to develop the Code of Conduct not receive and administer complaints.
- The development of the Code was seen by the chair as a political issue.
- The work of the Code of Ethics Committee was recognized and considered in the process of developing an Interim Code of Conduct.
- Recognition that compliance monitoring to some form of self-regulatory code would become the "main business"⁴¹ of ACFOA.
- The term Code of Conduct rather than Code of Practice was adopted.

⁴⁰ It is reasonable to infer that the term "interim" was defined in different ways by different stakeholders and members of ICCC. Certainly it relates to the nature of interim financial accounting standards which were to function until the IC Report recommendations on the same, were implemented. The accounting member of the ICCC however was already of the firm view that a standard accounting format, coming out of the Commission Report, was highly unlikely to be implemented. For some representatives of the NGDO sector operating, 'under the auspices of the Minister' was understood as an interim arrangement for ICCC with the ultimate goal of independent self-regulation while others saw it as a threat by Government to regulate the sector.

⁴¹ ICCC Minutes, p4, 22nd November 1995

- The importance of bringing small agencies into the process was stressed.
- The Complaints and Compliance process was to be complaints driven.

The inaugural meeting continued the COPAC format of having two working groups to assist in the task - the Ethics Working Group (EWG) and the Finance Working Group (FWG). A work plan was drawn up and a target date of June 4th 1996 for the ICCC to finalise the code for circulation prior adoption by the ACFOA Council in August, 1996.

Second COCC Meeting – 17th January 1996

Items of Note:

- The Chair reported that she had been informed that the release of the IC report would be delayed significantly and that the Minister, Mr Bilney had indicated that he would not take a leading role prior to the report being released.
- The EWG reported on progress and highlighted six agenda items for further discussion. One of the items raised the legal issues to be considered and the other sought clarification on to whom the CCC would report! Minister? ACFOA Executive? Other?
- The necessity of having a legal advisor on the CoCC was discussed and agreed as a future necessity.
- The subject of legal disclaimers and warnings on a complaints checklist became of interest when the Chair pointed out that complainants might be intimidated by the notion that they could be sued.
- AusAID had advised that the Minister would not be making a decision on possible linkages of non-compliance with tax exemption status until the ICCC had completed its work.
- Agreement that the work of the CoCC was not to determine penalties but rather advise that a breach had taken place.
- The FWG reported on their work with three recommendations on income:
 - ACFOA's Financial Managers' definitions regarding Revenue and Expenditure be adopted in preference to Coopers & Lybrand definitions
 - Cash income to be recorded in the year that it is received
 - Accrual accounting as the norm.

NB: March 2nd 1996 – Coalition (Liberal/National) wins Election

Third COCC Meeting – March 13th 1996

Items of Note:

- Ms Mary Gilchrist (Chair) and Mr Bob Romanes (Member) of the ACFOA Code of Ethics Committee briefed the ICCC on their experiences with the Code in the past and made comment on the proposed draft document under development.
- Various definitional modifications suggested were accepted by the ICCC.
- Code of Conduct could not, and was not intended, to cover all the issues that face NGDOs.
- The definition of organisation as a Non Government Development Organisation (NGDO) rather than Non Government Organisation (NGO) was taken.
- The complaints process was proving problematic and was further stymied by the reality of a new government with no clear idea how they would want to proceed with the work of the ICCC
- Discussion about the appointment of the Chair of the ICCC was had with ACFOA taking the position that it should be appointed by ACFOA. Appointment by the Minister would make the ICCC a ministerial committee and therefore not owned as a self-regulatory body by NGDOs.

Fourth COCC Meeting 7th May 1996

Items of Note:

- Format for financial reporting agreed as a minimum standard for all NGDOs Code signatories.
- Concern remained about the new Governments intentions for the CCC.
- NGDO reactions to the revised draft would be taken up until June 14th 2006
- Members of ACFOA ExCom were meeting with Mr Downer, Minister of Foreign Affairs on May

21st and would raise the Code of Conduct with him and give him a copy of the revised draft of the CC

ACFOA Meeting with Minister for Foreign Affairs–May 21st 1996⁴²

Items of Note:

- The Minister was briefed on the work of the Interim Code of Conduct Committee and the recommended code.
- He stated clearly that it was ACFOA's Code, thereby implying strong support for ACFOA's position on self-regulation.
- The Minister made a general statement that regular meetings with him would not be necessary.

Fifth COCC Meeting 4th & 5th July 1996

Items of note:

- Minutes for this meeting were not available. However, the agenda was to finalise all documentation ready for endorsement by the ACFOA Council on August 30th 1996.
- From a report given by a member of ICCC to the ACFOA Executive on 18th July, 1996 we can deduce that several recommendations were made at that meeting:
 - Recommend that the election of the Code of Conduct Committee be conducted by postal ballot.
 - Non ACFOA members and ACFOA members be considered as 'one electorate'
 - AusAID had submitted comments on the Code too late for consideration by ICCC but most of the issues had already been dealt with.
 - The ICCC noted the length and wide ranging consultative process that had led to the development of the Code.
 - The ICCC noted the ongoing dynamic necessity for the Code to develop overtime based upon experience in managing the code.

ACFOA Council – August 30th 1996

In the lead up to this Council, ACFOA ExCom meeting minutes show that there was some discussion regarding the ongoing role of the Ethics Committee in the light of the proposed ICCC recommendations. Both COPAC and ICCC acknowledged openly the contribution that the Ethics Committee had made to their deliberations and recommendations. However, there is a degree of evidence to suggest that ACFOA were not ready to dissolve the Ethics Committee and their Code until the principle of self-regulation and code ownership were clearly acknowledged as being in the NGDO domain of responsibility and the adequacy of the new Code of Conduct was tested. For some the ACFOA Code of Ethics was viewed initially as an ACFOA member code and the new Code of Conduct as the 'Government Code'. The meeting with the Hon. Alexander Downer on May 1996 clearly indicated to ACFOA that self-regulation was the principle to be kept and that the Minister wished to maintain a distance on this matter. It is interesting to note that there were discussions about asking the Minister to launch the new code but the desire not to politicise it resulted in the Governor General William Deane to launch the code in early 1998.

As a consequence, discussion as to the future of the Ethics Committee is only seen after that date. ACFOA ExCom at their July 19 meeting recommended that the three ACFOA members elected to the new Code of Conduct Committee would automatically constitute the ACFOA Ethics Committee as well. The August 29 ExCom meeting also agreed that there would be no election that year at Council to replace an outgoing member of the Ethics Committee. This was endorsed by Council (6/C16/96). The net result of this decision was that the Ethics committee would be reduced to three members in line with their other action.

Under Council resolution 3/C16/96 an amendment to the rules of incorporation was agreed for Clause 6 with reference to the Code of Ethics. The new clause was to read, "To be a member of ACFOA, an organisation must indicate in writing its willingness to adhere to the ACFOA Code of Ethics, or such other code of conduct as the Council determines".

⁴² ACFOA ExCom Report in Minutes of July 18-18 1996, p2.

Introduction to the proposed code of Conduct was made by Ms Kay Setches, Chair of the ICCC with the support of Mr Boyne Alley on the Financial Reporting Format section. Key themes in the presentation were:

- Overwhelming commitment by major stakeholders to principle of self-regulation and highest possible standards of integrity, transparency and accountability
- Self-regulation must be representative of whole NGDO community
- The Code must deliver benefits to the subscriber
- The Code must have compliance monitoring and penalties for non-compliance.
- The Code was a beginning but that it would need to 'evolve' over time as it was 'confirmed by time and practice'.

Though it is the end of a very interesting time for us it is the beginning of an important time for you. In the development and adoption of the code there will be a very big dividend for you that will bring social benefits and accountability for this sector. There is no other sector in my experience at the moment, in non-government sector agencies across Australia, which is prepared to have this type of thing developed for them and by them, so that they can be accountable in the future. It is a groundbreaking exercise. Do not underestimate the level of radical approach this has been, especially with accounting standards. People all over Australia are looking to see how this sector adopts the reporting format and they will, I hope, emulate it. It is essential that you understand that the public will think that this is very good thing you are undertaking and that you are professional and mature enough to have taken this on. I am in no doubt of that after looking at the documentation and meeting you all.

Ms Kay Sketches – ICCC Chair

Ms Kay Sketches – The ICCC report to ACFOA Council 1986

Appendix 4: The Code of Conduct 1997-2007

1. Introduction

The ACFOA Council in session, August 30th 1996, after substantial presentation and discussion regarding Resolution on Notice–No.3–Code of Conduct, the Council membership agreed that (17/C16/96):

- Council adopts the following recommendations from the Code of Conduct Report. (Sections 1–4.1)
- Council refers to the ACFOA ExCom the following recommendations from the Code of Conduct Report (Sections 4.2, 7)
- Council refers to the Code of Conduct Committee the following recommendations from the Code of Conduct Report (Sections 3.2, 3.3, 5, 6, 8, 9.2)
- All ICCC recommendations were accepted except for Recommendation 9.1, which was:

“It is recommended that the Code of Conduct Committee and the attached Standard Financial Reporting Format and Complaints and Compliance Process be presented to ACFOA Council as a package.”

Council minutes do not articulate the reason for this omission. The intent was for the Code of Conduct content and the Financial Reporting Format to be viewed a complete whole and that is how it was presented at Council.

2. Code of Ethics

Prior to the adoption of the Code there is one other decision taken at Council with reference to an amendment of ACFOA’s Rules of Incorporation (Rule 8 Clause 6). 3/C16/96 agreed that the following amendment to the Rules of Incorporation be adopted:

“To be a member of ACFOA, an organisation must indicate in writing its willingness to adhere to the ACFOA Code of Ethics (Appended as Annexure A), or such other code of conduct as the Council determines.”

This is interesting from three perspectives.

- It clearly establishes the legitimate basis for mandatory adherence to an ACFOA code as a prerequisite for gaining and maintaining membership status.
- The amendment change, as worded, does not presume the adoption of the ICCC recommendations but makes provision for them to be covered by the inclusion of a motherhood clause.
- The action does not preclude the continuance and mandatory requirements of the existing ACFOA Code of Ethics.

The August 30th 1996 Council minutes read under a subsection titled ‘ACFOA elections’ the following:

“The President reported that the relationship between the ACFOA Code of Ethics Committee and the incoming Code of Conduct Committee will be determined by the Council when it debates the report from the interim code of Conduct committee late in the meeting”.

Nothing was sighted that demonstrates that this determination was ever formally made, however, a vacancy on the Code of Ethics Committee was not replaced at the council in order to reduce the membership to three persons as the minimum number called for under the Rules of Incorporation.

ACFOA ExCom on 31st October 1996 elected (23/E6/96), from nominations received, six of the eight members of the new Code of Conduct Committee (CoCC). Of those elected, three were

key members of the ACFOA Code of Ethics Committee. The important post of Chair and the independent member were to be appointed and the Executive Director of ACFOA, Janet Hunt was tasked by ExCom to find suitable candidates for these positions. Subsequent ACFOA minutes do not show any actions actually appointing persons to these positions. The inaugural Code of Conduct minutes identify Ms Kay Setches as Chair and Ms Chris Franks as the independent representative of donors nominated by the Australian Consumers Association. Given recommendation 2.2 which reads in part that the Chair must be nominated by ACFOA and “appointed with the unanimous agreement of the elected members...”

No written documentation has been sighted that confirms this process was followed.

As the new Code of Conduct with the principles of ACFOA Code of Ethics enshrined within it gradually took shape and gained credibility within the sector the original code slipped into honourable anonymity!

3. Code Governance 1996

The initial governance of the Code of Conduct was established on the following agreed elements. That the:

- Code of Conduct including the Standard Financial Reporting Format and the Compliance and Complaints documents is the “sector standard” for NGDO's engaged in overseas aid and development
- Acceptance of the Code of Conduct is a mandatory pre-requisite for membership in ACFOA/ACFID with the 30th June 1997 as the deadline for sign on
- Non-members may subscribe to the Code of Conduct
- Non-members would pay an annual fee for CoCC recognition. ACFOA budget would allocate to the Code of Conduct process the same amount for each member from its operating budget⁴³
- A Code of Conduct Committee would be established under the auspices of ACFOA but independent from it.
- There is one electorate comprising member and non-member signatory agencies⁴⁴ ⁴⁵ and the elections are by postal ballot. ACFOA's affirmative action policy applied to the election (at least one third of committee to be women).
- Terms are for three years other than the initial first year.
- Seven elected members should represent and 'balance the interests of large and small agencies, the supporter constituency and gender considerations and provide the necessary specialist financial or accounting skills' ⁴⁶.
 - Standard Financial reporting format and Complaints and Compliance process to apply after 30 June 1997.
 - Compliance to be assessed by corporate sign on and investigation initiated by a complaints driven process.

4. Relevance of Code

The broad issues that led to and finally drove the development of a Code of Conduct are in many respects more relevant today than a decade ago. Public support of NGDO's from 2000-2006 has increased by 255% while the operational demands and expectations placed upon them have increased dramatically. Internationally the ACFID Code of Conduct is seen as unique because it has moved beyond a merely 'aspirational code' to one which actively monitors and hold signatories accountable for their compliance to the Code.

43 ACFOA ExCom rejected ICCC recommendation 7.1 that recommended that ACFOA seek Government funding for administration of the Code

44 In the first year non-member agencies who had not signed on could vote

45 ACFID Constitution 12.12 (a)

46 Hunt, J, letter to NGDO Sector electorate, 2 October 96

5. Governance Changes Over Time

- Annual re-affirmation of agency adherence and commitment to the “realisation of the objectives of the code of conduct”, by signature of CEO and Chairperson (11/C18/98 Council 1998)
- Deletion of the Code of Ethics from Annexure A to the rules. Annexing and marking ACFOA Code of Conduct to the rules as Annexure A and substituting a new rule for rule 6 to read as: “6. ACFOA Code of Conduct – To be a member of ACFOA, an organisation must indicate in writing its willingness to adhere to the ACFOA Code of Conduct in the form appended to and forming part of these rules as Annexure A, as amended by the Council from time to time, or such other code of conduct as the Council determines”. (12 /C18/98 Council 1998)
- Amended version of Standard NGDO Financial Reporting Format. (13/C18/98 Council 1998)
- Amendment of Rules 7.10 and 7.11 to reflect the requirements for election and appointment of the Code of Conduct committee, terms of service and eligibility criteria for election.
- Delegation to ACFOA executive committee by the CoCC the authority to assess and to recommend to the CoCC the admission of an organisation as a Code signatory. (ExCom 34/E3/99)
- ACFOA budgetary support to CoCC budget for reasonable additional over budget costs as a result of complaints investigation processes. (ExCom 33/E2/00)
- Amendment of Rules 7.19 to strengthen Conflict of interest situations where an ExCom member represents an agency that may be affected by an ExCom decision. Included in the New Constitution adopted by Special Resolution at Council AGM 2000
- Amendment of Rule 3.33 to clarify that neither Council nor ACFOA/ACFID may change a finding of the CoCC. Included in the new constitution adopted by Special Resolution at Council AGM 2000
- Confidentiality agreements signed by CoCC members to be required by ACFID. (ExCom 18/E1/01)
- ACFOA Annual Report amendment to be compliant with the ACFOA Code of Conduct. (8/E2/01)
- Code of Conduct Fee raised from \$200 to \$300 Council 2003
- Amendment of the terms of reference for the ACFOA CoCC “to have a more proactive role in ensuring that signatories to the ACFOA code of Conduct are fulfilling the spirit of the Code and that this mandate includes the authority to initiate inquiries and complaints”. (15/E5/03)
- Strengthening of the CoCC membership by authorising the appointment of two additional independent members with specific expertise on accounting standards and fundraising. Positions to be sourced from relevant professional bodies (ExCom 20/E1/04)
- ACFID ExCom re-affirmed that the sector wide extension of the Code to non-ACFID membership brings great value to the Code and should continue to be embraced and promoted. (22/E1/04)
- Decision to receive government support. ACFID Minutes for 17/18 June 2004 note 11.4 demonstrate that the Executive Director was given support for the finalisation of AusAID contract negotiations with AusAID. Included in the proposed budget was a line item for the Code of Conduct to receive AusAID contract support. This is interesting in that:
 - The original ICCC recommendations recommended AusAID support
 - 1996 ACFOA Council recommended AusAID support
 - However the ExCom minutes of September 1st 1996⁴⁷, the day after the Council state the following: “AGREED that the ICCC recommendation that ACFOA approach AusAID for funding for the CCC not be adopted at this time.”
- At the same meeting the working group for the negotiation of the AusAID umbrella contract was set-up so it appears clear that whatever the reasons for taking this decision were, it was taken immediately prior to negotiation on a new umbrella agreement with AusAID. It is reasonable to infer from this that the ExCom inclusion of the ‘at this time’ did not rule out

47 ExCom minute 10/E5/96

the possibility in the long-term of obtaining support but it was seen as not appropriate for the next five year umbrella contract.

- Arising from ACFID ExCom minutes at Council 2004 is an important clarification regarding the respective roles of the CoCC and ExCom. “The Committee noted the different mandates of the two committees: the Code of Conduct Committees responsibility as independent administrators of the Code of Conduct, and *the Executive Committee's responsibility as the custodians of the Code of Conduct.*”⁴⁸
 - The appointment of a Deputy Chair to the CoCC approved by ACFID (9/E3/05)
 - New clause 1.3.11 to operating Guidelines for the CoCC (11/E3/05) to read as follows:

“On receipt of a Code of Conduct complaint (via the Complaints Handling Process or the Inquiry Protocol), regarding an agency that currently has a representative on the Code of Conduct Committee, the representative will stand down from their position until the outcome of the complaint is known.

1. If the outcome of the complaint is that:

- a) No breach of the Code was found, the committee member will recommence their term.*
- b) A breach of the code was found, the committee members term on the committee will be terminated and the casual vacancy protocol followed.*

- Independent Code of Conduct Complaints Handling Procedure Appeals Officer appointed. Minutes December 2, Number14.

6. Governance Issues Arising

The Code of Conduct Committee has been operational for ten years. Over that time it has taken its governance seriously and frequently sought to adapt and refine the Code and the processes that maintain it. Changes over time have been triggered by practical experience as well as learning from the geo-political realities that impact on NGDO's in Australia. In the early years the focus was on developing credible and defensible processes and building an independent identity for the Code. As the process gained momentum, enhancement of the governance capacity and an increasingly more proactive role in monitoring compliance have occurred. The desire to initiate a full review of the Code as a pre-requisite to future strategic planning is evidence of this growth.

From the desk assessment of related documentation a number of governance themes present themselves for further research and possible consideration.

6.1 Non Negotiable

These themes are strong and would appear to be non-negotiable.

- The Code represents NGDO sector wide standards
- The Code is self –regulatory with an open process of code formulation
- The Code maintains credibility for all key stakeholders
- The Chairperson is independent
- Stakeholder representation on the CoCC
- That there are no dominant players
- That the established hierarchy of sanctions is applied consistently
- The Signatory of Code status is mandatory for ACFID Membership
- That reporting is transparent

6.2 Negotiable

Independence

⁴⁸ Authors emphases

Currently the Code of Conduct is owned by the fee-paying constituency who support the ACFID Code of Conduct and legally by ACFID as a legal organisation. ACFID through its Executive Committee is seen as the custodian of the Code of Conduct while the Code of Conduct Committee is seen as the 'independent', constituency elected, administrator of the Code of Conduct. Although not totally free of tensions, the current arrangement appears to have worked very well. However, the degree of independence issue has never been fully tested in the public arena in terms of perceived credibility.

The Code of Conduct Secretariat is a separate but distinct part of the ACFID staff. While the CoC Secretariat is physically separated from ACFID, the Code of Conduct Manager reports to both the Executive Director of ACFID and also the Chairperson of the CoCC. The lines of responsibility and primary reporting relationships have not received as much attention as those between the Code of Conduct Committee and the ACFID ExCom. The lines of authority are not stated and the legal review will render an opinion on this perceived weakness.

Self-Support

Related to the independence question is the ongoing challenge of sustaining the Code and developing it further. For the last five years ACFID has received some support from AusAID under the contractual HEAD agreement. This is a departure from the initial ACFOA decision to not accept Government support because of the need to demonstrate total self-regulation. No evidence has been seen that demonstrates that there has been any substantive discussion, about this change in practice by either the Code Committee or ExCom.

Pro-Activity

The monitoring of compliance to the Code has moved from a complaint driven process to one that supports initiation of enquiry and complaint when there is cause to do so. The potential implications resulting from this change of process in terms of organisational liability, duty of care and constituency support have not been fully articulated. Further work is called for to assess and establish appropriate boundaries and authorities to meet a variety of potential situations.

Code Awareness

Outside of the important task of monitoring the Annual Reports for compliance against the accounting and reporting standards of the Code the actual number of complaints handled have been relatively few in number. However each case has involved a serious amount of time on the part of committee members to bring the case to a conclusion. There is a probable cyclical relationship between public awareness and the Code of Conduct committee/secretariat capacity to respond. The hypothesis follows: If the public is more aware of both the code and its content then it is possible that there will be more complaints. If there are more complaints and the Code capacity is not able to respond adequately, then the credibility of the Code will be under threat.

The utility of having a self-regulated Code of Conduct in the NGDO sector is fairly evident however stakeholders argue that as long as the code requirements are not widely publicised it is not as credible in the public eye as it should be. This argument is further supported by the requirement that in order to make a complaint under the CoCC the complainant must *"specify which section of the Code is alleged to be in breach"*.⁴⁹

Appendix 5: Code of Conduct Operational Framework

Apart from the Governance structures, which also contribute to the operating framework, the heart of the operational framework is found in the Code of Conduct itself. The predictions that the development of the Code would “evolve” but also be “confirmed by time and practice” have certainly been the case. A content comparison between the original Code of Conduct and the current December 2007 version shows that while there has been qualitative enhancement, reformatting and the provision of guidance information, the main content, as originally conceived, remains intact. The main additions to the Code have been:

- Child safety and Protection. (Clause 6)
- “No Strings Attached” clause with regard to use of funds for party political and/or religious motives. (Clause 2.7)
- Expansion of Clause 6.1 on Personnel and Management practice
- Professional conduct (Clause 6.2)
- Gender equity (Clause 6.3)
- The Financial Reporting Requirements have been greatly refined and clarified
- Tsunami reporting Amendment was added in 2005 to address a specific situation.

Emphasis in the early years was primarily upon achieving a certain level of minimum standards particularly in financial and annual reporting. The committee recognised that there was a need to expand code content but it was seen vital to consolidate a good foundation first. In particular the need to have a degree of comparability of Revenue and Expenditure across the NGDO sector was a primary goal. This has been achieved in part as early as the financial year 2000 and certainly in full from the financial year 2004 onwards.

In order to emphasise and fast-track compliance with the CoCC reporting standards, the CoCC established, in August 2000, a Compliance Monitoring Workgroup comprising of three CoCC members who would meet twice yearly to assess all reports submitted and follow up with those agencies who were finding it difficult to understand the minimum requirements. Members of the CoCC would rotate through this working group. Although compliance was achieved at more than 90% by the time of implementing this working group 100% reporting compliance was not actually achieved until 2004. It should be noted that 100% compliance is only registered after all Annual Reports meet the compliance criteria adequately. In order to achieve that there is often an iterative process between the agency and the Code Secretariat to seek correction on minor deficiencies.

The working group continues to function undertaking the assessment of more than one hundred annual reports each year. This remains an important and resource consuming part of the CoCC business that is not recognised in the work flow table that follows.

As will be discussed in Annex 8 on the Impact of the Code, this achievement of enabling comparison between signatory financial reports alone brings significant benefits in terms of public transparency. It is an element that should continue and perhaps be refined as the Code of Conduct moves into a second decade.

Table 1: Code of Conduct Complaint Investigation Work Flow

Item	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
Total Code of Conduct Signatories	0	0	118	118	124	108	106	111	108	106
Complaints carried over from previous year		1					1	1	1	
Complaints received	1	1	1	0	0	3	2	1	1	1
Complaints upheld		1						1		1
Complaints dismissed						1	2			
Complaints withdrawn		1	1						1	
Complainants referred to a more appropriate body						1			1	
Complaints still under investigation	1					1	1	1		

At the time of this review nine complaints and one inquiry had been handled and action taken. The findings and actions are recorded in the summary matrix below.

Table 2: Code of Conduct Outcomes and Actions

Year	1998	2000	2002
Complaint ID	C198	C100	C102
Complaint Type	Financial reporting	Personnel	Personnel
Code Reference	Clauses 4.1 & 4.2	None	Clause 6.1
Complaint Source	Former employee of agency	Founder of agency	Former employee of agency
Outcome	Minor breach of Clauses 4.1 and 4.2 of CoC	Alleged breach of Australian law. Complainant advised to pursue via other bodies	Complainant referred to AIRC as more appropriate entity for investigation
Follow-up action - by agency	Agency required to provide audited annual statements in the Financial Reporting Format	None	None
Follow-up action - other	None	None	None

Year	2003		
Complaint ID	C103	C203	C303
Complaint Type	Development Education/ Fundraising	Personnel	Development Education/Fundraising
Code Reference	Clause 4.2	Clause 6.1	Clauses 2.1 and 4.2
Complaint Source	Member of public	Former employee of agency	Member of public
Outcome	Breach not found	Breach not found	Breach not found
Follow-up action - by agency	None	To provide Code Secretariat with details of staff policies and procedures arising from current policy review	Decided to cease airing TV advertisement
Follow-up action - other	None	None	CoC Committee to look at potential impact of fundraising/marketing communications on people who have migrated to Australia and their potential for shaping public attitudes. ⁵⁰

⁵⁰ There is no evidence of this having happened as yet

Year	2004	2005	2006	
Complaint ID	IN104	C105	C106	C206
Complaint Type	Financial reporting	National Security	Fundraising	"No Strings"
Code Reference	Clause 5.2	Clauses 1.3, 2.6, 2.7,	Clause 4.2	Clauses 2.1 and 2.7
Complaint Source	ACFID ExCom	Member of public	Other Code Signatory	Other Code Signatory
Outcome	Breach Found	After legal advice the complainant was asked to take the issues raised to the AFP as the most appropriate entity.	Complaint withdrawn following discussions between the CEOs of both organisations.	Clause 2.1 - Complaint dismissed. Clause 2.7 – Breach Found
Follow-up action - by agency	<ul style="list-style-type: none"> - Ensure compliant annual reports in future - Communicate an apology to members for the error. - Advise of new reporting format to be adopted in the future - Advise their auditor of the issue 	None	None	<p>To avoid being removed as a signatory the agency was requested to:</p> <ul style="list-style-type: none"> - Confirm in writing the governing bodies commitment to compliance with clause 2.7. - Provide detail of a planned process and timeline for addressing the compliance issue. <p>Agency did not address issues and was removed as a signatory.</p>
Follow-up action - other	<ul style="list-style-type: none"> - Review of CoC Inquiry Protocol and Complaints Handling Procedure. - Amendment to CoC operating guidelines. - Review of CoC definitions for some financial fields; etc. <p>(See expanded Note 1 below)</p>	None	None	<p>Change to complaints Handling Procedure to:</p> <ul style="list-style-type: none"> - ensure clarity of role of investigation officer/team in final decision-making - provide opportunity for Committee to request additional information.

Note 1:

Since the inception of the code there is clear evidence of the evolution of content and process based upon experience. The follow-up actions arising out of IN 104 is an excellent example of how change has occurred throughout the life of the Code. IN 104 was the first complaint to be dealt with following the change that permitted inquiries to be initiated internally. Not all enhancements were as comprehensive as this one but the examples serves to demonstrate the complexity of dealing with change in the Code itself.

Changes effected as a result of IN 104

The investigation and subsequent review of this complaint has resulted in the following:

- Review of both the Code of Conduct Inquiry Protocol and Complaints Handling Procedures. This review has resulted in a number of amendments to both procedures including: *Inquiry Protocol* – increased resolution power for the Inquiry Protocol, *Complaints Procedure* – Public reporting/naming of all future Code of Conduct breach findings and further detail on the appointment process and responsibilities of appeals officers.
- Amendment of the Code of Conduct Committee Operating Guidelines to include information on the responsibilities of Code of Conduct Committee members in the event that they are associated with an agency involved in a complaint (eg standing down for period of investigation and resignation if a breach is determined). A review will also be undertaken to determine whether restrictions on future nominations to the Code of Conduct Committee by agencies found in breach of the Code should be implemented.
- Increased separation and clarification of the roles of Code of Conduct Secretariat staff from ACFID - particularly in relation to complaints handling.
- A review of the Code of Conduct definitions for Overseas Projects - Funds to Overseas Projects, Overseas Projects - Other Project Costs (as listed in the Guidance Document) is being undertaken.
- Expansion and further documentation of Code of Conduct Committee conflict of interest procedures.
- Documentation of responsibilities and procedures in relation to the provision of advice to signatories by Code of Conduct Committee members and secretariat staff.
- Development of a process for ACFID to refer financial reporting issues highlighted in the ACFID Annual Statistical Review to the Code of Conduct Committee.
- A Deputy Chairperson has been appointed to support the Chairperson in the increasing workload.

Chart 1: Code Signatory Expenditure

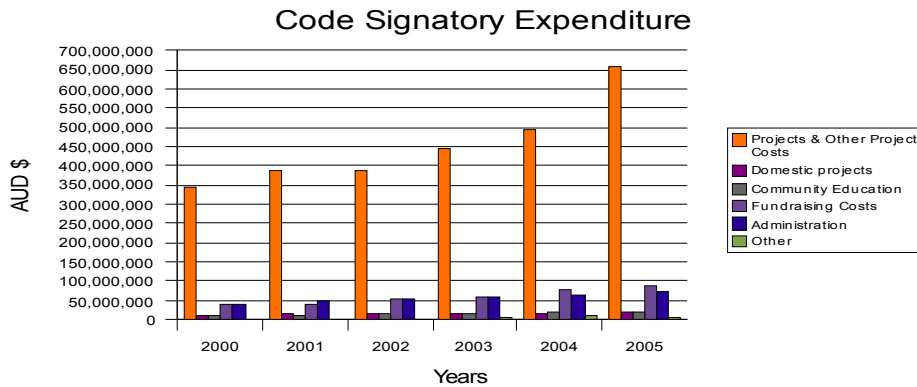
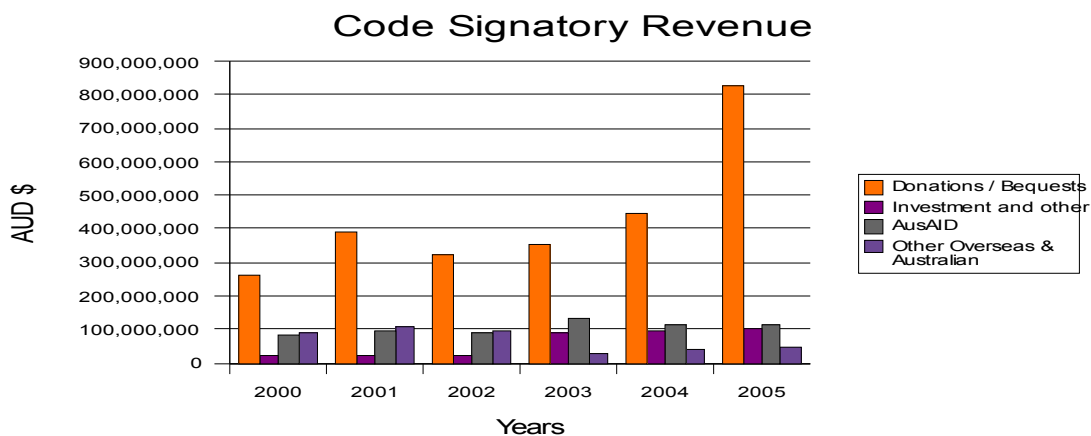


Chart 2: Code Signatory Revenue



Another significant strengthening of the operational framework was made in terms of the sign on process. Initially the signatories were required to sign on and they received Code Status and the right to utilise the logo. However, from January 1st 2000 an annual Code of Conduct Certificate was introduced based upon adherence to the minimum requirements of the Code of Conduct. These minimum requirements were:

- Annual report meets the six annual reporting requirements
- No major breach of the Code has been found

After the Code of Conduct processes and content became stabilised it is evident that the CoCC has given more attention to creating greater awareness of the Code of Conduct. The primary avenue for generating such awareness has been through the signatory organisations themselves. A toolkit to assist organisations has been developed and distributed. Even as early as 2000 an ACFID membership survey showed that two thirds of the ACFID member signatories to the Code agreed that it was their responsibility to promote the code and were willing to work with the CoCC to accomplish it. This is an area of the operational framework that needs to be re-assessed. There is every reason to make the CoC known to the Australian public who support the sector so magnificently. However in the absence of any survey of the primary audience for the Code of Conduct it is not possible to even guesstimate what portion of the giving public are even aware of the existence of the Code, let alone its requirements and even less what section of the Code they would need to register a complaint if they had one. Several questions arise from this reality:

- Is reliance on Code signatories to promote the code adequate to meet the requirements of the next decade?
- To what degree do those who monitor code compliance in signatory organisations actually influence fund raising?

- Is it possible that the Sector is comfortable with a strong ethical code but less comfortable with widely promoting it in detail?
- If the Code is to be promoted by those most responsible for it then where should the responsibility lay?
 - By ACFID as the corporate guardian of the Code for the sector?
 - By the CoCC who are under-resourced and have a primary mandate to administer the compliance processes.

Obviously the answers to these are dependent upon other outcomes of this review but it is an area of the operational framework that needs examination.

Another area of the operational framework that needs attention relates to CoCC capacity. Some interviewees suggest that in the early days there was to really promote Code awareness because of the belief that it would 'ipso facto' create more complaints, which the CoCC did not have the capacity to handle. This assumption, if true in the past may not hold true currently. The Code is well established with good compliance records and should not be limited promotionally by fears about being overwhelmed. If the Signatory surveys indicate strong support for the Code then the promotion of awareness should be a strong focus of future operations. It would appear from an examination of the CoCC processes that the Code Secretariat could, with the appropriate delegation of responsibilities and CoCC oversight actually do more of the assessment of annual reports that is currently handled by the Compliance Working Group. This could lighten their load and release the CoCC to concentrate on other issues including promotion and training.

Throughout the development and implementation of the Code and supporting documentation a dynamic process of constant refinement and enhancement is evident. The CoCC has consulted widely, surveyed ACFID member signatories, established sector benchmarks from financial reports and strengthened its own capacity through the addition of specific professional skills. With one more recent exception few complaints have been seen with regard to the operations of the CoCC although it is evident from various minutes and discussions that in the earlier years of operation there was a 'settling in' period between ExCom and the CoCC in terms of roles and authorities but that was never a major tension and the process is now working smoothly.

The degree to which the 'independence factor' is adequate to meet the ever-changing external environment within which the NGDO sector operates is part of the legal brief for this review. There appears to be strong support within the sector for the CoC's continued existence and further enhancement. The 'No Strings Attached' clause was actually initiated and developed by member agencies and submitted to the Code of Conduct Committee and ACFID for inclusion by Council resolution into the body of the Code. This demonstrates the importance with which the Code is seen by the signatories.

51 P 14-15, ACFID Code of Conduct Committee – Annual report 2005 - 2006

52 Davies, B. Director General – AusAID in interview with author (26/07/07)