



AUSTRALIAN MAJOR PERFORMING ARTS GROUP

Discussion paper: ACNC implementation design

Submission to:

ACNC Implementation Design Discussion Paper
Australian Charities and Not-for-profits Commission Implementation Taskforce
The Treasury

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27 February 2012

Introduction

AMPAG, established in 1999, is the peak body for Australia's major performing arts companies and by default for the wider cross section of the subsidized small to medium performing arts industry. Our core membership comprises 28 not-for-profit companies ranging in size from Opera Australia and the Sydney Symphony Orchestra to mid-sized companies like Australian Chamber Orchestra and Queensland Theatre Company and smaller ones such as the West Australian Ballet and State Theatre Company of South Australia.

The 28 member companies have a combined turnover (in 2010) of over \$400 million (ranging from \$3.4 million to \$66 million) with net assets of \$109 million. Box office is the key source of income but the companies also depend on donations and sponsorship as well as some commercial activities. Government subsidy (state and federal combined) tends to be from 8– 20 per cent, except for the symphony orchestras which have a higher government component.

The role and regulation of NFPs

Not-for-profit entities are a vital part of the community's experience, growth and inclusiveness. While the focus of many NFPs is to protect and support the vulnerable, others exist to nourish the community in other ways—through sport and recreation, through conservation of the local environment and heritage, through religion, through multicultural activities, and, importantly, through arts and culture.

AMPAG is aware that this latest consultation is one of a series of conversations with the Australian public about the not-for-profit sector that will continue this year, leading up to the establishment of the Australian Charities and Not-for-profits Commission. We have responded to the previous reviews and consultation papers, and aired many of our concerns in those, especially in the response to consultation paper, *Scoping study for a national not-for-profit regulator*.

As we emphasised in that response, our principal concern is any increase in compliance costs to performing arts organisations—whether financial, or in terms of staff, time and other resources.

We would support the Australian Charities and Not-for-profits Commission (ACNC) regulating the governance of NFPs, as long as it:

- places minimal costs on NFPs to allow better direction of their resources to philanthropic objectives
- removes current regulatory duplication—especially if that includes duplication across jurisdictions
- streamlines requirements, including reporting, to provide consistency and minimise compliance costs
- provides NFP entities with certainty about their rights and responsibilities
- is proportional to the size and complexity of NFP entities, and to the public monies and risks associated with NFP entities.

DISCUSSION QUESTIONS

1. Do you think that the introduction of the *Charity Passport* would reduce reporting obligations to government? What are the obstacles to achieving one-stop shop reporting on the basis of the data being collected by the ACNC?

Yes, AMPAG believes reporting obligations would be reduced with the introduction of the Charity Passport. However, it is important that the information requested is comprehensive enough to cover other reporting situations, as much as possible, but not too comprehensive as to be excessively onerous.

It would have been helpful if examples of different reporting requirements had been provided throughout this consultation process.

2. Will the information collected by the annual information statement be adequate for the purpose of achieving the appropriate level of transparency and accountability to the public?

Yes, AMPAG believes the annual information statement will be adequate.

3. Is there any additional information that should be collected and provided to the public?

No, the annual information statement will be adequate.

4. Should the annual information statement give charities the option of providing narrative descriptions of the outcomes achieved?

Yes, a 'free text' option should be provided.

5. Is the SBR taxonomy an appropriate basis for the reporting of financial items to the ACNC?

No comment.

6. Is the proposal for information collected through the annual information statement and financial report appropriate for each tier (see Attachments B, C and D)?

AMPAG believes the threshold level for Tier 3 organisations is too low. We note that for ORIC-registered companies, the threshold for large corporations is \$5 million. The charitable purpose for our member organisations is to provide world-class performing arts, by creating a rich and vibrant cultural life for all Australians. The costs of doing so can be extremely high, even though the administration of many of these organisations is run on a shoestring budget.

For our own analysis of our member companies, our fees are based on thresholds for total income (including box office, philanthropy and government funding) of \$20 million for large organisations, \$10 million to \$20 million for medium organisations and up to \$10 million for small organisations.

7. The ACNC Commissioner has the discretion to vary an accounting period. Under what circumstances should the Commissioner allow for an alternate accounting period?

Most Arts companies have a calendar accounting period to match the organisation of activities for the year. So where a charitable organisation has its activities organised around a calendar year for operational reasons then it would be appropriate for the accounting period to match the activity

base of the organisation. Ideally, the ACNC reporting requirement should maintain flexibility to allow arts companies to adhere to their current financial reporting framework, whether that be based on a calendar year, or a financial year.

8. Do the ATO practice statements provide an appropriate guide?

No comment

9. Are the transitional arrangements clear for new and existing charities?

Yes – AMPAG understands all its member organisations will automatically be transitioned and registered with the ACNC from 1 July 2012.

10. What assistance could the ACNC provide to support the sector's use of online engagement?

- A technical assistance phone line staffed by experienced, knowledgeable ACNC officers.
- Plain English for all forms and educational materials, especially financial reporting.
- A comprehensive glossary.

11. Are there barriers to online reporting or registration? How can the ACNC ensure that it is effective?

Clear indication when the filling in of a form online is completed. AMPAG has found this problematic with ASIC registration. An automatic notification once the form has been correctly completed would be helpful. Also needed is a phone line offering technical support so that if someone is having problems they can call for assistance.

12. Are there barriers to the AUSKey as the ACNC online authentication tool?

Ensure it is as user friendly as possible.

13. Are these proposed principles guiding the ACNC's role in providing an education function appropriate?

AMPAG agrees with the principles of accessibility, diversity and efficiency. However, further explanation would be helpful. Does 'diversity' simply refer to people of CALD backgrounds – or does it refer to diversity across sectors? Charities exist to fulfil a huge variety of functions within a community, from arts and culture to sport and recreation, from health and welfare to religious, from youth to aged care, from animal welfare to prisoners' groups. Organisations within the arts and cultural sector have very different requirements and structure to many other NFPs – and we therefore believe targeted information would be helpful.

14. What should be the scope of the ACNC's education role?

The ACNC should provide educational materials, online tools and assistance to enable organisations to efficiently and quickly understand (and complete) their reporting requirements.

15. Is it appropriate for the ACNC to endorse education and guidance material provided by other entities (for example, peak bodies)?

Yes, it would be very helpful if organisations could feel assured that external material was correct, appropriate and relevant. The ACNC may want to consider providing an 'ACNC approved' badge / logo for organisations to use.

Appendix A: List of AMPAG Member Companies & their location

Adelaide Symphony Orchestra	South Australia
Australian Brandenburg Orchestra	New South Wales
Australian Chamber Orchestra	New South Wales
Bangarra Dance Theatre	New South Wales
Bell Shakespeare	New South Wales
Belvoir	New South Wales
Black Swan State Theatre Company	Western Australia
Circus Oz	Victoria
Malthouse Theatre	Victoria
Melbourne Symphony Orchestra	Victoria
Melbourne Theatre Company	Victoria
Musica Viva Australia	New South Wales
Opera Australia	New South Wales
Opera Queensland	Queensland
Orchestra Victoria	Victoria
Queensland Ballet	Queensland
Queensland Symphony Orchestra	Queensland
Queensland Theatre Company	Queensland
State Opera South Australia	South Australia
State Theatre Company of South Australia	South Australia
Sydney Dance Company	New South Wales
Sydney Symphony	New South Wales
Sydney Theatre Company	New South Wales
The Australian Ballet	Victoria
Tasmanian Symphony Orchestra	Tasmania
Western Australian Ballet	Western Australia
West Australian Opera	Western Australia
West Australian Symphony Orchestra	Western Australia