

Review into the Definition of Charity: ACTSPORT Submission

Introduction

ACTSPORT is the **industry peak body** for sport and active recreation in the Canberra region. ACTSPORT represents the views of more than **100,000 people** or one third of the population of the ACT. Our members are not for profit organizations duly registered as incorporated bodies under relevant ACT legislation. Our members are **volunteer organizations** many of which employ some part or full time staff.

Key functions of ACTSPORT include:

- To **represent the interests** of our members to government and the broader community;
- To facilitate opportunities for **exchanging knowledge and ideas** between our members;
- To assist with the coordination of **strategic planning** for sport and active recreation in the ACT;
- To **influence** policy development;
- To be a **service provider** to the industry;
- To deliver **disability sport** opportunities to the community; and
- To deliver **training opportunities** for the industry and wider community.

ACTSPORT welcomes the opportunity to provide this submission on the proposal to introduce a statutory definition of 'charity' applicable across all Commonwealth laws.

Amendment on the definition of charity to include community sport and recreation involving the pursuit of physical fitness will be highly beneficial to the Australian community. ACTSPORT will support this assertion in the body of this submission.

ACTSPORT notes that VICSPORT, the peak body for sport in Victoria, has made a submission to the review. **ACTSPORT wholly supports this submission** and commends VICSPORT on this body of work.

ACTSPORT acknowledges that this submission has been lodged outside of the prescribed consultation period. It is hoped that this submission can still be formally considered prior to the drafting of legislation relating to the definition of charity.

Executive Summary

- ACTSPORT endorses the submission made by VicSport to the Definition of Charity review;
- It is widely recognised and supported by research and evidence that sport and active recreation are highly effective strategies in enhancing preventative health;
- This is point is particularly important given Australia's propensity for being overweight and obese;
- The cost of physical inactivity to the Australian economy is estimated at \$13.8 billion annually;
- Community sport and active recreation should be recognised as a charitable cause given the significant level of public benefit it provides to Australian citizens. This benefit includes wide ranging health, social, psychological and physical benefits, as well as being a critical element of the national identity;
- The major barrier to participation in sport and active recreation is cost;
- Receiving charity status would better enable community sport and active recreation to appeal to a wider range of people (particularly those at risk) by lowering costs of participation, launching targeted programs and attracting and retaining more skilled workers through improving the financial sustainability of community sport and recreation groups;
- Consideration should be given to providing community sport and recreation groups with deductible gift recipient eligibility in order to provide a potential financial incentive to eligible potential participants;
- A successful model exists in the United Kingdom that could be adapted and adopted in Australia, whereby community sporting clubs are provided status that enables them to receive numerous tax concessions; and
- The Independent Sports Panel's report on The Future of Sport in Australia recommended that some form of tax rebate for participation in sport and active recreation should be examined. The revision of the definition of charity provides such an opportunity.

Community Sport and Recreation

ACTSPORT supports the comments made by VICSPORT relating to community sport and recreation in their submission to this review.

In 2010 the Commonwealth Government released a report, ***"AUSTRALIAN SPORT the pathway to success"***, which states that:

"... the active lifestyle that has played a significant role in establishing our nation's identity, culture and international sporting reputation is being challenged by the demands of modern life and an increasingly sedentary lifestyle, particularly amongst our children.

*According to the Organisation for Economic Co-operation and Development (OECD), Australia has the fifth highest rate of adult obesity in the developed world. The 2007/08 National Health Survey found that **68% of adult Australian men and 55% of adult women were overweight or obese** Further, **17% of Australian children (5–17 years) were overweight and nearly 8% were obese.**"*

Worryingly the report also states:

*"Participation in sport has stalled over the last decade amongst Australian children. During the 12 months to April 2009, **1 million children aged 5 to 14 did not participate in any organised sport outside of school hours**, with a higher proportion of girls (44%) not participating in organised sports than boys (30%)."*

Community sport and recreation has the potential to make a significant difference to the quality of life to Australians. Every effort must be made to make participation in physical activity more accessible to as many Australians as possible through enhanced provision of services from sport and recreational organisations,. Including community sport and recreation within the definition of charity will enable community organisations to gain advantages that will enable them to (i) **lower the cost of participation**, (ii) increase investment from private and corporate sectors and (iii) **employ and retain highly skilled people** to develop and deliver quality programs and services to the community.

Financial Challenges

In common with other not for profit organizations, our members are faced with the perennial challenge of funding their operations in an increasingly difficult financial environment. Unfortunately the current definition of charity, which excludes community sport and recreation imposes a severe financial constraint on amateur community sport and recreation clubs and associations and limits their capacity to undertake a wider range of much needed fund raising activities.

All Governments through the Sport and Recreation Ministers' Council (SRMC) have accepted that **State Sporting Organisations play in leading and growing their sports for the benefit of all community members**. Further, the Governments recognise that sport does assist to build communities through **social inclusion** for those people who are vulnerable to social and structural disconnection.

It has become clear that there is a growing need and indeed opportunity to **strengthen partnerships** between Commonwealth State and Territory Governments and community sport and recreation organizations to **improve access** to sport and recreation activity.

Although community sport and recreation organisations are a natural **conduit for reaching out to local communities** and bolstering participation in sport, a lack of resources and capacity to build pathways from the grassroots up has hampered their ability to broaden participation for the benefit of the community.

The Government report states that *"In order to reinvigorate engagement in sport amongst our community and to regain our competitive edge, **we need to do things differently**. We need to place a strategic focus on collaboration, **reform** and investment across the entire sporting pathway – from the grassroots up."*

Our members believe the inclusion of "community sport and recreation" in the definition of charity will greatly assist in attracting the required investment from the community and the commercial sector. We understand that charities are **eligible to receive various taxation concessions** such as:

- Income tax exemption (currently available to not-for-profit sport and recreational organisations);
- Dependent on individual circumstance, exemption from or a rebate of fringe benefits tax (FBT); and
- Concessional treatment under the goods and services tax (GST) provisions.

In addition, charities have the opportunity to apply to the ATO for **deductible gift recipient (DGR) eligibility** so they can receive donations from individuals, who in turn may claim a tax deduction.

Charities and Public Benevolent Institutions (PBI's) are also eligible to apply for a wide variety of **funding opportunities through trusts and foundations**. Community sport and recreational organisations do not qualify for many of these under the existing environment.

State and Territory Governments also rely on the outdated common law meaning of charity and have a range of relationships with charities, through the provision of taxation concessions and delivery of government funded services. At this level, charities may be eligible for a range of exemptions or concessions in relation to pay-roll tax, land tax, stamp duty, bank account debits tax and local government rates.

Incorporation of Organisations

All States and Territories have their own Associations Incorporation Acts which provide a framework for registration and compliance monitoring of not-for-profit organisations that become incorporated. The various jurisdictions have different reporting requirements for incorporated associations. Some jurisdictions require incorporated associations to present audited accounts to their annual general meeting and then file them with the relevant government department for public inspections, whereas other jurisdictions do not require them to keep proper accounting records or to have their records audited.

We believe Australia should strongly consider **adopting the UK model** whereby sports clubs are able to register with Her Majesties Revenue and Customs (HMRC) as a Community Amateur Sports Club (CASC), to qualify for a number of tax advantages - known as tax exemptions and tax reliefs - on income, gains and on profits from some activities. These include claiming back tax on Gift Aid donations, and relief on Corporation Tax and on non-domestic rates. The relief on rates is apparently 80%.

In order to qualify a club must:

- Be **open** to the whole community
- Be organised on an **amateur** basis
- Have as its main purpose **providing facilities** for, and **promoting participation** in one or more eligible sports
- Meet the location requirement
- Meet the management condition

Public Benefit

Our members believe they meet this criterion and pass the test of public benefit in terms of:

- The **advancement of health** or the saving of lives;
- The advancement of citizenship or community development;
- The relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage;
- The advancement of education (for example, they provide training or skills development for the public);
- The advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
- The advancement of religion;
- Other purposes beneficial to the community (for example, they provide public amenities or recreational services and facilities. This means not just land, buildings and equipment, but also the organising of sporting activity).

Critically, there is a significant body of research that conclusively finds that physical activity is of paramount **importance to a nation's health and wellbeing**. There is no doubt that establishing a sport and recreation system that breaks down any barriers to participation is of high community interest and will undoubtedly provide **large benefit to the public**.

In 2008 Medibank Private estimated the **total economic cost of physical inactivity to the Australian economy to be \$13.8 billion each year**. High levels of obesity and inactivity place additional burdens on the already strained health system.

The Senate Environment, Communications, Information Technology and the Arts References Committee concluded, public investment in recreational and sporting activities provides an important dividend to terms of both public health and social cohesion. We believe the associated modest increase in Commonwealth outlays through rebates would be heavily outweighed by future savings in Health and Community Services expenditure.

At present these costs (\$68bn) account for a major proportion of the Commonwealth Budget. For the ACT Government, **Health costs account for 30% of the budget** and are increasing at the rate of 10% per year. At this rate, it will consume the whole budget by 2040 unless foresighted actions are taken. We believe that the other State Governments are in a similar position.

The only way to avert this untenable outcome is to dramatically increase the level of sport and recreation activity across the whole community.

Some of the potential government health cost savings from increased sport and recreation participation are detailed in the Senate report:

- *"The Australian Institute of Health and Welfare (AIHW) stated that **physical inactivity is responsible for about 6.7 per cent of the total burden of disease and injury in Australia in 2003.***
- *A report into the costs of illness attributable to **physical inactivity in Australia found that the annual direct health care cost is approximately \$377 million per year.***

- The costs (for each of the diseases or conditions in the study) were estimated to be \$161 million for coronary heart disease (CHD), \$28 million for non-insulin dependent diabetes mellitus (NIDDM), \$16 million for colon cancer, \$101 million for stroke, \$16 million for breast cancer, and up to \$56 million for depressive disorders.
- The report estimated that 122 deaths per year from CHD, NIDDM and colon cancer could be avoided for **every one per cent increase** in the proportion of the population who achieve a level of sufficient and regular **physical activity**. These estimates indicate that one quarter of these deaths occur in people under 70 years and indicate that **1764 life years could be gained for every one per cent increase in moderate activity levels**. The analysis indicates that gross savings of \$3.6 million per annum in the health care costs of these three diseases could be achieved for every one per cent gain in the proportion of the population who are sufficiently active.
- Another report also estimated that **physical inactivity accounts, on a conservative estimate, for approximately \$400 million each year in direct health costs**. There are about **8000 preventable deaths each year** in Australia associated with physical inactivity, and it makes a large contribution to the overall burden of disease in Australia, ranking second only to tobacco use as the most important issue in prevention.
- Studies overseas have reached similar conclusions on the effect of physical inactivity on health costs. A US study concluded that increasing participation in regular moderate physical activity among the population over the age of 15 years would reduce annual medical costs in that country by approximately US\$29.2 billion in 1987 . US\$76.6 billion in 2000 dollars.
- The National Heart Foundation also argued that health benefits from physical activity can translate into significant health cost savings. The Foundation estimated that **\$8 million per year could be saved for every one per cent increase in the proportion of the adult population that is sufficiently active**.
- The obesity problem in Australia provides an example of the significant burden such conditions can impose on the health care system. Obesity has significant health effects, including as a risk factor for cardiovascular disease, stroke, high blood pressure, type 2 diabetes, sleep apnea, osteoarthritis, psychological problems and reproductive problems in women.
- While the personal burden of obesity is considerable, through reduced life expectancy and increased disability, the financial burden for governments of increased health care costs associated with obesity are also significant. In 1989-90 the National Health and Medical Research Council (NHMRC) estimated that the indirect costs of obesity in Australia amounted to \$736 million (excluding personal expenditure on weight control measures estimated at \$500 million a year). Further, reducing the prevalence of obesity by 20 per cent would realise health care savings estimated at \$59 million. More recently in 2003 the National Taskforce on Obesity estimated that the **annual cost of obesity was \$1.3 billion and rising**. In the United States it has been estimated that the cost of obesity related medical expenses reached US\$75 billion in 2003.
- The health care costs associated with eating disorders are also considerable. In 2000-01, some 16 per cent of all hospitalisations for mental and behavioural disorders in women aged 12-24 were due to eating disorders. A recent report found that for young women the most frequent diagnoses resulting in hospitalisation was depression, followed by eating disorders.

The 1999 Burden of Disease and Injury Survey found that **eating disorders were the fourth leading cause of burden in females aged 15-24.**

- Evidence indicates that participation in sport and recreation has benefits for all age groups. Australian Bureau of Statistics (ABS) and other social research confirm strong positive associations of physical activity for girls and young women, with **leadership and teamwork skills, skill development, improved self-esteem and a reduced likelihood of making health-compromising choices** (substance abuse, physical inactivity, poor eating). The benefits of physical activity for health and longevity among older adults (50 years or more) are also well established. There is good evidence that in addition to reducing the functional declines of ageing, **regular physical activity reduces the risk and severity of major diseases affecting women** (e.g. cardiovascular and lung disease, diabetes and breast cancer). Regular movement and strength training help to maintain balance and flexibility, thereby assisting in the prevention of injurious falls, particularly amongst post-menopausal women.
- As noted above, physical activity is important in maintaining good health. National guidelines have set out the amount of physical activity that Australians should take up if they are to gain health benefits. The National Physical Activity Guidelines for Australians recommend at least 30 minutes of moderate-intensity physical activity on most, preferably all, days of the week to obtain health benefits. This is generally interpreted as 30 minutes on at least five days of the week, a total of 150 minutes of moderate activity per week. The guidelines for children and adolescents recommend at least 60 minutes of moderate to vigorous physical activity every day.
- The National Heart Foundation stated that the **majority of Australian women are not physically active enough to obtain health benefits**. According to the 2000 National Physical Activity Survey, more than half (55 per cent) of Australian women aged 18-75 years are not reaching recommended levels of physical activity and a further 15 per cent do not participate in any physical activity. VicHealth stated that in Victoria in 2004 only 58.6 per cent of men and 55.1 per cent of women participated in sufficiently regular physical activity to achieve a health benefit.
- There is no recent national data on the physical activity levels of Australian children and adolescents. In a 2004 survey in NSW, three quarters of the students in Years 6, 8 and 10 reported levels of physical activity that met the physical activity recommendations (see above). Boys reported more activity than girls, but for both genders participation decreased with age. A 2004 survey in Western Australia found that **one-quarter of high school males surveyed, one-third of high school females and one out of seven primary school students reported doing no sport, exercise or dance activities in a typical week.**

Overcoming Barriers to Participation

Our members advise that **cost is a significant barrier** to participation in both junior and senior competitions. Increased costs have a major impact on junior players, particularly girls, children from multiple child families, and women moving to modified and junior competition to higher aged competition. For many sports participation drop-out begins after the under-12s and accelerates through the teenage years. The general view is the 'drop out phenomena':

- Peaks at about age 15/16 years
- Is greater for girls than for boys
- Occurs in the transition between primary and secondary school, and at the end of secondary school education

The cost of involvement in sport and recreation activity is also prohibitive for many women. Womensport and Recreation Victoria have reported that, in a recent survey of women and sport in Victoria, the cost of participating in sport was cited as the **main barrier for women** participating in sport. It is doubly difficult where there are multiple children or when the parents participate as well.

Costs include membership fees and often uniforms or equipment costs. These costs put many activities out of the range of the average family. Women, especially from single income families, may not have sufficient disposable income to permit participation by themselves or their children in activities other than activities that do not involve a cost, such as walking. Recreation SA stated that **many women put their own social and recreational needs after the recreation needs of the rest of their family.**

In 2009 the Independent Sports Panel's report on the Future of Sport in Australia found that ***the cost of sport participation has increased by much more than the Consumer Price Index (CPI) or inflation. According to the Australian Bureau of Statistics (ABS), the CPI increased in Australia by 36.6 per cent over the 10 years from 1998–99 to 2008–09.***

ABS data suggests that sport participation costs (including sporting club subscriptions and registration fees) increased by up to 69.4 per cent over the same period. A broad and informal analysis conducted on behalf of the Panel by the Australian State Sports Federations Alliance shows an average increase in costs of 92 per cent across 15 randomly selected local clubs and sporting organisations.

Participation costs include equipment such as boots, swimmers, goggles, uniforms, ballet shoes, bats, racquets, gloves and protective helmets, and the petrol required to transport children to venues. For many families, these escalating costs are increasing burdens on family budgets and the ability to support children participating in multiple sporting competitions and physical activities. Many sport and physical activity groups have tried to support families with more than one or two children participating in a sport by offering reduced registration fees but this comes at the expense of the club by loss of revenue or an add-on expense for other families.

Local sporting clubs face ongoing difficulties associated with the escalating costs of getting individuals and sport teams on to the field. For example, insurance costs are increasing for individuals and clubs. The 2002 Senate Standing Committee on Economics Inquiry into the impact of public liability and professional indemnity insurance cost increases shows that sport and recreational organisations have been more disproportionately affected by increases in the cost of public liability insurance, these increased premiums being passed on to the participants at the grassroots level. This

issue will continue to place significant financial burdens on community sporting clubs. Facility owners, such as local governments, are adopting more commercial charges for use of their facilities.

Consideration needs to be given to how these costs can be contained. There is a need to examine ways to reduce costs for both participants and sporting organisations.

Earlier in 2006 the Senate Environment, Communications, Information Technology and the Arts References Committee conducted an inquiry into women in sport and recreation in Australia. The Committee found:

- Participation in recreational and sporting activities is a practical and efficient way to increase physical activity, thereby maximising the health and social dividends to the community.
- There need to be sustained and focused efforts to increase the physical activity levels amongst all Australians.
- Strategies need to be developed for minimally physically active and sedentary people. Both males and females to undertake some form of physical activity and these need be applied across all age groups.
- Strategies need to be developed for both men and women who are moderately physically active to ensure that they can sustain this level of activity throughout their lives, regardless of age.

Tax Deductions to Reduce Costs of Participation

ACTSPORT is a member of the Australian State Sports Federation Alliance, which comprises our peers in other states. The Alliance strongly supports the recommendation of the Independent Sports Panel's report on The Future of Sport in Australia:

*“That the Australian Sports Commission in conjunction with the Department of Health and Ageing should **explore the viability of tax rebates**, voucher or another system designed to reduce the cost of participation, and the likely contribution of such schemes to increasing participation levels.”*

We believe that this could be achieved if sport and recreation organizations registered as charities were able to become deductible gift recipients (DGRs) and player participant fees were treated as tax deductible gifts.

The **first step** in achieving this objective is for community sport and recreation to be recognised under a revised definition of charity.

Summary

With the projected increased income associated with charity status, as well as an opportunity to receive deductible gift recipients (DGRs) eligibility (with a view to achieving tax deductibility for participation fees), community sport and recreation organizations throughout Australia would be able to ameliorate participation costs and provide better services and facilities to address:

- Lack of information about what programs are available;
- Lack of access to appropriate, accessible, affordable and acceptable facilities and services;
- Lack of culturally appropriate facilities/programs;
- Social stereotyping;
- Lack of time or perceived lack of time;
- Lack of childcare and lack of awareness of childcare options;
- Opportunities available for participation;
- Lack of skills or perceived lack of skills;
- Lack of financial resources;
- Harassment;
- Lack of confidence in approaching activities alone; and
- Cultural and social pressures.

Over time success by sport and recreation organizations in these areas should **indirectly serve to lessen public demand on other charities** and **improve the overall health and wellbeing** of the community.

This submission does not address all of the policy questions about the nature of charity but rather to focus on the key issues that affect community sport and recreation. We do however encourage the Government to modernize the definition of charity to include ***“community sport and recreation involving the pursuit of physical fitness”*** so as to finally give effect to the findings of many Government reviews over recent years.

In doing so it is important to ensure **harmonisation** between Local, State and Federal government laws, to avoid increasing red tape and confusion for the many volunteers in organisations, which have limited resources. It may be useful to **review relevant State and Territory laws** regarding “Incorporation” to ensure that processes application and monitoring compliance are streamlined to the maximum possible extent.

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