



Australia Major Performing Arts

Submission to:

The Treasury

Review of Australian Charities and Not-for-profits Commission (ACNC) legislation

February 2018

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Who we are

The Australian Major Performing Arts Group, or AMPAG, is the umbrella group for Australia's 28 major performing arts companies (MPAs) who inspire millions through theatre, circus, contemporary dance, classical ballet, classical music, opera, musicals and comedy. (A full list of members can be found in the Appendix). These companies are registered as charities with Deductible Gift Recipient status.

AMPAG welcomes the opportunity to provide a submission to the review of the ACNC.

Overview

AMPAG participated actively in the consultation and reform process associated with the establishment of the ACNC. Our primary interest has been in increasing the efficiency of member companies' interaction with government regulatory bodies, and in supporting a one-stop shop providing a 'report once and use often' approach. This includes protecting charities from unintended burdens that might arise from new legislation, and maximising charitable companies' revenue directed towards their charitable purpose.

AMPAG is fully supportive of the role and objectives of the Australian Charities and Not-for-profits Commission. We would especially emphasise the importance of the objective to streamline reporting among levels of government and different agencies. Our companies spend a lot of time and resources in reporting compliance and would greatly appreciate not having their reporting obligations duplicated across governments and agencies.

We have and continue to support the ACNC's use of education and help to develop sector skills, knowledge and regulatory compliance ahead of more draconian adversarial measures, but also recognise the need for the ACNC to retain their enforceable powers in their current form.

Summary of key points in this submission

1. The ACNC is an effective and efficient organisation that has made some inroads into reducing red tape. More needs to be done.
2. The ACNC should be relied upon by government in the regulation of charities.
3. Changing the objects of the ACNC will serve no useful purpose.

Key points expanded

1. The ACNC is an effective and efficient organisation that has made some inroads into reducing red tape. More needs to be done.

The establishment of the Australian Charities and Not-for-profit Commission (ACNC) marks the first time the NFP sector has had an independent regulator dedicated to providing a one-stop-shop approach to charity regulation and enhancing their capacity. The ACNC has already proved to be a positive step towards reducing red tape, increasing transparency in the charitable sector, and enhancing trust in the community.

The ACNC's effectiveness is reflected in the fact that Australian charities have a higher rate of voluntary compliance with the regulator than those in any other country in the world. Maintaining the confidence of the charities sector in the ACNC is important to the effectiveness of the regulator.

However, the ambition to reduce the reporting burden of charities has a long way to go. The 'report once and use often' approach would alleviate the reporting burden through harmonising state and federal reporting requirements, and we strongly encourage a continuation and acceleration of progress in this area.

- More work needs to be done to have the current ACNC charities' passport adopted across governments, the various regulators and major funders of the sector.

2. The ACNC should be relied upon

Object 3 of the ACNC Act is 'to promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector'. Recent federal government draft legislation has failed to take this into account. For example, AMPAG is concerned that the provisions of the Review of the Foreign Influence Transparency Scheme Bill (**FITS Bill**) and The Electoral Legislation Amendment Bill (**ELA Bill**) fail to exclude performing arts charitable organisations or charities more broadly. These draft bills introduce additional reporting lines in relation to certain activities. In doing this, the legislation introduces additional red tape. Associated resources are then diverted away from the charities' purpose. In the case of the **ELA Bill**, new additional monitoring on charities' advocacy activities is introduced in an area that the ACNC is designed for and is very clearly capable of doing. It is important to note charities, unlike business, are already regulated and restricted in their advocacy activities under the **Charities Bill 2013**.

This works against the purpose of the ACNC to streamline monitoring and compliance processes for the charitable sector, and undermines the smooth and efficient running of government. The ACNC has the expertise and authority to enforce compliance and the knowledge and expertise to develop clear guidelines.

It is likely that the ACNC has undertaken significant enforcement activities and obtained undertakings from charities in relation to their advocacy, particularly during election periods. The current regulations prevent the ACNC making details of these actions public.

- We believe additional ACNC enforcement transparency, without compromising charities where infringement is unproven, would assist in building confidence in the active regulatory processes undertaken by the ACNC.

- The ACNC is the body that should oversee charities to ensure they are operating within the Charities Act 2013 regulations, including operating according to their charitable purpose and ensuring advocacy activities are undertaken for the advancement of their charitable purpose.
- Further involvement of the ACNC to restrict the advocacy activities of charities is not supported.
- AMPAG does not support any recommendation that involves requiring charities to maintain records with multiple regulators, including the Australian Securities and Investment Commission, as this represents extra work for no gain.

3. Changing the objects of the ACNC will serve no useful purpose

AMPAG supports the current ACNC objects being:

1. to maintain, protect and enhance public trust and confidence in the Australian not-for-profit sector
2. to support and sustain a robust, vibrant, independent and innovative Australian not-for-profit sector
3. to promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector.

Given the breadth of these objects, the success of the ACNC to date, the extensive process undertaken to develop the objects in the first place,

- **AMPAG can see no reason to suggest any changes should be made to the ACNC objects.**
(We note this is also the position put forward in the ACNC's own submission to the review.)

The ACNC is a well-regarded efficient and productive, modern organisation with an engaged workforce who seek to strengthen and advance the charitable sector's capacity to maximise their charitable purpose.

We do not believe there are cogent reasons for any major change to the ACNC, and encourage continued reduction in red tape. We believe that an ongoing commitment from government to uphold the reliance on the ACNC as the central regulating authority for charities is critical.

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Appendix

LIST OF AUSTRALIA'S MAJOR PERFORMING ARTS COMPANIES

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