

**SENATE COMMUNITY AFFAIRS  
LEGISLATION COMMITTEE**

**Consideration of Legislation Referred  
to the Committee**

**ALCOHOL EDUCATION AND REHABILITATION  
ACCOUNT BILL 2001**

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## **MEMBERSHIP OF THE COMMITTEE**

### **Members**

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Senator Lyn Allison, Deputy Chair	AD, Victoria
Senator George Brandis	LP, Queensland
Senator Kay Denman	ALP, Tasmania
Senator Chris Evans	ALP, Western Australia
Senator Tsebin Tchen	LP, Victoria

### **Participating Member in attendance for the inquiry**

Senator Meg Lees	AD, South Australia
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# REPORT

## ALCOHOL EDUCATION AND REHABILITATION ACCOUNT BILL 2001

### THE INQUIRY

1.1 The Alcohol Education and Rehabilitation Account Bill 2001 (the Bill) was introduced into the House of Representatives on 20 June 2001 and the Senate on 27 June 2001. On 28 June 2001, the Senate, on the recommendation of the Selection of Bills Committee (Report No. 10 of 2001), referred the Bill to the Committee for report by 9 August 2001. The Selection of Bills Committee had considered a reference proposal, but was unable to come to agreement. The Bill only was referred without an accompanying reference proposal.

1.2 The Committee considered the Bill at a public hearing on 6 August 2001. Details of the public hearing are referred to in Appendix 2. The Committee received nine submissions relating to the Bill and these are listed at Appendix 1 and may be accessed through the Committee's website at [http://www.aph.gov.au/senate\\_ca](http://www.aph.gov.au/senate_ca)

### THE BILL

1.3 On 4 April 2001, the Prime Minister and the then Leader of the Australian Democrats, Senator Meg Lees, announced their agreement to an arrangement that would appropriate an amount equivalent to the difference between the excise collections on draught beer since 1 July 2000 and the amount that would have been collected using the new rates prescribed under A New Tax System – a total of \$115 million – to a new Foundation in the 2001-02 budget. An amount of \$5 million has also been allocated to the restoration and preservation of historic hotels in rural and regional Australia.<sup>1</sup> The full text of the Alcohol Education and Rehabilitation Foundation Memorandum of Understanding (MOU) between the Government and the Democrats is provided in Appendix 3.<sup>2</sup>

1.4 The Bill proposes to:

- establish the Alcohol Education and Rehabilitation Account to provide, by 1 July 2005, at least \$115 million to the Foundation, or one or more replacement bodies, to be expended on one or more of the following purposes:
  - (a) to prevent alcohol and other licit substance abuse, including petrol sniffing, particularly among vulnerable population groups such as indigenous Australians and youth;
  - (b) to support evidence-based alcohol and other licit substance abuse treatment, rehabilitation, research and prevention programs;

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1 Minister's Second Reading Speech, 20.6.01.

2 The MOU was incorporated into Hansard during a speech by Senator Ian Campbell on the Customs Tariff Amendment Bill (No. 2) 2001, *Senate Hansard*, p.23529, 5 April 2001.

- (c) to promote community education encouraging responsible consumption of alcohol and highlighting the dangers of licit substance abuse;
- (d) to promote public awareness of the work of the Foundation or body and raise funds from the private sector for the ongoing work of the Foundation or body;
- (e) to provide funding grants to organisations with appropriate community linkages to deliver the services referred to in the above paragraphs.<sup>3</sup>

## ISSUES

### **The Alcohol Education and Rehabilitation Foundation**

1.5 On 3 July 2001 the Prime Minister announced the membership of the Alcohol Education and Rehabilitation Foundation (the Foundation), to be chaired by Professor Ian Webster, AO. The Foundation Board includes experts in a range of areas including community rehabilitation and education, medical, research, Indigenous, church and sporting bodies. Full details of the Foundation membership are at Appendix 4.

1.6 The funds allocated to the Foundation will provide the resources to make a significant contribution towards the prevention of alcohol and other licit substance misuse, including petrol sniffing. It will also allow priority to be given to vulnerable population groups identified as being groups particularly at risk such as Indigenous Australians and youth.<sup>4</sup>

### **Accountability of the Foundation**

1.7 The Foundation is to be established as an incorporated charitable trust with a constitution. Members of the Foundation will establish themselves as a separate legal entity which will enable the Foundation and its activities to be independent of Government.<sup>5</sup> In evidence to the Committee Professor Webster advised that the proposal put to the Foundation was that the Foundation establish itself as a company limited by guarantee.<sup>6</sup>

1.8 The Minister stated in his second reading speech that:

As an independent charitable body, the foundation will be uniquely placed to develop affiliations, partnerships and grassroots connections to communities that require expertise and support to address entrenched problems with the misuse of alcohol and other substances. The government envisages that the foundation's charitable status will also encourage donations from the business sector and other community members for the further enhancement of work in this important area...Whilst the foundation is being intentionally set up as an independent body, it will be rigorously accountable for expenditure of Commonwealth funds in those areas identified as priorities.<sup>7</sup>

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3 Alcohol Education and Rehabilitation Account Bill 2001, clause 3.

4 Second Reading Speech, 20.6.01.

5 Submission No.3, p.4 (DHAC).

6 *Committee Hansard*, 6.08.01, p.11 (Professor Webster).

7 Second Reading Speech, 20.6.01.



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– **Constitution**

1.9 The MOU requires the constitution of the proposed trust to include:

- a requirement that at least 85% of all Foundation expenditure is outsourced to professional and community organisations;
- procedures for seeking approval of the annual budget by the board;
- procedures for seeking approval of professional and community grants by the board;
- procedures for reporting annually to Parliament on grant allocation decisions and overall operations;
- procedures for independent auditing of the accounts and performance of the Foundation;
- procedures for monitoring and reporting on the cost effectiveness and social impact of funded programs.

1.10 Professor Webster advised the Committee that the Foundation was close to finalising the Constitution following discussion among the Board members and the seeking of some alternative legal advice.<sup>8</sup>

– **Business and operational plans**

1.11 The MOU requires the Foundation to submit by August 2001 a detailed business plan for approval by the Government and the Democrats, encompassing:

- A Budget for the first four years of operation. The budget will be designed to expend 80% of the initial endowment within four years and adhere to the following prescribed percentages of total expenditure in the first year:
  - administration and promotion at most 10%
  - treatment and rehabilitation at least 30%
  - public education at least 10%
  - prevention at least 20%.

Particular priority, with at least 20% of total expenditure, is to be given to projects targeting Indigenous Australians.

1.12 An operational plan detailing procedures for the disbursement of funds is also required by the MOU. The operational plan is to encompass:

- procedures for enabling professional and community organisations to apply for grants.
- procedures for avoiding cost shifting from existing or intended alcohol and related funding at the Commonwealth, state and territory level.

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8 *Committee Hansard*, 6.08.01, p.12 (Professor Webster).

### ***– Funding agreement with the Foundation***

1.13 Clause 9 of the Bill provides that the Minister may, on behalf of the Commonwealth, make an agreement with the Foundation authorising the making of one or more payments to the Foundation. To ensure that the Foundation performs in accordance with its objectives and does not breach the funding agreement, Clause 10 of the Bill provides that:

- (1) The Minister may determine in writing that an agreement with the Foundation under section 9 is terminated if:
  - (a) the objectives of the Foundation are inconsistent with any of the purposes referred to in section 3; or
  - (b) the Foundation fails to comply with a condition of the agreement.
- (2) A determination of the Minister under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

1.14 The Bill requires the Minister to table a copy of every funding agreement, and any variation to the agreement, in each House of Parliament within 15 sitting days.

1.15 DHAC advised that the funding agreement between the Commonwealth and the Foundation will clearly specify a range of accountability and reporting requirements, including the requirement that the Foundation provide six-monthly progress reports to the Department as well as an annual report for presentation to Parliament through the Minister for Health and Aged Care.<sup>9</sup>

### ***The role of the Auditor-General***

1.16 DHAC advised the Committee that the Auditor-General has agreed in principle to audit the accounts of the Foundation under arrangements contained in the Auditor-General's governing legislation.<sup>10</sup>

### **Support for the establishment of the Foundation**

1.17 The Alcohol and other Drugs Council of Australia (ADCA) strongly supports the establishment and ongoing operation of the Foundation as an autonomous organisation and believes that the Foundation will be able to make a significant contribution to reducing alcohol related harm and the misuse of inhalants.<sup>11</sup> ADCA is also of the opinion that:

The Foundation must have a strong community focus, with the long-term goal of strengthening the community's capacity to prevent and respond to the harms arising from and associated with the misuse of alcohol.<sup>12</sup>

1.18 The Australian Drug Foundation (ADF), an organisation which has worked in the Australian community for over 40 years to prevent and reduce alcohol and drug-related problems, also strongly supports the establishment of the Foundation. ADF states in its submission that it 'appreciates the scale and complexity of the issues to be addressed and the

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9 Submission No.3, p.5 (DHAC); *Committee Hansard*, 6.08.01, p.13 (DHAC).

10 *Committee Hansard*, 6.08.01, p.13 (DHAC)

11 Submission No.1, pp.1, 2 (ADCA).

12 Submission No.1, p.1 (ADCA).

need for additional resources to be made available'. Furthermore, ADF believes that it is 'particularly appropriate that alcohol problems receive this attention and funding'.<sup>13</sup>

1.19 Similarly, the Aboriginal and Torres Strait Islander Commission (ATSIC) and the National Aboriginal Community Controlled Health Organisation (NACCHO)<sup>14</sup> support the establishment of the Foundation. Alcohol and other substance abuse particularly impacts on Aboriginal people and Torres Strait Islanders. ATSIC has stated in its submission that:

What marks the problems of alcohol misuse in the Indigenous community from the problems in the wider community is that, in some discrete and disempowered Indigenous communities, the extent of the misuse is so widespread that entire communities can become dysfunctional.<sup>15</sup>

1.20 ATSIC believes that the Indigenous community is best placed to ensure that programs and spending are well targeted.<sup>16</sup> The Foundation has Indigenous Members and several others who are very well qualified and experienced in the area of Indigenous health to enable the Foundation to assist the Indigenous communities to help address the problems which are particularly pertinent to this section of the population.

1.21 One such Member, Dr Peter d'Abbs, considers that the Foundation is well placed to improve Indigenous access to evidence-based interventions and appropriate training in the fields of alcohol and other drug misuse, both in community-controlled programs and services, and in 'mainstream' programs.<sup>17</sup>

1.22 Because of the extent of the impact of alcohol abuse in Indigenous communities ATSIC supports the weighting of expenditure from the Foundation towards these communities.<sup>18</sup>

1.23 Foundation funding will also assist the development of programs to target another population group that is particularly at risk – young people, particularly young males, who abuse alcohol and indulge in a range of risk-taking behaviours.

1.24 In collaboration with State and Territory Governments, the Commonwealth Department of Health and Aged Care (DHAC) is also undertaking a range of initiatives to address alcohol abuse in the community. DHAC has commented that funding for the Foundation will be a 'very welcome addition to the current stock of resources available to address the very entrenched community problems associated with alcohol and other licit substance misuse'.<sup>19</sup>

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13 Submission No.5, p.1 (ADF).

14 Submission No.6, p.2 (NACCHO).

15 Submission No.2, p.1 (ATSIC).

16 Submission No.2, pp.1,4 (ATSIC).

17 Submission No.9, p.3 (Dr Peter d'Abbs).

18 Submission No.2, pp.3, 4 (ATSIC).

19 Submission No.3, p.7 (DHAC).

1.25 Foundation funding will also greatly add to the support being provided for alcohol related research and education currently undertaken by the Australian Brewers' Foundation which is funded by members of the Australian Associated Brewers (AAB). Since the scheme was established in 1978 over \$4.5 million has been provided to researchers.<sup>20</sup>

### **Operation of the Foundation**

1.26 Professor Webster advised the Committee that at the first meeting of the Foundation Members stated that they:

wished to be involved in promoting and encouraging the implementation in a significant way of effective prevention, education and rehabilitation programs in community settings. In doing that, those programs must have the full support of those communities in which they are being undertaken – local groups and local people in local groups. Furthermore, those programs must be based on a knowledge of what is effective and can be made to work in those situations, and they must be evaluated, and they indeed must be strategic.<sup>21</sup>

1.27 Professor Webster also advised that the Foundation and its Members hoped to achieve the following goals:

- a culture of learning and experience by thinking critically about the programs which are being put in place, ensuring that the greatest needs are addressed, and learning from the good things they do and from the things that do not work;
- establish a set of relationships with community groups, advocate organisations and other bodies which are interactive and can work in a collaborative way;
- to leave a legacy for the future so that the projects, ideas and initiatives that the Foundation has been involved are 'truly embedded and truly sustainable' in the ongoing Foundation.<sup>22</sup>

### **Alcohol Education and Rehabilitation Account**

1.28 Clause 5 of the Bill establishes a 'Special Account' called the Alcohol Education and Rehabilitation Account. A 'Special Account' is an account established either by a determination of the Finance Minister or, in this case, by an Act, for certain identified purposes. This provides for money to be lodged in the Consolidated Revenue Fund for a particular purpose, thus ensuring that the money is used only for those purposes.<sup>23</sup>

1.29 Therefore, the particular provisions in the Bill which establish the Account and the arrangements for disbursing funding to the Foundation further ensure that the money is specifically targetted and independently controlled. Funds cannot be subsumed into other government programs. Professor Webster advised the Committee that:

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20 Submission No.4, p.14 (AAB).

21 *Committee Hansard*, 6.08.01, p.8 (Professor Webster).

22 *Committee Hansard*, 6.08.01, pp.8-9 (Professor Webster).

23 Department of the Parliamentary Library, Bills Digest No. 171 2000-01, p.4.

...we believe there needs to be new ways, new initiatives, in the way that governments work with communities. Communities at present have become very disillusioned with one-off funding, with the often onerous and, to them, irrelevant accountabilities to distant committees and with what appears to them to be a lack of appropriateness of the accountability mechanisms.<sup>24</sup>

1.30 As outlined in the 2001-02 Portfolio Budget Statements, the Alcohol Education and Rehabilitation Account is the funding mechanism which will provide the Foundation with \$115 million over the next four years. The amounts of the appropriations are \$10 million on Royal Assent (for the 2001-2002 financial year), \$24 million on 1 July 2002, \$40 million on 1 July 2003 and \$41 million on 1 July 2004. Responsibility for the management of the funding to the Foundation was given to the Department of Health and Aged Care.<sup>25</sup>

### **Beer excise**

1.31 As indicated in the MOU the Bill will ensure that the full equivalent of the increase in excise collected on draught beer since 1 July 2000, less \$5 million allocated to the Historic Hotels initiative, is appropriated and allocated to the Foundation.

1.32 The ADF comments that 'it is fitting that the \$115 million has been raised from the tax on alcoholic beverages. Sale of alcohol is a major part of the problem and so revenue from that should be part of the solution'.<sup>26</sup>

1.33 It is of note that 75 per cent of drinkers in a survey conducted by the brewing industry voted to put any excise refund towards alcohol-related medical research, remedial programs and charities, rather than lowering the price of beer.<sup>27</sup>

1.34 The Australian Associated Brewers stated that 'a solid majority of beer drinkers, and voters, were of the firm opinion that the funds should be administered by an independent charitable foundation, not the Federal Government'.<sup>28</sup> The Foundation is indeed independent of Government and, as already stated, the Foundation will be established as a separate legal entity.

### **Perceived shortfall in the amount directed to the Foundation and the Historic Hotels initiative**

1.35 Australian Associated Brewers commented that, according to their modelling, the excise collected was nearer to \$180 million.<sup>29</sup>

1.36 The Department of Health and Aged Care advises that the calculations provided by Treasury for the 2001-02 Budget show the full year cost of a reduction in excise on draft beer as \$150 million. However, the legislation altering the excise rate was effective from 4 April

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24 *Committee Hansard*, 6.08.01, p.8 (Professor Webster).

25 Alcohol Education and Rehabilitation Account Bill 2001, clause 6.

26 Submission No.5, p.1 (ADF).

27 Survey results announced by the brewing industry in February 2001, cited in Department of the Parliamentary Library, Bills Digest No. 171 2000-01, p.2.

28 Submission No.4, p.4 (AAB).

29 *Committee Hansard*, 6.08.01, pp.3-4 (AAB).

2001. In the period 1 July 2000 to 3 April 2001 the Treasury estimated that \$120 million was collected. The Government has allocated \$115 million of this estimated revenue to the Alcohol Foundation and \$5 million to the Historic Hotels initiative.<sup>30</sup>

1.37 As DHAC points out, the remaining \$30 million from the Budget documents is thus not a shortfall. It represents the excise that would have been collected in the period from 4 April 2001 to 30 June 2001 had the previous excise arrangements continued.<sup>31</sup>

### **RECOMMENDATION**

1.38 The Committee reports to the Senate that it has considered the Alcohol Education and Rehabilitation Account Bill 2001 and **recommends** that the Bill proceed.

Senator Sue Knowles  
Chairman  
August 2001

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30 Submission No.3, p.3 (DHAC).

31 Submission No.3, p.3 (DHAC).

# MINORITY REPORT

## AUSTRALIAN LABOR PARTY

### ALCOHOL EDUCATION AND REHABILITATION ACCOUNT BILL 2001

#### 1. Overview – a basic lack of accountability

This Report reflects the views of the undersigned Opposition Senators who attended the Community Affairs Legislation Committee hearings into the *Alcohol Education and Rehabilitation Account Bill 2001* on 6<sup>th</sup> August 2001. These Senators do not agree with recommendations contained in the Committee majority report that the Bill should proceed unamended.

The majority report fails to adequately reflect and address the issues of concern about the lack of accountability the legislation provides for the spending of no less than \$115 m in tax payers' money.

To use a private company as a vehicle to distribute these funds is fraught with danger. The Opposition's concern about this legislation was neatly summarised by the Australian Associated Brewers in their submission:

“If the Bill passes in this form it will in effect delegate key decisions concerning fundamental matters to be determined by private agreement between the Government and the Democrats or the Minister and the Foundation outside the Parliamentary process.”<sup>1</sup>

The Government should have proposed an appropriate public body on an established model to distribute these funds to the community. The Victorian Health Promotion Foundation, the Natural Heritage Trust, the Australian National Council on Drugs and the NH&MRC all offer different models which could have been adopted.

Instead it has rushed to put legislation before the Senate before it has even drafted the key documents determining how the proposed Foundation will operate and how the public funds will be administered and be accounted for.

The Department of Health and Aged Care admitted there was no precedent for using a private company in this way, that there was no obligation on the foundation to adhere to the National Alcohol Action Plan and no way to prevent the initial members being replaced over time with people who may not have the public interest at heart.

This lack of public accountability is simply unacceptable. The record of failures of such experiments in privatisation of Government activities is too strong to allow this legislation to pass in its current form.

The laudable Objects of the Foundation have been undone by the vehicle chosen to distribute the funds and the lack of due process to prevent misuse or wastage of public resources.

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<sup>1</sup> Australian Associated Brewers Inc submission pg 7

## **2. The amount of funding**

The inquiry was unable to quantify the extent to which the Government has complied with its obligation under the Memorandum of Understanding (MOU) between the Government and the Australian Democrats<sup>2</sup> to provide the full value of the surplus excise collected between 1 July 2000 and 3 April 2001.

The Department was unable to advise how much additional excise had actually been collected, preferring to take the question on notice. This information should be placed before the Senate before the Bill is debated.

The Australian Associated Brewers Inc said they believed they had collected around \$180 million in disputed excise in the 9 month period and also undertook to provide the Committee with figures.

At the time of the MOU the problem was one of making forecasts and doing modelling to produce an estimate. The 2000/1 financial year is now complete and the actual collections month by month should be available and the impact of the additional 1.8% in excise should be easy to establish.

The reply provided by the Department after taking the question on notice is unsatisfactory:

“The Australian Taxation Office has indicated that clearance data for beer sold by container size was not available prior to April 2001. As a result, an *exact* figure for the difference between the excise collections on draught beer (only) since 1 July 2000, and the amount collected using the new rate, cannot be calculated.”<sup>3</sup>

The inability to provide a figure lacks credibility. It may be that the Department is hiding behind the word “exact” but they have clearly failed to disprove the views of the brewers concerning how much tax was paid. The Government position should be tested further when the Senate Estimates Committee next meets to question Treasury officials.

Until authoritative figures are provided, there is a strong suspicion that the Government collected more than the \$120 million total, which it proposes to allocate to the Foundation and the Heritage Hotels initiative.

## **3. Non payment of interest on capital**

The Foundation has also been short-changed by the failure to provide for payments equivalent to interest generated by the funds over the four years.

This was the mechanism used in the case of the Natural Heritage Trust when the allocation of an initial capital fund was converted into a series of annual payments.

The MOU clearly states:

“This Bill will ensure the full equivalent of the increase in excise collected on draught beer since 1 July 2000, less \$5 m allocated to the Historic Hotels initiative is appropriated and allocated to a Foundation...”<sup>4</sup>

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<sup>2</sup> A copy of the MOU appears in the Hansard p 23529, 5<sup>th</sup> April 2001

<sup>3</sup> DHAC Reply to Question on Notice received 8<sup>th</sup> August 2001

<sup>4</sup> Memorandum of Understanding between the Government and the Democrats 3<sup>rd</sup> April 2001



The Department in its submission made a different statement:

“All public statements made by the Government in relation to the Foundation have committed to funding of \$115 million in total and there have been no undertakings in respect of interest on the funds.”<sup>5</sup>

These statements are clearly at odds. There was no limit of \$115 m in the MOU and the expression “full equivalent” implies that all the funds collected would be paid over.

The fact that the Government has now chosen to stagger the appropriation over four years denies the Foundation the opportunity to earn interest and the Government has retained the interest it will earn whilst it holds the money.

This is a tricky approach, which does not deliver on the original commitment.

#### **4. Foundation constitution**

The minority Senators are disappointed that the Constitution of the Foundation remains incomplete and confidential.

The Department was even unable to say what form of legal structure would be adopted – suggesting that it would probably be a company limited by guarantee. Clearly there is a large amount of legal work to be done, before the Foundation becomes a reality, so the passage of the Bill would therefore be premature.

**It is recommended that Senate consideration of the Bill be deferred until the Government is in a position to table the proposed Constitution of the Foundation and the draft Funding Agreement between the Government and the Foundation.**

#### **5. Purposes of the Foundation**

The substantial omission in the proposed Objects is the absence of any mention of domestic violence, which is, after road accidents, one of the greatest social problems to which excessive alcohol usage contributes.

There appears to be no reason why the purposes of the Foundation should not be extended to include the funding of programs to reduce domestic violence caused by alcohol and other licit substance abuse.

The omission of domestic violence may well be an oversight due to the rush in which the Objects were developed and the lack of wider consultation.

**It is recommended that the Bill be amended to include support for programs to reduce domestic violence caused by alcohol and other licit substance abuse.**

#### **6. Membership of the Foundation**

The minority Senators note that the proposed membership of the Committee has been nominated by the Government and a meeting of this group has been held even before the legislation to establish the fund has passed the Parliament.

The Department was unable to say who the shareholders in the company would be and how the filling of casual vacancies would be accomplished.

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<sup>5</sup> Department of Health and Aged care submission pg 4

There appear to be no safeguards to ensure that the actual shareholders of the company, when established, and the subsequent appointments are of the same quality as the people currently nominated.

NACCHO expressed its concern about the membership arrangements:

“We are also concerned by the lack of accountability of the Foundation. Once the foundation has set down its constitution the membership of the Board is unable to be changed unless the individuals die or retire.”<sup>6</sup>

The nominated Chair, Ian Webster, is apparently dependent on the final members electing him to that position and there can be no certainty that the company will remain in the hands of people who sympathise with the current intent of the Foundation.

The terms and conditions of the Board appointments have not been disclosed and it appears the appointments are not limited in time.

The arrangements for the filling of vacancies appear to rest with the initial Board members. As the Board will fill its own vacancies there is a risk that the control of the Foundation could be captured by a particular group of people and the Government would have no power to ensure a broad membership.

The obligations applying to Board members and the provisions concerning accountability, conflicts of interest and ineligibility to continue as a Board member should be disclosed.

**It is recommended that all these matters should also be clarified before the Bill is debated.**

## **7. Accountability**

The accountability provisions applying to the Foundation are not contained in the legislation. Although the MOU contains various statements concerning accountability these are vague and depend on what is put into the Constitution of the Foundation.

It was stated at the Inquiry that the Auditor General had agreed to use powers under his Act to include the Foundation as one of the bodies that he audits.<sup>7</sup>

The Department also told the Inquiry that it would include in the funding agreement requirements for an annual report to Parliament, a Business Plan and progress reports.

The question of Parliamentary reporting should be dealt with formally and the best way to achieve this is to do so in legislation.

The MOU specified that the Business Plan should be provided by August 2001 – prior to the passage of legislation. However work on this document has only recently commenced and it will not be ready for some months. The MOU states that the Business Plan should be approved by the Government and Democrats. This mixes the role of Parliament and the executive arm of Government. It would be preferable for Parliamentary scrutiny to be possible by the Plan being tabled in Parliament as a disallowable instrument.

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<sup>6</sup> NAACHO Submission pg 2

<sup>7</sup> Committee Hansard 6<sup>th</sup> August pg.13 (DHAC)

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**To address these problems, it is recommended that the Bill should be amended to make the Foundation a Commonwealth authority for the purposes of Division 2 and 3 of the *Commonwealth Authorities and Companies Act 1997***

The minority Senators have been advised that this is the most effective way to ensure that the Foundation is subject to the scrutiny of the Auditor General, is accountable at Estimates and has to make annual reports.

#### **8. Adherence to National Alcohol Strategy**

The Government released a new National Alcohol Strategy Action Plan just prior to the hearing. The rush involved in developing the Foundation and the way the Government has reluctantly come to support it, is evident from the fact that the Foundation does not appear once in the National Strategy despite the Foundation being the most substantial measure taken by this Government on alcohol.

The reverse problem is that the Foundation is not required to give any heed to the national Strategy and in fact could pursue contrary goals provided they stayed within the general ambit of the Objects contained in the bill.

This is unsatisfactory and a recipe for future division between alcohol programs run in accordance with the national strategy and those run by people associated with the Foundation.

The Inquiry was strongly reminded that the funds came from consumers and were public moneys that should be used for good public purposes. This will best be achieved by ensuring that the funds are spent consistently with National Strategies over which there has been broad community consultation.

**It is therefore recommended that to avoid wasted effort, the Foundation should be bound to pursue policies that are consistent with the National Alcohol Strategy.**

#### **9. Aboriginal substance abuse programs**

The Opposition supports the priority given to Aboriginal substance abuse programs. However, we note that the level of 20% nominated in the MOU only applies for the first year. It would seem preferable that it be embedded for the full life of the Foundation. Funding of \$23 m over 4 years could make a significant impact on the overall problem and would substantially add to the limited funds currently available for these purposes.

It is also noted, however, that the Government has recently established a National Indigenous Substance Misuse Council to develop policy and address indigenous drug misuse. There is potential for overlap and duplication in these efforts and there is concern that the Government has failed to give the new Council an adequate budget.

In fact the AMA, NACCHO and ADCA issued a joint press release highlighting the lack of resources for implementation of the National Strategy "Substance Misuse in an Aboriginal Controlled Primary Healthcare Setting" as recently as the 28<sup>th</sup> June 2001.<sup>8</sup>

NACCHO was concerned about the haste and lack of consultation in development of the Bill given that it sought to give particular attention to indigenous needs:

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<sup>8</sup> Joint Press release, AMA, NACCHO and ADCA 28<sup>th</sup> June 2001

“We are concerned at the haste with which the Foundation was established and the lack of publicly available information about the processes undertaken to determine the membership of the Foundation.”<sup>9</sup>

ATSIC emphasised the importance of Aboriginal communities being closely involved with the development and implementation of programs:

“Ownership of programs, especially in the indigenous community, comes only with broad consultation, empowerment and community involvement at all levels. It is the community which is best placed to ensure that programs are well targeted.”<sup>10</sup>

**It is recommended that the Bill should specify that the amount allocated for Aboriginal substance abuse programs should be 20% of the total over each of the four years and not just in the first year.**

**It is also recommended that the Foundation should be specifically required to negotiate with the National Indigenous Substance Abuse Council, NACCHO and ATSIC on its priorities and processes for funding Aboriginal Substance Abuse programs.**

#### **10. Ability to terminate agreement**

The Department was unable to provide any definitive assurance that the Government would be able to terminate a funding agreement should the company shift its focus from the priorities recognised by the Government. The obligation to remain within the broad Objects would not constrain a Foundation seeking to pursue different priorities to the Government or the community sector involved in drug and alcohol policy.

The Department said the termination of a funding agreement or the establishment of an alternative funding agreement with a replacement body would both be disallowable instruments. This does not give Parliament or the Minister any effective say in the activities of the Foundation and does not allow any change to the funding agreement should the Foundation pursue an alternative agenda, provided it meets the broad requirements about the Objects.

This might be acceptable if the Foundation was raising private funds but it is charged with allocating a very large amount of public funds and there is serious cause for concern.

The minority Senators believe the process used to establish the Foundation without proper accountability for the spending of \$115 m in public funds is a major problem that destroys the credibility of something that would otherwise be a good idea.

#### **11. Length of Foundation life**

Several submissions argued the Foundation should not be a temporary body, which goes out of existence after 4 years. It should be able to continue and spread its funding according to its priorities and its ability to raise other funds apart from those initially allocated to the proposed Fund. The Government has been silent on this issue and clearly intends not to support the Foundation beyond what it has been forced to do by Parliament.

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<sup>9</sup> NAACHO Submission pg 2

<sup>10</sup> ATSIC Submission pg 3

**Conclusion**

In its current form the Bill is unacceptable.

It is recommended that the Bill be amended to address the specific and sensible concerns raised during the Inquiry, which the Majority Report has largely ignored.

**Senator Chris Evans WA**

**Senator Kay Denman Tasmania**



# **APPENDIX 1**

## **SUBMISSIONS RECEIVED BY THE COMMITTEE**

- 1 Alcohol and other Drugs Council of Australia (ADCA)
- 2 Aboriginal and Torres Strait Islander Commission (ATSIC)
- 3 Commonwealth Department of Health and Aged Care (DHAC)  
– Additional information – amount of excise collected
- 4 Australian Associated Brewers (AAB)
- 5 Australian Drug Foundation (ADF)
- 6 National Aboriginal Community Controlled Health Organisation (NACCHO)
- 7 Ms Anne Mosey
- 8 Mr David Crosbie
- 9 Dr Peter d'Abbs





## **APPENDIX 2**

### **PUBLIC HEARING**

A public hearing was held on the Bill on 6 August 2001 in Senate Committee Room 2S3.

#### **Committee Members in attendance**

Senator Sue Knowles (Chairman)  
Senator Kay Denman  
Senator Chris Evans  
Senator Meg Lees  
Senator Tsebin Tchen

#### ***Witnesses***

##### **Australian Associated Brewers**

Mr Gabriel McDowell, Director, Corporate Affairs, Lion Nathan Australia  
Mr Jeremy Griffith, Manager, Government Relations, Foster's Group Limited

##### **Department of Health and Aged Care**

Mr Brian Corcoran, First Assistant Secretary, Population Health Division  
Ms Sue Kerr, Assistant Secretary, Drug Strategy & Population Health Social Marketing  
Ms Belinda Carman, Director, Legal Services

Professor Ian Webster, AO, Chairman, Alcohol Education and Rehabilitation Foundation



## APPENDIX 3

### Alcohol Education and Rehabilitation Foundation

#### Memorandum of Understanding Between the Government and the Democrats<sup>1</sup>

An appropriation bill will be introduced in the autumn sittings 2001. This bill will ensure that the full equivalent of the increase in excise collected on draught beer since 1 July 2000, less \$5 million allocated to the Historic Hotels initiative, is appropriated and allocated to a Foundation, to be called the Alcohol Education and Rehabilitation Foundation.

The Foundation will be established as an incorporated charitable trust with a constitution, to be agreed between the Government and the Democrats by letter, by mid-April 2001.

A board of approximately ten directors will be appointed for the Foundation, by agreement between the Government and the Democrats, with board members appointed in the following expert and representative capacities:

- Chairman (1)
- Community-based treatment and education (3)
- Medical (1)
- Research (1)
- Churches (1)
- Aboriginal and Torres Strait Islander (1)
- Sporting (1)
- Youth (1)

The objectives of the Foundation will be to:

- Prevent alcohol and other licit substance abuse, including petrol sniffing, particularly among vulnerable population groups such as indigenous Australians and youth;
- Support evidence-based alcohol and other licit substance abuse treatment, rehabilitation, research and prevention programmes;
- Promote community education encouraging responsible consumption of alcohol and highlighting the dangers of licit substance abuse;
- Provide funding grants to organisations with appropriate community linkages to deliver the above mentioned services on behalf of the Foundation;
- Promote public awareness of the work of the Foundation and raise funds from the private sector for the ongoing work of the Foundation.

The Foundation will submit by August 2001 a detailed business plan for approval by the Government and the Democrats, encompassing:

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1 MOU incorporated in speech by Senator Ian Campbell on the Customs Tariff Amendment Bill (No. 2) 2001, Senate, *Hansard*, p.23529, 5 April 2001.

- A Budget for the first four years of operation. The budget will be designed to expend 80% of the initial endowment within four years and adhere to the following prescribed percentages of total expenditure in the first year:
  - Administration and promotion at most 10%
  - Treatment and rehabilitation at least 30%
  - Public education at least 10%
  - Prevention at least 20%

Particular priority, with at least 20% of total expenditure, will be given to projects targeting indigenous Australians.

- An operational plan detailing procedures for the disbursement of funds, encompassing:
  - Procedures for enabling professional and community organisations to apply for grants.
  - Procedures for avoiding cost shifting from existing or intended alcohol and related funding at the Commonwealth, state and territory level.

The constitution of the proposed trust will include:

- A requirement that at least 85% of all Foundation expenditure is outsourced to professional and community organisations;
- Procedures for seeking approval of the annual budget by the board;
- Procedures for seeking approval of professional and community grants by the board;
- Procedures for reporting annually to Parliament on grant allocation decisions and overall operations;
- Procedures for independent auditing of the accounts and performance of the Foundation;
- Procedures for monitoring and reporting on the cost effectiveness and social impact of funded programs.

## **APPENDIX 4**

### **MEDIA RELEASES**

#### **PRIME MINISTER**

##### **ALCOHOL EDUCATION AND REHABILITATION FOUNDATION**

I am very pleased to announce the membership of the independent Alcohol Education and Rehabilitation Foundation. The establishment of the Foundation was foreshadowed earlier in the year and funding details were provided in the Budget papers.

Abuse of alcohol is a major cause of preventable death and hospitalisation in Australia. As well as the damage caused directly by alcohol abuse it is also a significant factor in many road accidents, falls, drownings, suicides and mental disorders. The financial cost alone is estimated at \$4.5 billion per year.

The government has earmarked \$115 million for the Foundation over the next four years to fund community-based education and rehabilitation projects to prevent alcohol and other licit substance abuse. I am sure that the Foundation will also be able to attract donations from the business sector and the wider community to build on the government's contribution.

The Chairman of the Foundation will be Professor Ian Webster. Professor Webster is exceptionally well qualified for this role and is highly respected in the drug and alcohol field. He is the President of the Alcohol and other Drugs Council of Australia, Chairman of the National Advisory Council on Suicide Prevention, Chairman of the New South Wales Expert Advisory Committee on Drugs and a member of the Australian National Council on Drugs. In addition to his academic expertise and important work in public health policy, Professor Webster has practical experience, including as the visiting physician to the Matthew Talbot Hostel for the homeless.

The Foundation will bring together a group of people who will offer a wide range of perspectives and expertise. A full list of members is attached. I thank each member for being available to serve the community in this way and am confident that they will ensure the success of the Foundation in achieving its objectives.

The Foundation has several members in common with the Australian National Council on Drugs. This reflects the expertise of these members in the areas of both licit and illicit drugs and will ensure effective links between the two bodies. The funding of the Foundation is consistent with advice from the Council, chaired by Major Brian Watters, which has supported the funding of activities to reduce the harm associated with alcohol abuse. The Foundation's work in funding education and rehabilitation activities will complement the policy role of the Council.

3 July 2001

#### Professor Ian Webster AO (Chairman)

Professor Webster is President of the Alcohol and other Drugs Council of Australia, Chair of the National Advisory Council on Suicide Prevention, a Member of the Australian National Council on Drugs and Chair of the New South Wales Expert Advisory Committee on Drugs.

Until his recent retirement, Professor Webster was Clinical Associate Dean in the University of New South Wales in the South Western Sydney Clinical School and Professor of Public Health and Director of the Division of Population Health. He is visiting physician to the Matthew Talbot Hostel for the homeless.

#### Ms Cheryl Bart

Ms Cheryl Bart is Chairman of the Australian Sports Foundation Ltd and Chairman of its Audit Committee. She is also a Commissioner on the Board of Soccer Australia. She holds a number of directorships, including the Sydney Ports Corporation, ETSA Utilities and the Institute for Biomedical Research at Sydney University. Ms Bart also holds directorships with a number of private companies, and is past chairperson of a charitable organisation.

#### Dr Ngiare Brown

Dr Ngiare Brown is currently working with World Vision Australia Indigenous Programs as the Preventative Health Coordinator. Dr Brown holds a Bachelor of Medicine from Newcastle University and is the Executive Officer of the Indigenous Doctors Association. Previously she was the Indigenous Health Adviser to the Australian Medical Association.

#### Reverend Tim Costello

Ordained a Baptist Minister in 1987, the Reverend Tim Costello rebuilt the congregation at the St Kilda Baptist Church, opened a drop-in centre and worked in a legal practice for those for whom the law is normally inaccessible. As elected Mayor of St Kilda Council in 1993, he became well known for championing the cause of local democracy. In 1995 he was appointed Director of the Urban Mission Unit of the Collins Street Baptist Church, which offers hospitality to homeless youth in Melbourne's city centre. The Reverend Costello is a spokesperson for the Interchurch Gambling Taskforce, a member of the Australian Earth Charter Committee, a Council member of the Australian Centre for Christianity and Culture and was an Ambassador for the Council for Aboriginal Reconciliation.

#### Mr David Crosbie

The Chief Executive Officer of Odyssey House, Victoria, Mr David Crosbie manages a broad range of programs including residential rehabilitation, counselling, family support, youth outreach and early intervention programs for parents of adolescents. Between August 1993 and December 1999, Mr Crosbie was the Chief Executive Officer of the Alcohol and other Drugs Council of Australia (ADCA). He is currently a member of the Australian National Council on Drugs, an editor of the Drug and Alcohol Review and serves on the National Expert Advisory Committee on Alcohol.

#### Dr Peter d'Abbs

Dr Peter d'Abbs currently holds a joint appointment with Menzies School of Health Research, Darwin, and Queensland Health, Cairns. Prior to joining the Menzies School in 1992 he was in charge of research and evaluation at the Drug and Alcohol Bureau, Territory Health Services. He has conducted and published extensive research

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relating to alcohol policy and community-based programs in northern Australia, involving both regional towns and indigenous communities. Dr d'Abbs has also conducted research and policy analyses relating to kava and petrol sniffing. In Cairns, he is currently involved in developing an alcohol strategy for Cape York communities.

#### Mr Nick Gill

Mr Nick Gill has worked in the field of Alcohol and Other Drugs for the last ten years, and has been associated with harm reduction programmes since 1990, as well as working closely with 12-Step self-help groups. He has worked extensively as a Counsellor with people experiencing substance misuse difficulties and in 1997 he developed Australia's first Residential Cannabis Rehabilitation program in Adelaide. In 1999 he moved to Alice Springs, where he is presently Manager of Drug and Alcohol Services Association, and in March 2001 was appointed to the Australian National Council on Drugs. Mr Gill is a member of the Workforce Development Reference Group of the Alcohol and other Drug Council of Australia.

#### Ms Anne Mosey

Ms Anne Mosey has worked with remote Aboriginal communities for over 10 years in the Northern Territory and Western Australia to assist them in the development of strategies concerning alcohol abuse and petrol sniffing. She has established 15 Remote Area Night Patrols (a community policing programme). Ms Mosey is on the board of the Drug and Alcohol Services Association, Alice Springs, and is a member of the Central Australian Inhalant Substance Abuse Network and the People's Alcohol Action Coalition.

#### Professor Tim Stockwell

Professor Tim Stockwell has been Director of the National Drug Research Institute, Curtin University, Western Australia (formerly the National Centre for Research into the Prevention of Drug Abuse) since June 1996 and served as Deputy Director for seven years prior to that. He studied Psychology and Philosophy at Oxford University, obtained a PhD at the Institute of Psychiatry, University of London, and is a qualified clinical psychologist.

#### Dr Bernadette Tobin

Dr Bernadette Tobin is Director of the Plunkett Centre for Ethics in Health Care at St Vincent's Hospital in Sydney and Senior Lecturer in Philosophy at Australian Catholic University. She was educated in her discipline (which is philosophical ethics) at the University of Melbourne and the University of Cambridge. Dr Tobin is currently a member of the Australian Health Ethics Committee (a principal committee of the National Health and Medical Research Council) and the New South Wales Ministerial Advisory Council on Biotechnology.

#### Mr Scott Wilson

Mr Scott Wilson is the State Director, Aboriginal Drug and Alcohol Council (SA) Inc based in Adelaide. Mr Wilson has presented a number of papers on behalf of ADAC at both national and international conferences on indigenous drug and alcohol issues and was awarded the Alcohol and other Drug Council of Australia Australia Day Achievement Medallion in 1997.

3 July 2001