

22 August 2008



Arts Access Australia

Mr John Hawkins
Committee Secretary
Senate Economics Committee
Department of the Senate
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Dear Mr Hawkins

RE: Inquiry Into The Disclosure Regimes For Charities And Not-For-Profit Organisations

Arts Access Australia is the peak national body for Arts and Disability, with members in every state and territory, working to increase the cultural inclusion of the one in five Australians with a disability.

The majority of our members are Companies, involved in Fundraising, Deductible Gift Recipients, Tax Concession Charities and Public Benevolent Institutions. Other members are Incorporated Associations or unincorporated groups auspiced by Incorporated entities. As such we are uniquely placed to comment on aspects of the Inquiry Into the Disclosure Regimes for Charities and Not-For-Profit Organisations.

Arts Access Australia would strongly object to any reduction in the tax concessions to our sector. It is these concessions, and in particular the ability to salary package wages, that allow us to attract and retain skilled staff by offering competitive conditions.

In addition we note the compliance and disclosure regimes our members already address that, in our view, do not require additional regulation or legislation. What we do see is a need for national consistency in Commonwealth, State and Territory legislation that exists and the removal of inconsistencies that affect our particular sector.

Compliance and Disclosure

Arts Access Australia sees a distinction between money donated by the general public through fundraising with minimal disclosure requirements and money received from the various tiers of government, philanthropic and corporate sponsors that commonly carries a high level of disclosure.

We see no risk of backlash from potential donors in providing better transparency and accountability, or disadvantage to smaller organizations, the question is how best to achieve this outcome and increase confidence in the not-for-profit sector.

Fund raising from the public is a vital source of income for many charities though Arts Access Australia does not necessarily see a need for increased regulation or legislation. The existence of the Choice report on charities alongside increasing scrutiny from media and the public will result in a competitive advantage for those charities providing information on fund raising costs. This may be the most effective way of increasing disclosure and accountability and could be further supported by developing best practice guidelines with the relevant peak and service bodies in the sector like Our Community, Givewell and Philanthropy Australia.

For individual artists we also note the existence of the Australia Cultural Fund that provides tax deductibility and ensures donations reach their intended target:
http://www.australiacouncil.gov.au/philanthropy/supporting_artists_and_arts_organisations/australia_cultural_fund

Arts Access Australia members receive the majority of their income from government, philanthropic and corporate funders who commonly require their own separate project audits and compliance and disclosure regimes. This in effect increases the compliance and disclosure required by members who are Incorporated Associations.

In addition Arts Access Australia members with a corporate structure already invest significant resources in good governance, compliance and disclosure through appointing qualified Board Treasurers, skilled book keeping and accounting staff, independent auditors and maintaining appropriate insurance cover. We believe the existing high levels of transparency and disclosure we provide give us an advantage over other organizations in securing funding.

Smaller members who are unincorporated are required by potential funding bodies to be auspiced by incorporated entities who meet the required levels of compliance and disclosure. Auspicing is available to any unincorporated group with the auspiced organisation commonly paying a fee of 10 – 20% of income received for the service. The auspice fee is able to be included as an administration cost in funding applications. This arrangement requires no new legislation or regulatory body.

National Consistency in Legislation and Regulation

Arts Access Australia notes the 20 different ways of incorporating a not-for-profit organization and suggests that this could be greatly simplified by removing inconsistencies in the dual state/territory/federal regimes.

Similarly consistency in fund raising legislation would greatly assist organizations and groups operating in more than one jurisdiction.

We believe the above two concerns could best be addressed through the referral of powers from the states and territories to the Commonwealth. We do not see a need for a new and specialist legal structure for the not-for-profit sector.

Arts Access Australia notes the existence of the UK and New Zealand regulatory entities specifically for the not-for-profit sector. We see the need in Australia for a national regulatory body to determine charitable status though do not see the need for a new stand-alone body. While ASIC is not especially user friendly for any organization it provides the best fit for the existing functions of the ATO Not For Profit Centre.

Arts Access Australia would strongly resist any move to include small for profit organizations in any regulatory or legislative scheme with the not-for-profit sector. We believe this would greatly confuse the general public and erode confidence in the not-for-profit sector.

Removal of Inconsistencies affecting arts and disability

Arts Access Australia members are primarily Public Benevolent Institutions (PBI) though it is not currently possible to be both a PBI and on the Register of Cultural Organisations (ROCO).

The issue is the required Constitutional objects clause. To be a PBI an organization must be 'benevolent' and for the ROCO must be 'cultural'. It is not currently possible to have two main or joint objectives and Arts Access Australia asks that this anomaly be removed from the current legislative framework.

Thank you for the opportunity to provide input to the Inquiry. Should the Committee have any queries about this submission or the work of Arts Access Australia please contact me by phone on 02 9518 0561 or mobile 0419 201 338 or email ed@artsaccessaustralia.org

Yours sincerely



Gareth Wreford
Executive Director