

26 August 2016

Our ref: [REDACTED]

The Coordinating Officer  
Lotteries and Art Unions Act Review  
Liquor and Gaming NSW  
GPO Box 7060  
SYDNEY NSW 2001

By email: [REDACTED]

Dear Sir or Madam

**SUBMISSION: REVIEW OF THE LOTTERIES AND ART UNIONS ACT 1901**

Thank you for the opportunity to make a submission to the Liquor and Gaming NSW (L&GNSW) Review of the *Lotteries and Art Unions Act 1901*.

The ACNC welcomes the Review and the proposed modernisation of regulation and reduction of red tape. This submission focuses on opportunities for future cooperation between the ACNC and L&GNSW.

**The ACNC's Role**

The ACNC was established on 3 December 2012 by the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (the ACNC Act). The objects of the ACNC Act are to:

- maintain, protect and enhance public trust and confidence in the Australian not-for-profit (NFP) sector,
- support and sustain a robust, vibrant, independent and innovative Australian NFP sector, and
- promote the reduction of unnecessary regulatory obligations on the Australian NFP sector.<sup>1</sup>

The ACNC's regulatory responsibility currently extends to registered charities only.<sup>2</sup> However, because of the objects of the ACNC Act, the ACNC has a broader interest in any

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<sup>1</sup> Section 15-5(1) of the ACNC Act.

<sup>2</sup> Charities eligible for registration with the ACNC are those that meet the definition of 'charity' in the Charities Act 2013 (Cth). Organisations must be not-for-profit, have only charitable purposes that are for the public benefit, and not have a disqualifying purpose (among other requirements).

improvements to the regulatory framework for all NFPs that would reduce duplicative regulatory obligations or contribute to public trust and confidence in the sector.

Charities registered with the ACNC have met all of the requirements under the ACNC Act and also the legal meaning of 'charity' according to the *Charities Act 2013* (Cth) ('*Charities Act*'). For a charity to remain registered it must meet a number of obligations, including:

- Maintaining charitable status;
- Keeping its details on the Charity Register up-to-date;
- Reporting annually to the ACNC via the Annual Information Statement (AIS); and
- Meeting the ACNC governance standards.

As at 17 August 2016, 53,611 charities were registered with the ACNC. Of these, 16,556 are registered charities in NSW and a further 2,728 operate in NSW but are not based there. According to ACNC charity sizes, the majority of charities registered in NSW are small (67.2%), which means that they have less than \$250,000 in annual revenue. Medium charities (\$250,000 to less than \$1 million) make up 17.4%, and large charities (\$1 million plus) make up 15.4% of NSW registered charities.

The ACNC publishes information about each charity,<sup>3</sup> including the charity's governing documents, enforcement history, registration status and Annual Information Statement (AIS) on the Charity Register ([acnc.gov.au/findacharity](http://acnc.gov.au/findacharity)). The AIS contains information about a charity's activities, beneficiaries, finances, operations and staffing. Medium charities and large charities must also lodge financial statements (audited for large, reviewed or audited for medium), which are published on the Charity Register. This promotes transparency and accountability, and encourages public trust and confidence in the sector.

#### Reducing unnecessary regulatory obligations

The ACNC is working with Australian government agencies – Commonwealth, state and territory – to reduce red tape through the implementation of a 'report once, use often' framework, under which information reported by charities to the ACNC is shared with other agencies. The ACNC is also working with state and territory regulators to align regulatory frameworks applying to charities; for example, fundraising and incorporated association regulation. More information on the ACNC's work in this area is available at: [acnc.gov.au/redtapereduction](http://acnc.gov.au/redtapereduction).

### **The changes proposed in the Review**

The ACNC welcomes the proposed modernisation of regulation and reduction of red tape for charities and other entities conducting community lotteries and trade promotions in NSW. The ACNC supports the proposed model, including principles based regulation, separate categories and corresponding requirements, and the threshold for requiring a permit or licence.

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<sup>3</sup> Information on the Charity Register may be withheld if a charity has an application in process, or has successfully applied, to withhold information for specific reasons.

The ACNC recommends that when designing the principles based legislation, particular attention be paid to the need to ensure that associated individuals do not receive any benefit from gaming activities. The ACNC Compliance Directorate would be happy to discuss with L&GNSW past examples of such behaviour.

### **Information Sharing Opportunities**

Although L&GNSW does not require lodgement of annual reports by entities, there may be other opportunities to share charity information. For example, where charitable or not-for-profit status is a pre-requisite to access a permit or licence, registration with the ACNC could be checked through the Charity Register and deemed to satisfy this requirement. Where other information or documents are required from entities, L&GNSW could (for charity applicants) consider obtaining that information from the ACNC rather than from the charity directly. To facilitate this, the ACNC invites L&GNSW officials to access the ACNC Charity Passport ([acnc.gov.au/charitypassport](http://acnc.gov.au/charitypassport)), a secure online portal for sharing of aggregated Charity Register data.

The ACNC Compliance Directorate would also be pleased to cooperate with L&GNSW to share relevant compliance information. The ACNC would welcome the opportunity to work with L&GNSW to agree information sharing and other cooperative working arrangements through a Memorandum of Understanding (MoU).

The ACNC looks forward to working with L&GNSW to increase cooperation and information sharing, improve regulation and reduce red tape for charities.

Yours faithfully



**Susan Pascoe AM**  
**Commissioner**

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