



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

25 August 2016

Dear Sir or Madam,

RE: Review of the Lottery and Arts Union Act 1901

I am writing to you as the CEO of the Multiple Sclerosis Limited – not for profit organisation based in New South Wales (NSW), Victoria, ACT and Tasmania. We exist to provide services, support and care for people living with multiple sclerosis, an incurable neurological condition, and to raise funds for research into a cause and a cure.

We currently operate fundraising art unions and lotteries as a pivotal component of our fundraising strategy. These lotteries provide an opportunity for members of the community to support our cause but to also have a chance to win a prize.

We have noticed that variances across Australia in the regulations and legislations related to charitable lotteries and art unions has had a detrimental effect on the growth on these fundraising products.

NSW's regulations are amongst the most restrictive in the country, and have, to some extent, stifled the creativity in this area of fundraising and reduced the competitiveness of NSW based lotteries against lotteries based in other states that are easily accessed by NSW consumers over the internet.

We see significant merits in the sensible regulation of lotteries and art unions and are always willing to work with the regulator to ensure that these products generate a positive community impact and do not have any adverse effects on the NSW community. We are very appreciative for the help and support that we have received from the NSW Regulator and are very grateful for this opportunity to comment and provide feedback on some sections of the Lottery and Arts Union Act 1901.

We have provided commentary on each of the posed discussion questions below.

1. Do the objects of the Act as set out in section 2 remain valid?

It is our belief that the objects of the Act as set out in section 2 still remain valid.

2. Does the proposed model at page 10 represent a sensible approach, or, is there another approach that might be more suitable for regulating community gaming and lottery activities in NSW?

In answer to this question we say yes and no.

Yes – at first glance, the model outlined does represent a sensible approach to regulating community gaming and lottery activities in NSW.

No, because not all of the information is presenting in the model.



The model does not provide answers to a range of other issues that affect the success and productivity of NSW based lotteries and art unions. Later in this submission, we have outlined areas of current lottery and art union regulations, such as restrictions on monetary prizes, liquor prizes and net profit requirements, that are not addressed by the proposed model and have the most significant impact on the success, attractiveness and market receptiveness to lotteries in NSW.

3. *Does the proposed model adequately address the risk of harm to the community arising from community lotteries and trade promotions?*

It is our view that the proposed model provides adequate protection against risk of harm to the community from community lotteries and trade promotions.

4. *What measures could be taken to reduce the regulatory burden placed on providers of community lotteries and trade promotions activities, without sacrificing the integrity and probity of those activities?*

The recommended changes that have been proposed as part of the new model would provide a significant reduction in the regulatory burden placed on provided.

5. *Are there any additional services or service improvements that Government could provide to assist organisations and businesses conducting lottery activities and trade promotion lotteries to understand and meet their regulatory obligations?*

It can be difficult to get a greater understanding of the requirements surrounding specific regulations or legislation surrounding lotteries and art unions in NSW.

While very comprehensive fact sheets are available there are some questions that may fall outside of the contents covered by these items. In this instance it is quite difficult to make contact with a representative of the regulator to meet and discuss questions or concerns. In our experience representatives of the regulator have been reluctant to meet on these issues in person and will not offer additional comment on the interpretation of the regulations or the Act. Our interstate colleagues have indicated that this is vastly different to their experiences when seeking assistance from their respective regulators.

Offering a more collaborative approach where lottery and art union regulatory experts are available and willing to speak to charitable organisations about their up-coming projects would improve regulatory compliance and most likely increase the quality and success of lottery products on offer in NSW.

6. *Are there any other matters that should be considered in this review of the Act and regulations?*

Charitable art unions and lotteries are run with the express interest of generating funds to do good for the people that the charity serves.

In some instances, the regulations that relate to these products in NSW can reduce the success of these fundraising efforts by placing unrealistic or restrictive requirements on lottery or art unions.

We have outlined some areas of the Lotteries and Art Unions Regulation 2014 that we hope might be reviewed to allow charities to more successfully conduct lotteries and art unions in NSW below.



- **Required Net Profit Charitable Lotteries**

The Lotteries and Art Unions Regulations 2014 - REG 47 specifies that a charitable lottery is required to generate a 40% net profit. At the moment this amount is stringently adhered to and there is little to no scope for the growth or development of a new lottery product. When a new lottery is launched it may take some time for awareness to be generated and for all available tickets to be sold. During this growth period, it is unlikely that a net profit of 40% will be generated.

If the Regulator were able to use their discretion to provide some leeway in relation to the development of these campaigns, it would result in higher levels of return in the long run and the launch of more innovative lottery products in the NSW market.

It is important to note that this requirement may not always be suitable, depending on changes to the economic climate. While a 40% net profit may be achieved during a period of economic boom conditions, many charitable lotteries may find it very hard to sell the required number of tickets to generate this return during the course of an economic downturn.

- **Liquor Prizes**

The Lotteries and Art Unions Regulations 2014 – REG 9, prohibits more than 20l of alcohol from being included in the total prize package of an art union.

While it is understandable to restrict the amount of alcohol that one unique prize winner can win, this regulation means that the number of unique prizes that include alcohol is severely restricted.

Wine is a prize that has been used by a number of lotteries and art unions interstate. As is the case in these states, it is our hope that this regulation could be amended to reduce the maximum amount of liquor allowed in one prize to 20l, but not to restrict the total amount of liquor available in a prize package.

- **Money Prizes**

Section 4, Part 3 (C) of the Act places a restriction on the maximum amount of the money awarded as a prize in any one lottery.

The limit of money allowed is prescribed by the regulations. At the moment the Lotteries and Art Unions Regulations 2014 - REG 31 has specified this amount to be no more than \$30,000.

This restriction places any NSW based lotteries at a significant disadvantage, as they are not able to compete with interstate lotteries which are able to offer unlimited cash prizes. Many charitable lotteries in NSW have taken the approach of offering gold bullion and made specific mention of the ability to convert this to cash as part of the marketing collateral. This has effectively made this restriction null and void – but has made the overall lottery proposition more convoluted and complicated.

The ability to offer larger cash prizes would:

- Increase the broader appeal of charitable lottery prize packages.
- Increase the broader economic benefit to NSW by giving the winner the flexibility to purchase products and services from a range of businesses – as opposed to the lottery organiser purchasing from one single entity.



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In other jurisdictions such as Western Australia and South Australia, cash can be offered as a prize, but the value of the cash prize must be secured by a bank guarantee or a cash held on deposit by the regulator, until the prize draws have been concluded, and the regulator has verified that the winner has received their prize.

Introducing the requirement for a bond or bank guarantee against the value of the prizes, provides a range of benefits to all parties, including:

- Increased confidence in the lottery provider, as the winners of the lottery are guaranteed to receive their prizes.
- A reduction in the reputational risk for the Regulator and the Minister. Holding a bank guarantee or cash deposit against the value of the art union or lottery prizes, gives the regulator the ability to ensure that lottery regulations are stringently adhered to and means that no consumers will be adversely affected in the event of a lottery or art union failing.

It is our view that if the above amendments of the regulations are put into place, NSW will have the most efficient and effective regulations that encourage responsible growth of the charitable art union and lotteries sector in NSW.

Best regards,

Robyn Hunter
CEO
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