

**Response to Review of Australian Charities and Not-
for-profits Commission (ACNC) legislation.
February 2018**

Australasian Society of Association Executives (AuSAE)



Introduction

The Australasian Society of Association Executives (AuSAE) is a not-for-profit association that represents professionals in the association sector in Australia and New Zealand. AuSAE represents over 10,000, usually second career professionals whose work touches every sector of the Australian economy. AuSAE members seek to advance industries, professions and community sectors and have a significant impact on policy at all levels of government. AuSAE has a board elected by members and is focussed on developing skills and capacity in the association sector.

In relation to the focussing questions, a significant proportion of the association sector is not covered by the legislation. This in fact forms the key focus of the AuSAE submission and related significantly to question 3 and 4.

What is the Association Sector?

Broadly speaking the association sector are those not-for-profit bodies who represent an industry, profession or a community through a membership framework coming together for a common purpose.

The sector is poorly understood with limited data available.

Firstly, it must be stated that the association sector is poorly understood at a policy level. There is no single data set available to identify the size and scope of the sector, with best estimates that somewhere between 100,000 and 300,000 people work for associations. Beyond this, there are hundreds of thousands of members that volunteer their time in addition to the millions of Australians who contribute fees on an annual basis to support the work of associations. Regulation of the sector is a mess.

The framework of legislative regime that the association sector operates under is fractured, inconsistent confusing. Many associations are public companies limited by guarantee, some continue to operate under state-based associations incorporations acts, some of those are Registered Australian Bodies and some have registered as charities. Many rely on the principle of mutuality for their not-for-profit (NFP) status however there are mixed approaches on what constitutes a commercial profit that then attracts tax. Many large organisations such as the Australian Institute of Company Directors or the Royal Australian College of Surgeons have achieved charity status and have access to the vast benefits of such a status while many who arguably benefit the community more actively are left with less certain rules, often due to the cost of good legal advice. In short, a fair and consistent regulation framework is needed to support the sector.

The sector is overlooked, undervalued and underutilised

The vast bulk of associations would simply not exist without members volunteering to work on projects, boards and committees. This submission was in the main written by a volunteer. For those associations without charity status, there is no access to NFP software licencing, scholarships for staff development, FBT or other tax benefits for staff. Staff in associations, except for a few notable exceptions, are generally paid NFP salaries or less. Compared to large charities who have built tax free businesses, who remunerate their boards and whose staff run substantial operations, most associations are small organisations who contribute a remarkable amount to the development of skills and capability to the Australian economy. By way of example in the healthcare sector, there is a

small national association who provides the bulk of continuing professional development for a profession and who focusses on capability and capacity building pays tax other than on mutual income. The Health Services Union receives tax exemptions. The Medicare Local in which members work pays no tax. The hospital pays no tax. The research foundation pays no tax. The association which has a voluntary board, a voluntary conference committee and has projects done by volunteers has developed career frameworks to improve the capability of the profession, produces infection control guidelines to keep Australians safe, introduced practice accreditation to improve the quality and safety of healthcare in Australia, all out of subscriptions and funds earned through learning activities. These organisation can't access any programs for "NFPs". The Royal Australian College of Surgeons can.

This example is provided to highlight the lack of consistent application within the current regulatory system.

Governance capacity is limited

There are three levels of governance standards applied to associations. Different standards are applied under the Corporations Act, the Australian Charities and Not-for-profits Commission Act and state-based Associations Incorporation Acts. In some cases, large national organisations turning over many millions of dollars are registered under state-based legislation using an Australian Registered Business Number. Such organisations are governed under rules designed for small clubs with members usually unaware of the governance frameworks that apply. Board members rarely have access to professional governance resources due to the NFP culture of associations, nor are they aware of the implications of poor governance. Associations collect hundreds of millions if not billions of dollars in fees and other revenue each year which is managed on behalf of industries, professions and community groups, usually by volunteers with limited awareness of their duties to those members or to regulators.

While it would be easy to dismiss associations as having limited likelihood to undermine public confidence, a quick review of the CPA over the last year or so underlines the importance of maintaining confidence in the sector. Poor engagement by members, governance changes and a centralisation of power has led to the undermining of confidence in an entire sector. That said, the Corporations Act has generally provided a reasonable balance between obligation and enablement.

Recommendation

AuSAE recommends that the review address Associations as a significant type of NFP. While AuSAE is not necessarily calling for associations to fall under the Australian Charities and Not-for-profits Commission Act, the review should at a minimum recommend that association regulation be considered in some form by government such that rules are more consistently and more clearly applied to this significant and important sector.

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