



Manager
Philanthropy and Exemptions Unit
The Treasury
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Dear Sir/Madam

Thank you for the opportunity to respond to the consultation on the exposure draft legislation for a statutory definition of charity.

We are pleased to note that the positions we advocated in 2011 during the consultation phase have been acknowledged—and we would like to thank the government for taking our thoughts on board.

The new provisions that especially affect our members, which we discussed in our previous submission, include:

1. Defining charity, based on over 400 years of common law, with just minor modifications to provide greater clarity and certainty. For our members, and the wider performing arts sector, we are pleased that the definition of charitable purpose now includes an ‘advancing culture’ category, or any other purpose that is beneficial to the public and analogous to charitable purposes specified in the Act. The definition is further clarified in the explanatory memorandum which explains ‘advancing culture’ as:
 - increasing the public appreciation of arts, music or literature, national identity and heritage and includes:
 - the promotion and fostering of culture
 - the promotion of and participation in the arts, including literature music, the performing arts and visual arts.
2. Specifying that an entity may engage in activities that are not intrinsically charitable provided the activities further or aid its charitable purpose. Many of our members carry out fundraising activities and other commercial activities that while not intrinsically charitable, do *only* contribute to their charitable purpose.
3. That the same principles apply in determining charitable purpose to peak bodies established by charities to further their charitable purpose. This is important for AMPAG itself in continuing its work on behalf of its members.

4. That even though entities cannot engage in partisan political activities, this does not mean that they cannot engage in policy debates, advocacy or lobbying to further their charitable purposes. This can include publishing comparisons of party policies and how they align with its charitable purpose. The explanatory memorandum also explains how generating public debate to influence legislation, government activities or policy to further or protect the charitable purpose, would also be considered charitable as long as it was not inconsistent with the rule of law.
5. Recognising charity-like government entities as charities—the explanatory memorandum says: ‘Funding charity-like government entities does not prevent an entity from being charitable for the purposes of Commonwealth law.’ This affects one of our members.

We are delighted that, after a decade of discussion, the thorny issues surrounding the definition of charities have now been resolved.

Thank you again for the opportunity to advocate on behalf of our members.

Yours sincerely

Bethwyn Serow
Executive Director

Who we are

AMPAG, established in 1999, is the peak body for Australia’s major performing arts companies and by default for the wider cross section of the subsidized small to medium performing arts industry. Our core membership comprises 28 not-for-profit companies ranging in size from Opera Australia and the Sydney Symphony Orchestra to mid-sized companies like Australian Chamber Orchestra and Queensland Theatre Company and smaller ones such as the West Australian Ballet and State Theatre Company of SA—see Appendix A.

Appendix A: List of AMPAG member companies and their location

Adelaide Symphony Orchestra	South Australia
Australian Brandenburg Orchestra	New South Wales
Australian Chamber Orchestra	New South Wales
Bangarra Dance Theatre	New South Wales
Bell Shakespeare	New South Wales
Belvoir	New South Wales
Black Swan State Theatre Company	Western Australia
Circus Oz	Victoria
Malthouse Theatre	Victoria
Melbourne Symphony Orchestra	Victoria
Melbourne Theatre Company	Victoria
Musica Viva Australia	New South Wales
Opera Australia	New South Wales
Opera Queensland	Queensland
Orchestra Victoria	Victoria
Queensland Ballet	Queensland
Queensland Symphony Orchestra	Queensland
Queensland Theatre Company	Queensland
State Opera South Australia	South Australia
State Theatre Company of South Australia	South Australia
Sydney Dance Company	New South Wales
Sydney Symphony	New South Wales
Sydney Theatre Company	New South Wales
The Australian Ballet	Victoria
Tasmanian Symphony Orchestra	Tasmania
Western Australian Ballet	Western Australia
West Australian Opera	Western Australia
West Australian Symphony Orchestra	Western Australia