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Murray Crowe,
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
Parkes, ACT 2600.

Dear Mr Crowe,

The Music Broadcasting Society of Victoria is pleased to make a submission on the Review of Australian Charities and Not-for-profits Commission legislation.

Background

Music Broadcasting Society of Victoria Ltd is a company limited by guarantee that manages the community broadcasting service 3MBS Fine Music Melbourne (3MBS) on 103.5FM, digital, through internet streaming and providing on demand performances and information. 3MBS Fine Music Melbourne runs one station 24 hours a day, 365 days a year, with substantial programming on its digital channel.

3MBS community radio is achieved through:

- a voluntary unpaid board of 10;
- a staff of 11 full and part-time executives
- more than 200 volunteers acting as presenters, producers and administrators contributing more than 1345 to 2556 unpaid working hours per month, equivalent to another seven to 15 full time executives a month.

3MBS supports listeners in Melbourne and the surrounding areas, many now who are unable to attend live music performances. To achieve these goals, the station supports both local establishing musicians and young performers through broadcasting concerts and hosting special events. A percentage of the listening community are subscribers and donors and the station is partially supported by commercial sponsors, especially the arts community.

Review Paper Questions

Question 1: Are the objects of the ACNC Act still contemporary?

3MBS believes there is an important role for the ACNC to play in regulating charities and not-for-profit organisations. Subject to updating any legislation in light of changes to other laws affecting the business sector, 3MBS believes the ACNC Act is contemporary. As a registered charity, we would be opposed to any further regulatory burdens that will impact on our capacity to provide a 24-hour fine music service to the community.

Question 2: Are there gaps in the current regulatory framework that prevent the objects of the Act being met?

3MBS does not believe there are gaps in the current regulatory framework that prevent the objects of the Act being met. As an organisation with a mixture of volunteers and paid staff to run the charity, any further regulatory burden would mean either paying for more staff or putting further pressure on the time of our volunteers. This would become a distraction from our role of providing fine music to the community. There would also be a financial impact from seeking legal advice to ensure we meet any possible legislative changes.

Question 3: Should the regulatory framework be extended beyond just registered charities to cover other classes of not-for-profits?

Without knowing what other classes of not-for-profit organisations Treasury is thinking of including, it would be hard for 3MBS to comment. In principle, if the not-for-profit meets all the requirements of a registered charity, then the legislation could be extended.

Question 4: What activities or behaviours by charities and not-for-profits have the greatest ability to erode public trust and confidence in the sector?

3MBS is a registered charity and has operated with this status for more than 40 years without any major issues. We have achieved this record by adhering to our licence conditions, keeping our subscribers and patrons informed of our activities through a printed magazine, on-line newsletters and personal contact. We would lose that public trust if we moved away from our promise of delivering fine music every day of the week. Any financial irregularities would also damage our reputation so there is an extensive check and balance process at 3MBS with the board taking ultimate responsibility. Charities performing outside the scope of their objects, not adhering to the requirements of the ACNC reporting and financial irregularities are probably the greatest threats to damaging public trust in a charity.

Question 5: Is there sufficient transparency to inform the ACNC and the public more broadly that funds are being used for the purpose they are being given?

Music Broadcasting Society of Victoria releases an annual report and accounts to its members before each year's AGM. Questions are often raised at the AGM and answered by the office holders of the organisation. Subscribers, donors and patrons are kept informed of why funds are raised, primarily to keep 3MBS on air. It costs the station about \$120 an hour to keep

broadcasting. This is emphasised both in written material sent to stakeholders and on-air to the listeners to the station.

3MBS believes there is sufficient transparency to inform the ACNC and the public that funds are being used appropriately through the reporting of the DGR Responsible Person's Group and the annual statement which includes the company's annual independent audit.

Question 6: Have the risks of misconduct by charities and not-for-profits, or those that work with them, been appropriately addressed by the ACNC legislation and the establishment of the ACNC?

3MBS believes the current legislation does address any issues of misconduct. The advent of the Responsible Person's Committee ensures that receipt of all donations is recorded and accounted for. The ACNC was established to be the regulatory body to address the particular requirements for charities and not for profits and it is in 3MBS' opinion that this has been a successful balance between meaningful compliance and appropriate regulation to mitigate risks of misconduct.

Question 7: Are the powers of the ACNC Commissioner the right powers to address the risk of misconduct by charities and not-for-profits, or those that work with them, so as to maintain the public's trust and confidence? Is greater transparency required and would additional powers be appropriate?

The organisation has both members of the legal profession and pro-bono advice available to help it maintain full compliance with all aspects of the laws required to operate a charity.

While it is impossible to stop somebody acting illegally, a robust internal compliance scheme will enable illegal actions to be minimised. A voluntary reporting system of breaches to the ACNC should be encouraged. The level of sanctions should be clearly defined depending on the seriousness of the breach. It would be wrong to deregister a charity for being one day late with returning a form, but if millions of dollars had been misappropriated, then the penalties should be significant.

The question is what would these additional powers involve and what would be the financial impact on the charity. 3MBS is not opposed to the commissioner dealing with cases of misconduct when they occur. But the action taken against a charity must be commensurate with the level of misconduct. 3MBS would expect serious action taken on financial misconduct but the organisation would expect a conciliatory approach of it was an administration error or a genuine mistake.

Draconian powers given to a commissioner would not be in the best interests of the charity sector.

Question 8: Has the ACNC legislation been successful in reducing any duplicative reporting burden on charities? What opportunities exist to further reduce regulatory burden?

The ACNC legislation has reduced the reporting requirements for charities and not for profit organisations. 3MBS would support any moves to reduce the

regulatory burden, especially if there was a requirement to lodge more information with the ACNC each year. Any additional information on the annual statement results in extra costs for the charity.

Question 9: Has the ACNC legislation and efforts of the ACNC over the first five years struck the right balance between supporting charities to do the right thing and deterring or dealing with misconduct?

3MBS is currently satisfied with the ACNC legislation and its operation. Any dramatic changes would increase the regulatory burden and impact the operation costs of 3MBS.

Music Broadcasting Society of Victoria would be happy to discuss any of the points raised in our submission. Please contact our GM at the above address and telephone numbers.

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