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Dear Madam / Sir

Review of Not for Profit Governance Arrangements

I refer to the consultation paper released on 8 December 2011 by The Hon Bill Shorten MP, the then Assistant Treasurer and Minister for Financial Services and Superannuation, concerning current governance arrangements for the not-for-profit (NFP) sector.

Netball Australia welcomes the Government consulting on what the core organisational governance principles applying to registered NFPs should be.

As Australia's leading female sport, netball strives to deliver fair, safe, inclusive, respectful and supportive environments for all Australians. We believe that netball offers the enjoyment of participation, a sense of belonging and life-long involvement – no matter whether that's as a player, coach, official, administrator, volunteer or fan.

Netball Australia and the State Netball Associations are committed to leading social change, strengthening and building capacity and capability in communities, and providing innovative and sustainable netball programs to empower women and girls.

Netball is ranked as the leading women's participation team sport and the top team based sport in Australia for 15 to 24 year olds. Over 1.2 million participants enjoy the game nationally and Australia has been dominant on the international stage since 1963. Netball Australia has more than 330,000 registered members; 5,000 clubs nationally; 570 Associations; and eight member organisations.

Netball Australia does not purport to be an expert on governance, which makes it difficult to answer specifically the questions in the Consultation paper. However we do hold some views on the context of this important issue. In particular:

- Duplicative, burdensome and unclear governance requirements are prohibitive, especially for volunteer run organisations.
- The diversity of the sector is paramount in any arrangements adopted, and need to consider that substantive or prescriptive changes to existing arrangements need to have adequate transition provisions and add value to the NFP sector.

Notwithstanding, whilst any governance arrangements outlined by the Australian Charities and Not-For-Profits Commission (ACNC) for the NFP sector need to be flexible, the issues of transparency, accountability and efficiency must be at the core to reduce the risk of malfeasance.



- Netball Australia is supportive that any governance rules mandated and principles drafted should take into account the size of the entity, the risks it presents, turnover and level of government support provided. Proportionality consideration needs to be given to the percentage of the entities business, rather than a minimum or maximum numerical range.
- Care must be taken to ensure that entities currently regulated by the Australian Securities and Investment Commission (ASIC) in the future transfer their obligations and reporting requirements to the ACNC. Whilst this is envisaged, it is essential as the aim of the changes is not to impose additional requirements or duplication.
- Whilst acknowledging the federal and state/territory powers and jurisdiction considerations, it is important to align requirements. This is particularly valid given that incorporation regulation restricts the entity to operating in its home jurisdiction. For example this places added burdens on entities operating in “border towns” or those trying to offer national wide services and opportunities.
- At a minimum “Responsible individuals” need to be diversely skills and independent; must understand their fiduciary obligations; how to disclose and manage conflicts of interests (real and perceived); and understand separation of powers in terms of the Board’s and Management’s roles and responsibilities.
- To encourage Board renewal while retaining “corporate memory”, staggered rotation and maximum terms for Directors (cumulative and continuous) is important.
- Netball Australia supports of the proposal that the law require all NFPs under the ACNC jurisdiction to abide by a conflict of interest policy. The key will be that regulation and reporting must not be cumbersome.
- There is a strong imperative for “Responsible individuals” to be financially literate. Basic skills requirements include how to interpret and assess the budget, Balance Sheet, Income and Cash Flow statements.
- NFP should provide sufficient information to allow its Members, and if relevant the broader community, to understand and interpret how successful the NFP is (has been) and to offer a broader insight into how effective resources allocation has been.
- Accounts should be reviewed by at least an independent reviewer, and comprehensive notes provided to facilitate understanding of financial reports.
- Deed of Access, Indemnity and Insurance should strike a reasonable balance between the interests of the “responsible Individual” and those of the organisation. Netball Australia does not support that the ACNC mandates insurance requirements.
- Any ACNC risk management requirements should consider the new Occupational Health and Safety Legislation that formalises the equal treatment of volunteers and staff : "Worker" is a person who carries out work "in any capacity" including volunteers (s7(h)).
- The Constitution should only entrench what is critical, leaving subsidiary matters to by-laws, policy and the like.
- The Board must be accountable and transparent to its members. Members should be involved in the development of the strategic plan; well informed and regularly provided with timely and accurate information regarding governance and the performance of the organisation.
- Netball Australia does not support ACNC compulsory membership meeting requirements if this is based on the traditional face-to-face meeting paradigm. Principles around engagement and participation of Members on how the NFP is fulfilling their mission and values may be more appropriate.

Notwithstanding, the items traditionally conducted at the annual general meeting need to be provided for. This should include election of “Responsible individuals”, (current and future), strategic direction progress, and receiving and reviewing financial information.

In terms of the sport sector, the Australian Sports Commission (ASC) publication "Guide to Best Practice Governance" (February 2010) may be a valuable resource to consider. The ASC has also partnered with the Australian Institute of Company Directors (AICD) to run a series of national workshops on governance and developed a series of performance evaluations for Boards, Directors and Chairs in line with their governance obligations.

If you require further information, please contact me on phone [REDACTED] or email nadine.cohen@netball.asn.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nadine Cohen', with a horizontal line underneath.

Nadine Cohen, GAICD, MAICD
Head of Strategy & Government Liaison

16 January 2012