12 January 2009

Manager
Philanthropy and Exemptions Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

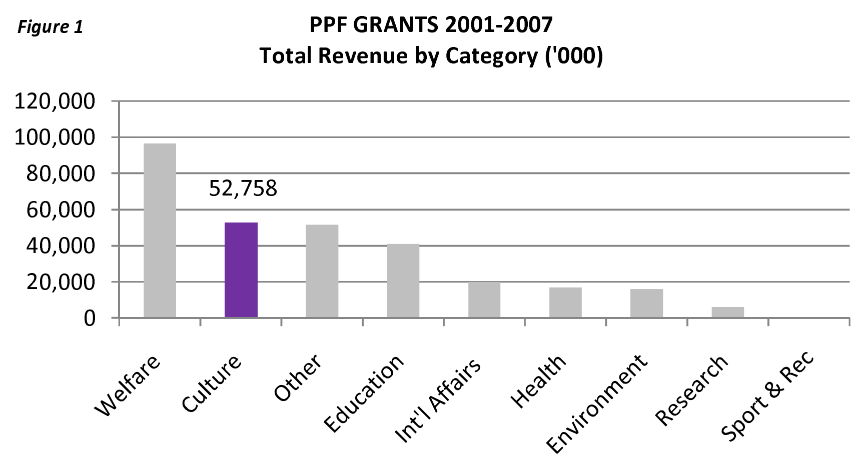
To whom it may concern,

We write to express the support of the ten Music Organisations forming part of the Australian Major Performing Arts Group (AMPAG), and the Australian Youth Orchestra[1], for Philanthropy Australia's response to the Treasury discussion paper, *Improving the Integrity of Prescribed Private Funds*.

In addition to endorsing the recommendations of Philanthropy Australia, we emphasise the following points which relate more directly to our experience of PPF giving as leading performing arts organisations enriching the cultural life of Australia - for Australians, our visitors and the image of Australia overseas.

1. **Current Status**
   a. Cultural Sector
   Since the inception of Prescribed Private Funds (PPFs) in 2001, the cultural sector has received the second highest level of support from these entities. [2]

Figure 1



Whilst this figure for Culture is somewhat skewed by the inclusion of several large 'pass-through' gifts (ie. some PPFs disbursing all capital in one year for a given program or campaign), it is

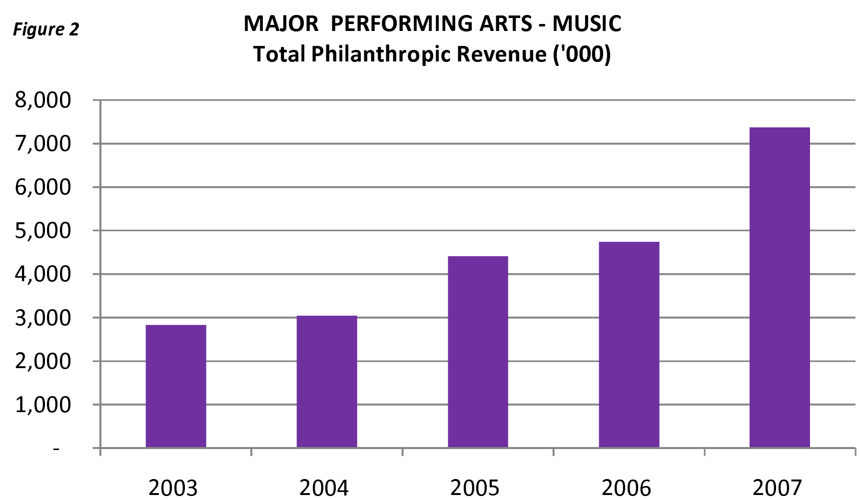
[1] The ten AMPAG Music Organisations together with the Australian Youth Orchestra will be referred to as the 'Fine Music Sector' throughout this submission.
[2] QUT Australian Centre for Philanthropy & Non Profit Studies: *Current Issues Sheet 2008 / 6*

reasonable to expect that gifts of this nature will continue and become more frequent as the culture of giving becomes deeply ingrained and the number of people engaged in philanthropy increases.

b. Fine Music Sector
Without the time to source and analyse PPF-specific data from all eleven organisations, the best barometer available to us is the 2008 AMPAG report: *Tracking Changes in Private Donations.* (Unfortunately this report does not include the Australian Youth Orchestra).

Since 2003, philanthropic support for the ten AMPAG Music Organisations has increased by 160.2 per cent to a total of $7.37 million (averaging $737,000 per company).

Figure 2



Of this revenue from philanthropic sources, Heads of Philanthropy have estimated that in 2007, between 12 and 18 percent is derived from gifts from PPFs (ignoring any single, abnormally large gift).

As this rather crudely indicates, PPF revenue amounted to an average of between $88,440 and $132,660 per organisation in 2007. For a number of organisations, particularly larger organisations in Sydney and Melbourne, this is likely to be much higher.

Due to time restrictions, we are unable to chart the growth of PPF revenue for each individual organisation and project this into the future. It is reasonable to suggest however, that it is a rapidly developing source of private contributed revenue for all of us on which we have become increasingly reliant. We are therefore very concerned about any changes to legislation that will erode the existing PPF capital base and cause any loss of revenue to the not-for-profit (NFP) community.

2. **Culture of Philanthropy**
    a. Intergenerational family enterprise.
    In addition to the flexibility and tax-effectiveness of the PPF vehicle, a major incentive for the establishment of PPFs among donors has been to establish a philanthropic entity that would be managed by members of a family. Many couples were eager to sequester funds that would be managed by their children and grandchildren, making a difference to the causes important to the family in perpetuity.

    In the words of major cultural philanthropists, Tony and Carol Berg, who established a family PPF in 2001:
    '*The Berg Family Foundation was established to ensure that we can continue making a difference to the organisations we believe in for many generations to come... Setting up our own PPF also meant that we could engage all family members in making a difference through philanthropy. It inspires us to know that The Berg Family Foundation will continue to give, and that our children and their children will be its custodians'.*

    In the case of donors to the Sydney Symphony, Melbourne Symphony Orchestra and Musica Viva, major gift donors felt encouraged to establish a PPF in the hope that it would one day replicate a social impact similar to the great family foundations in the United States.

    b. PPFs encourage new philanthropy
    Heads of Philanthropy in many cultural organisations, particularly in Sydney and Melbourne, have noticed a migration of personal major gifts to major gifts contributed via PPFs. This has become increasingly obvious as high profile, high-net worth business people witness peers establishing PPFs and becoming more engaged in philanthropy and social entrepreneurialism. The positive side-effect has been the emergence of a degree of expectation and inter-peer pressure stimulated by the status of visible giving through a family foundation.

    The emergence of organisations such as The Centre for Social Impact headed by Dr Peter Shergold at UNSW and Social Ventures Australia, whilst supporting capacity building and accountability in the NFP sector, has succeeded in raising the profile of philanthropy in the private sector. PPFs have been attractive and flexible enough to encourage a new wave of philanthropy in Australia and, as outlined in Figure 1, the cultural sector has been a major beneficiary of this new and additional largesse.

3. **Minimum annual distribution**
    a. Preservation of Capital Base
    The Fine Music Sector supports Treasury's suggestion of replacing accumulation plans with a minimum distribution rate **<u>if</u>** a considered and appropriate distribution rate is applied.

Such a minimum distribution rate should have two guiding principles:

- it should be consistent with long-term average returns on low-risk investments, such as the RBA Official Interest Cash Rate (currently 4.25%), and;
- it should be set at a level that minimises the potential for erosion of the corpus - effectively distributing projected investment earnings only.

It is imperative that the value of endowed funds is preserved, and that distributions to the third sector continue to grow in the long-term.

We would be pleased to see the replacement of an accumulation plan as this removes any cap necessitating the establishment of a second PPF – a reality for several donors we spoke to. It also fuels aspirations to replicate the great family foundations that are an integral part of the social fabric of the United States.

b. Minimum distribution

As recommended by Philanthropy Australia, the Fine Music Sector would support an annual minimum distribution rate of **five per cent of annually-valued net assets**. This is in line with the minimum distribution rate of Foundations in the United States – a highly successful model which has resulted in the contribution of trillions of dollars to the NFP sector over a very long period of time.

Five percent as a minimum distribution rate is also consistent with the RBA Official Interest Cash Rate in Australia since 1999. It is also in line with the average long-term grossed-up dividends of shares that make up the Australian Industrial Equity market.

c. Implications of a 15 per cent rate for the Fine Music Sector

If the minimum annual distribution rate were to be set at 15 per cent, it is true that DGRs would realise an initial boost of funds from PPFs. Unfortunately this would be a short-lived outcome. Growth would become neutral within a few years and then negative, leaving under-resourced organisations struggling to make up the shortfall from other private and public sources - or reducing services they are no longer able to provide.

In the case of the Fine Music Sector, this would most likely lead to a loss of education and outreach initiatives which so often supplement, and indeed supply, music education programs in schools and under-served communities.

PPFs have been a tremendous source of support for music education. Recommendations flowing from the Government's National Review of School Music Education (2005) called for greater collaboration between the arts and education sectors and greater access to participation and engagement.

The 2020 Summit similarly called for greater collaboration between the arts and education sectors, enhanced emphasis on the arts in a national curriculum and the introduction of practitioners in residence. It was recommended that these initiatives be supported by philanthropic funds which among other things would be stimulated by an 'expansion of the scope of PPFs'.

Orchestras around Australia providing teaching resources and 'excursion' concerts have been funded by PPFs to provide access to Country Area Program (CAP) schools and Priority Schools Funding Program (PSFP - NSW) schools via free bus transport and subsidised attendance fees. Organisations such as Musica Viva who already deliver residency models together with in-school performances and teacher training, have received many grants from PPFs to visit regional and remote areas of the country. These grants assist not only with travel and related expenses but also waiving participation fees for CAP, PSF and other small schools. It is difficult to envisage any of these organisations sustaining and increasing activities of Federal importance without the engagement and considerable support of PPFs.

Music education and outreach initiatives most strongly impact communities when they are sustained over a period of time. The current structure of PPFs enables donors to map their giving over many years. As a result, many cultural or social 'entrepreneurs' will elect to support multiple-year development programs with cultural, social and community development outcomes. Any changes resulting in the winding-down of PPFs would ensure that multiple-year commitments are less likely in the short term as donors try to spread the additional distributions equitably. In the longer term, it is reasonable to expect that many high-value multiple-year community programs will be at risk.

The two other areas most likely to be affected by the reduction or loss of funds held in trust for the community are – the development of emerging artists via young artist training programs, and the development of new work by emerging and established Australian composers. Emerging artists programs and the commissioning of new works have long been compelling 'causes' for patrons. Supporting our best and brightest is 'patron-ism' in its truest form - reminding us of the greatest artists and greatest works of art that lit up the world only because of the patrons who supported them.

PPF trustees who support the Fine Music Sector share the understanding that music fosters creativity and imagination, and has been demonstrated to enhance literacy, numeracy, cross-cultural understanding, communication, self-expression and problem solving.

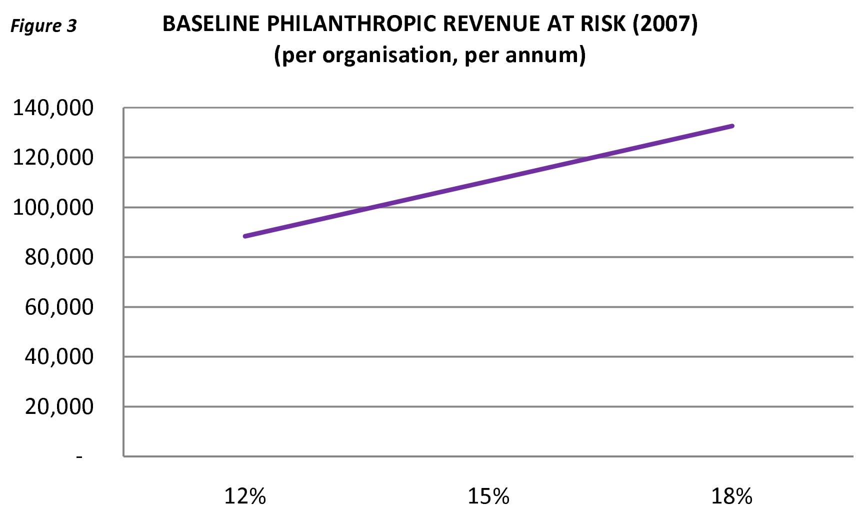
PPFs support music education and outreach initiatives because they want to best equip our young people to lead and solve problems with creativity, passion, imagination and inclusion. They see the value of a vibrant cultural sector and what that vibrancy contributes to 'increased personal capacity and confidence of all citizens, a stronger economy and greater international understanding of Australia as a mature, creative, innovative society (2020 Report. *Towards a Creative Australia: The Future of the Arts, Film and Design*, 2008)

d. PPF patron feedback
Consultation with donors (who contribute to our organisations via a PPF) regarding a mandatory distribution rate of 15 per cent, has indicated that most would wind up their PPFs within 10 years. All felt that without incentive to sustain a family foundation, they would spend down the corpus, seek taxation offsets elsewhere and revert to making annual or one-off gifts contingent upon their financial circumstances at the time.

This of course would have a large impact on the philanthropic landscape as a current pool of funds sequestered for the sole purpose of supporting DGRs would gradually disappear. Philanthropic giving would again become discretionary or 'optional' and the sector would be more acutely affected by fluctuating economic conditions.

Should the changes suggested in the Treasury paper be incorporated, we believe the average revenue at risk for individual Fine Music Sector organisations will be an exponential increase on the 2007 figures below.

Figure 3



4. Publicising contact details

a. Many PPFs supporting the Fine Music Sector are family foundations managed by one or two trustees and / or their children. Publicising contact details in an unqualified manner, that would result in the receipt of copious unsolicited applications would be a significant deterrent to establishing a PPF.

b. Publicising details would impose an onerous administrative burden on family PPFs, and most likely result in additional costs, unless it were managed in such a way as to categorise PPFs as
    i. Receiving applications – and outlining criteria for support
    ii. Letters of enquiry only – and outlining criteria for support
    iii. Invited applications only

c. A structure as above would enhance transparency and prevent usually under-resourced DGRs submitting detailed applications with little or no chance of success.

d. The Fine Music Sector supports Philanthropy Australia's recommendation to list all PPFs in the Australian Directory of Philanthropy and would further recommend categorising all PPFs as above.

Summary
In short, the Fine Music Sector urges that provision is made for PPFs to maintain the real value of assets over time in order for them to sustain a substantial grants stream for the community.

We welcome simplification of the process for establishing a PPF and clarification of the guidelines so that PPFs may operate confidently and without uncertainty.

We commend the Government for undertaking this review of PPF Guidelines and would be happy to offer further information or assistance in working together towards a more generous and inclusive community.

Yours sincerely

Australian Major Performing Arts *Music Organisations*
Australian Youth Orchestra

SIGNATORIES

LIBBY CHRISTIE
Managing Director, Sydney Symphony

MARY JO CAPPS
Chief Executive, Musica Viva Australia

pp Bill Gillespie
General Manager.

STEVE DAVIDSON
Chief Financial Officer, Australian Chamber Orchestra

ELIZABETH TUPPER
Managing Director, Orchestra Victoria

COLIN CORNISH
Chief Executive Officer, Australian Youth Orchestra

BRUCE APPLEBAUM
General Manager, Australian Brandenburg Orchestra

ED HOSSACK
General Manager, Australian Opera & Ballet Orchestra

SIGNATORIES (via email)

Trevor Green.

TREVOR GREEN
Managing Director, Melbourne Symphony Orchestra

CRAIG WHITEHEAD
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RAINER JOZEPS
Chief Executive, Adelaide Symphony Orchestra

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Tasmanian Symphony Orchestra

PATRICK PICKETT
Chief Executive Officer, The Queensland Orchestra