



Media, Entertainment & Arts Alliance (MEAA)

**submission to the Productivity
Commission inquiry into barriers to
setting up, transferring and closing a
business and identify options for
reducing barriers where appropriate**

July 14 2015

The Media, Entertainment & Arts Alliance (MEAA)

MEAA is the largest and most established union and industry advocate for Australia's creative professionals. Its membership includes journalists, artists, photographers, performers, symphony orchestra musicians and film, television and performing arts technicians. MEAA's Media section members are bound by MEAA's *Journalist Code of Ethics*.

Introduction

The Media, Entertainment & Arts Alliance (MEAA), the union and industry advocate for Australia's journalists, welcomes this opportunity to make a submission to the Productivity Commission inquiry, and is grateful that the Commission extended its deadline to allow MEAA to lodge this submission.

MEAA is concerned is concerned at any scheme that would remove the ability of the public and the media to quickly identify corporate wrongdoers. Any proposal that puts a barrier between the ability of the media to legitimately identify and scrutinise company directors represents an attack on press freedom and public's right to know.

The role of the journalist

Every day, journalists investigate important stories about wrongdoing by company directors. The public has a right to know who is running a company. Any attempt to shroud their identity undermines important principles of freedom of information and freedom of expression.

Journalists depend on the Australian Securities and Investments Corporation's database of companies, shareholders and directors to do their work.

MEAA understands that the Governance Institute of Australia has sought changes to the Corporations Act that would mean a company director's address and date of birth – all currently available through the Australian Securities & Investments Commission register – could be kept secret.

The Governance Institute proposes that a "director identification number" would instead be used to denote a company's directors.

MEAA believes that people holding an important office such as being a company director have duties and responsibilities to the company, its shareholders and the public at large. Any attempt to prevent legitimate scrutiny of their activities reduces corporate governance and would hinder the ability of journalists to carry out their duties in the public interest.

Continued access to this information is vital to journalism. Despite its shortcomings (ASIC's fees are high by world standards and already pose a considerable barrier to the public's right to know), the ASIC database is one of the main sources of verifiable identity information in this country. Every day, journalists cross reference precisely the information that would be removed from the public record if the Governance Institute's proposal is adopted.

This information, together with other data – be it from land title searches, the electoral roll, the phonebook or other sources – ensures that journalists have correctly identified a person to a standard that would meet the requirements of a court of law. This aids journalists to correctly identify and locate people who need to be approached for comment in order to meet basic standards of fairness.

It also stops journalists making an identification error that might lead to an innocent person being defamed – something that is good for journalism and good for society as a whole.

The ASIC database is vital for investigative journalism, where it helps reporters trace assets with accuracy, including between jurisdictions. It enables journalists to meet their ethical and professional obligation to accurately report on matters of public interest.

Journalists express their concern

On July 13, more than 100 senior journalists, many of them MEAA members and representing the major media organisations across Australia, wrote to Assistant Treasurer Josh Frydenberg to protest the suggested schemeⁱ.

They argued that adopting the proposal put forward by the Governance Institute would cripple both day-to-day and investigative journalism, out of step with the requirements imposed on Australia by the worldwide trend towards greater transparency of ownership that has developed to combat tax evasion and terrorist financing.

In a press release the Governance Institute had stated that “making public, birthdates and place of birth details serves no useful purpose other than for persons with criminal intent” (GI press release, July 6, 2015). The journalists felt this represented, at best, total ignorance of how journalists use the database in their day-to-day work and, at worst, a shameful equation of journalism with criminality.

The senior journalists contend that the Governance Institute’s complaints about identity theft and personal safety should also be rejected because they are bare assertions, completely unsupported by any data whatsoever.

The journalists add that, in both its press release and a January 6 letter to Treasury, the Governance Institute provided misleading information that paints a picture of Australia as an outlier state that provides more information to the public than is available in “other jurisdictions”. However, Singapore and Hong Kong, which are major trading hubs in our region, require more information to be available to the public than Australia (namely, passport or government ID numbers).

The Governance Institute’s proposal contradicts the recommendations of the world’s peak antimoney laundering and counter terrorism financing body, the Financial Action Task Force, in its latest mutual evaluation report on Australia, released in April. The FATF rated our legal system as only “partly compliant” when it came to identifying who owns and runs our companies, and urged an increase – not a decrease – in the amount of information available to authorities.

Summary

The system has worked perfectly well for decades. Imposing impediments on its use now is a backward step that undermines prudent, responsible corporate behaviour and replaces it with an anonymous system hidden from view.

Any barrier to journalists carrying out their duty in legitimately scrutinising people holding positions of trust and power would be a backward step.

MEAA, on behalf of its journalist members, urges you to reject any moves that would hinder the work of the media in carrying out its public interest journalism duties.

ⁱ http://www.alliance.org.au/documents/asic_database_letter.pdf