Festivals – how to organise them

This information sheet provides an overview of the legal issues to consider when organising a festival and can be used as a basis for your business plan. It can be used in conjunction with our checklist, Organising a festival.

Introduction

When you organise a festival on your own or get together with a group of other people to organise a festival there are a lot of legal issues you will need to consider beyond the artistic and creative considerations.

This information sheet and checklist provides an overview of some of the most important issues you will need to consider and can be used as the basis for putting together a business plan or your own checklist to be used when putting together the festival. At the back of this document is a checklist that can be used by festival organisers and participants as they organise the festival. You will need to seek more detailed advice in relation to the issues raised in this information sheet.

Business issues

Role & festival objectives

There are a number of things that should be considered when putting together a festival and the purpose is one of the most important. Whilst this may not seem like a legal issue, the purpose of the festival may indicate what type of business structure you will chose. You should consider:

- What is the purpose of the festival? This should be set out in the business plan.
- What are the objectives of the festival? Is the main objective to make a profit, or to promote the arts?
- Is it a one-off or recurrent event?
- What role will you take on? Will you be the manager?
- What roles will other people play? What kind of responsibilities will they have?
- Where will the festival take place?

Business structures

The business structure of the festival organising body is extremely important. This means taking into account tax considerations, the liabilities of the organisers and whether the organisation wants to organise the festival on a profit or non-profit basis. If the festival organisers are planning on applying for funding then they may want to consider incorporating as a non-profit organisation so they can apply for funding grants. Choosing a business structure means considering the pros and cons of different structures and what best suits the organisation and its aims. Some of the options include:

· Incorporated Association;

· Co-operative;

· Company limited by guarantee; and

· Proprietary limited company.

For further information on business structures please contact Arts Law to discuss the different options available and what best suits your organisation.

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How will decisions be made?

Will they be made by the Festival Manager or Director, or by group discussion? And who will be responsible for making the financial and administrative decisions? If you are an incorporated organisation, such as an incorporated association or a company limited by guarantee then your structure will dictate the type of decision making process you need to follow.

Budgets

Preparing a detailed budget is really important. You should try and get as many quotes as possible and get hard figures to include in your budget.

Raising the money

If your festival will be funded by a funding body, such as a State, Territory or Commonwealth funding body, you should communicate with them and find out exactly what the funding body requires. Make sure you find out early so that you can take these requirements into account and then report back to the funding body later on. If your organisation is not an incorporated body you will need to consider whether your organisation will need to be auspiced? If this is the case you should draw up an agreement with the auspicing body. See the Arts Law sample Auspicing Agreement for guidance on putting together an agreement.

You will also need to keep detailed records of funding and money coming in and money spent on the festival. If the funding bodies grant you money, they will want to know how it has been spent. For example, most funding bodies will require you to provide an acquittal and report back on how the funding was spent and to make sure you account for all the money. Most commercial sponsors will also want to receive financial statements and will require you to report how their money has been spent. You will also need to keep comprehensive records for tax purposes.

Liability issues

Is there are a risk management plan in place? Are warning signs to be used or given? Are waivers with participants to be used? The festival organisation (if it is incorporated) and/or the festival organisers may be liable if someone is injured during the festival. Risk management plans should be developed and festival organisers should seriously consider whether or not they need to obtain insurance.

If the festival organisation does not incorporate then the members of the group may be personally liable for any financial losses or any damages that flow from the festival. If the festival is small the group may decide that the risk is small, but if the project is fairly large then further advice on risk management and liability should be sought.

Some of the different types of insurance that may be needed to protect members of the group organising the festival include: public liability; property & equipment; product liability; transit; income protection; directors & officers; workers compensation; volunteers; professional indemnity; non-appearance; cancellation and abandonment. For further information see the *Arts Insurance Handbook*, available from Arts Law. The insurance costs will also need to be included in the budget.

It may also be worth considering what will happen if the festival makes a loss and who will be responsible. This will depend on the type of business structure you choose and whether the individual festival organisers are liable for the loss or whether the organisation is liable.

Employees and volunteers

How will income be allocated? How will organisers, performers and workers be paid? Will they be paid during the festival or afterwards? Will their payment be based on a salary? Will you have volunteers who are unpaid? You will need to take into consideration your obligations to both employees and volunteers.

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Other issues

Other issues such as tax obligations, venue hire, liquor licensing, and safety issues for fireworks and the provision of food and beverages at the festival will also need to be taken into consideration.

Creative Issues

Now the fun begins! Beyond the nitty-gritty of the business issues of running a festival you will need to think about the legal issues that surround the more creative aspects of the festival.

Intellectual Property

There will need to be clear consideration of the different types of intellectual property you will be dealing with during the festival. You will need to consider who owns works that are created for the purpose of the festival and who owns works that you would like to use as part of the festival. For example, if artists at the festival intend to perform material written by other people you will need to get clearances and licences to perform these works. Or if the works are made for the festival by individuals or as a collaborative project, it is important to decide who owns the rights.

Thinking of holding a competition

If you are considering holding a competition as part of your festival you may be required to purchase a permit. You can find further information on the regulation of competitions in each of the states and territories at the links below:

- New South Wales
- Victoria / Victoria
- Queensland
- Australian Capital Territory
- Tasmania
- South Australia
- Western Australia
- Northern Territory

For more information, contact the Arts Law Centre of Australia on **1800 221 457** or **(02) 9356 2566**.

Further information

Arts Law publications for those organising a festival include:

- Information Sheet Business names, Trade Marks and Domain Names
- Information Sheet Trade Marks
- Checklist and Guide Business Partnership Checklist
- Checklist and Guide Sponsorship agreements
- Sample Agreement Sponsorship Agreement
- The Arts Insurance Handbook (3rd Edition)
- Organising a Festival Checklist

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