



**Cancer
Council**
SA

Charitable fundraising regulation reform

Cancer Council SA response
5 April 2012

Opening remarks.

Cancer Council SA commends the Federal Government for taking the initiative to regulate the charity sector. Recent media reports and our own consumer research have indicated a heightened interest in the actions of charities. If the objectives of the ACNC are met this will ensure a more transparent sector which hopefully reduce the media distractions that focus around fundraising rather than the outcomes of the charity contribution.

It is important to note that the sector exists largely due to unmet need in the community for programs that members of the public are passionate about. The sector is driven by seeking a better outcome for areas where the community sees an existing need.

If regulation places undue restrictions on the fundraising activities of charities then any shortfall in funding is likely to place further strain on the levels of disadvantage that exist within the community. Progress in this space requires very careful consideration around the impact this can have on the very members of the community whom we, as a charity, exist to serve.

Cancer Council SA would like to highlight that an effective fundraising campaign is not necessarily the most efficient fundraising campaign. Fundraising activities can have many benefits to a community outside of funding alone – these benefits must not be lost through a process that is focused solely on efficiency.

Whilst the ACNC suggest that there will be no 'leagues tables' produced on the government portal, there is a real risk to the charity sector that information on the portal will be used to populate such a table. Such a table will be potentially damaging to the sector where the public have received little information on how to interpret a leagues table and how to view the data. As an example if a charity which is staffed only by volunteers receives a significant bequest they could become the most efficient fundraising charity in Australia and therefore appear more attractive to donate to. The way in which they spend their money to generate value to the community may not be taken into consideration. This level of focus around fundraising efficiency, paid and unpaid staff and collectors will impact the sector and may disadvantage charities who are expert at maximising the outcome of contributions while are less efficient at collecting donations.

Chapter 2 responses

2.1 Is it necessary to have specific regulation that deals with charitable fundraising? Please outline your views.

Most activities undertaken by charities are already governed by existing laws as identified in Ch2, Pt 7. The lack of consistency between state and territory regulations relating to reporting and charitable activities is of concern to charities that operate nationally. This lack of consistency leads to increased costs to charities and often confusion amongst donors.

We support additional federal regulation if it is accompanied by the removal or integration of state-

based regulation, and ultimately equates to a more efficient way to ensure that only bona fide charity entities seek to raise funds from the community. Furthermore, while supporting regulation which achieves these aims, Cancer Council SA believes it is vital that any such regulation is carefully drafted to ensure that it has a positive impact on transparency and accountability and that it does not simply add to the administrative burden of a charity, or unnecessarily restrict its ability to fundraise.

2.2 Is there evidence about the financial or other impact of existing fundraising regulation on the costs faced by charities, particularly charities that operate in more than one State or Territory? Please provide examples.

As a federated organisation, Cancer Council Australia cites the example of eight member bodies established under different state/territory-based governance structures and complying with a range of different jurisdictional laws and regulations. Any shift towards seeking efficient economies of scale through our federation encounters regulatory barriers caused by this fragmentation.

Notably, the Industry Commission's (now Productivity Commission) comprehensive 1995 report on charities in Australia¹ observed the inter-jurisdictional fragmentation of laws and regulations, and recommended (9.1):

“...the Council of Australian Governments should consider approaches to achieving greater efficiency and effectiveness of fundraising regulation among States/territories. Two suggested approaches are:

- uniformity of legislation; or
- mutual recognition of legislation.

Specific consideration should be given to addressing issues of:

- public disclosure of the role of contract fundraisers;
- public nuisance and donor privacy; and
- the types of organisations to which regulation applies.”

Seventeen years later, there has been little progress in reducing the administrative burden on compliant charities in Australia.

Furthermore, one example of impact that Cancer Councils encounter is during national activity that may have a competition element that meets promotional regulations across some states and territories and not others. As such multiple materials must be produced to meet the regulatory differences. These inconsistencies lead to increased costs of producing multiple materials in smaller quantities which leads to increased fundraising costs.

¹ Industry Commission, Charitable Organisations in Australia, Australian Government 1995.

2.3 What evidence, if any, is available to demonstrate the impact of existing fundraising regulation on public confidence and participation by the community in fundraising activities?

The driving force behind reduced public confidence in South Australia is primarily due to media reporting of the activities of certain charities following police investigations. Very few questions were raised prior to these few charities appearing in the media.

Where public confidence is in question, actual or perceived expenditure on administration is a key concern. According to the Productivity Commission's 2010 report, there is a perception that charities investing substantially in administrative costs and other "overheads" represents a "bad" use of donor funds.² Given that the report was commissioned as a precursor to the current NFP reform agenda, it should be incumbent upon government to ensure that any policy outcome from this consultation translates to reduced administrative costs for the sector.

Legitimate charities operating well within FIA standards and code of practice are having to

address public questions around transparency. At present the public have little in the way of education on what to expect of a charity and a focus on the cost of fundraising appears to be the primary focus of the media.

Much more needs to be done to raise awareness that the impact of the work of the charity is still the primary role of the charity. Efficiency of fundraising is important as the net fundraising revenue is what enables the charity to undertake its work – but efficient fundraising does not equal effective charitable contribution.

Anecdotally, it does not appear to be the case that the existence of State based regulation of charities has served to instil increased public confidence in the sector. In the event that effective and appropriate nationally uniform regulation were introduced, this may serve to impact upon the level of confidence the public have in the charity sector.

2.4 Should the activities mentioned above be exempted from fundraising regulation?

Fundraising undertaken by religious organisations should not be exempt from regulation.

It is unreasonable to assume that Religious Organisations and individuals who work within organisations are more reputable than charities with boards of directors following company law. The opportunity for deceiving donors in one way, shape or form is possible from all corners of the community. Personal pleas within a workplace follow far less rigour and are open to far greater personal gain than the actions of the many charities that follow due process in allocating funding. A workplace may know little about the financial means of an individual unless the person chooses to disclose that information.

How does the donation to a religious organisation by its members differ from a donation to a charity by its members? There are a number of religious organisations who have appeared before the court of law for misleading members or undertaking

activities that directly harm members – how can a religious charity be regarded as more trustworthy than any other charity.

Furthermore, in many cases it would be impossible to determine, or limit, what constitutes a church's "membership" many individuals identify as belonging to a particular faith without any active participation or identification with a church or religious organisation. In addition to which many individuals vary their religious identification throughout their lives, for instance how would the regulation determine membership of a church or religious organisation where an individual has identified with many different sects or parishes throughout that religion or for example where an individual defines themselves as "Christian" without the distinction of a particular type of Christianity – does this open them up to unregulated soliciting from any religious organisation which identifies as being Christian?

²Productivity Commission, Contribution of the not-for-profit sector in Australia, Australian Government, 2010.

Finally, it is our strongly held belief that any exemption, religious or otherwise, from the fundraising regulation would result in a decrease in consumer and public confidence. It is not always possible when approached for a donation to delineate between a religious and non-religious charity, nor would members of the public necessarily understand that these religious based charities are less regulated than other charities. If one of the stated aims of fundraising regulation is to increase and ensure transparency and with it public confidence in the charity sector then the regulations must apply uniformly to all participants in the sector.

We note the suggestion that the regulation of fundraising activities such as lotteries and raffles which are already heavily regulated by States, should remain within the jurisdiction of their existing regulation. Please note our comments with regard to question 2.2 and the fact that compliance with

multi-jurisdictional requirements with regard to activities like raffles and lotteries run on a national basis, result in an increased administrative and compliance burden as well as increased costs for our organisation. Cancer Council SA would certainly prefer that all requirements relating to such activities be uniform and contained within one set of requirements.

We are also of the strong belief that all issues related to tax deductibility, compliance and status related issues should remain within the purview and jurisdiction of the Australian Taxation Office (ATO) and the relevant Acts administered by that department. Taxation issues are of a particularly technical nature and require staff with particular skills to administer them appropriately. The ATO employs staff who possess the appropriate skills and qualifications to undertake such administration.

2.5 Are there additional fundraising activities that should be exempt from fundraising regulation?

If so, please provide an explanation of why the relevant activities should be exempt.

This would depend upon the interpretation of 'fundraising activities'. A charity raises funds through multiple mechanisms, these may include

social enterprise activities, the operation of which would likely be covered under the ACL. We would expect that in order to answer this question we would require a clear understanding of the ways in which ACNC and charities are classifying fundraising activities.

2.6 Is the financial or other effect of existing fundraising regulation on smaller charities disproportionate? Please provide quantitative evidence of this if it is readily available.

Cancer Council SA believes that fundraising regulations should apply to everyone, regardless of the last reported income statement from the Charity.

In recent times in South Australia the media attention around reported inappropriate actions on charities has focused around smaller charities. In many cases it would be far easier for a smaller charity to undertake inappropriate activities than a larger charity.

At Cancer Council SA, the majority of our fundraising revenue comes from small donation

amounts from a large number of fundraising activities. The overall risk to a donor is therefore much smaller than in the situation where a charity (even a charity which raises less than \$50,000 per year) holds few fundraising activities but obtains large donations.

The statements pertaining to point 21 in this section make far too many assumptions about the use of volunteers and their ability to influence the activities of an organisation. Volunteers are no less likely to undertake activities that are inappropriate than paid staff.

2.7 Should national fundraising regulation be limited to fundraising of large amounts? If so, what is an appropriate threshold level and why?

No.

The larger the fundraising amounts, typically, the larger the organisation and the more likely that organisation is to have proper governance measures in place.

Fraudulent activity or misconduct of a registered charity or individual within a charity is not proportionate to the amount raised by that charity. As stated previously, the larger the income of a charity the larger the number of people involved and the tighter the scrutiny of that charity's operations by a greater number of people.

Bequests can come in different sizes and at random times which may push a charity into a different income band as a result of a single donation. The random nature of this is likely to cause more challenges for charities depending on the success of certain activities or the impact of a bequest program or a capital campaign.

We further reiterate our comments outlined in 2.4 that any exemption erodes public confidence in the sector and create confusion in the community about which charities are and are not regulated.

2.8 Should existing State or Territory fundraising legislation continue to apply to smaller entities that engage in fundraising activities that are below the proposed monetary threshold?

Yes. The opportunity to damage the industry is not restricted only to charities which fundraise over \$50k. Smaller, less professional charities often undertake activities that are seen as questionable by the general public. Larger charities are often easily traced, easily contactable and highly visible by a large number of people – their actions are well monitored by the public.

The abolition of State and Territory based fundraising regulation while simultaneously applying a financial threshold to the national regulation would leave smaller charities completely unregulated and ultimately open to fraud and corruption.

2.9 Should a transition period apply to give charities that will be covered by a nationally consistent approach time to transition to a new national law? If so, for how long should the transition period apply?

Two years would be an appropriate transition time which would allow charities to meet changes in their operations in a cost effective timeframe. Many charities may have invested in large quantities of generic materials to ensure unit costs are kept to a minimum – any changes that require materials to be

updated would incur costs that will impact charities. This transition period would also ensure that there is no justification for inadvertent breaches of the regulations once they come in to force.

2.10 What should be the role of the ACNC in relation to fundraising?

ACNC should set any guidelines nationally for fundraising practices – these should be in line with industry practice with a goal to ensure that activities meet an acceptable level in terms of:

1. Disclosure of information to the public about who the entity is, what the money raised is for, who to contact for further information and an identifier for that particular activity for reference in discussions with the charity.
2. Standards of operation – using FIA guidelines, standards and codes of practice

ACNC should also take a policing role in relation to meeting these standards.

Many charities, such as Cancer Council SA have thousands of individuals fundraising activities

running in each state at any one time. These events may be part of a national campaign, such as Australia's Biggest Morning Tea. One individual event, run by one individual may not be meeting the guidelines set by Cancer Council or by any national body. In such an instance, Cancer Council may not be aware of any wrongdoing by one of over tens of thousands of events occurring at a similar time. There would be a need for any reported wrongdoing to be corrected firstly by a charity before any action taken by the ACNC. At present any reported wrongdoings can be corrected immediately by a charity with little paperwork required. With increased regulation there is a risk that a charity will be required to undertake more paperwork that can increase administration cost and place further strain on fundraising resources.

2.11 Should charities registered on the ACNC be automatically authorised for fundraising activities under the proposed national legislation?

Yes. This would have the dual function of encouraging charities to participate and increase transparency, while enhancing choice for prospective donors.

2.12 Are there any additional conditions that should be satisfied before a charity registered with the ACNC is also authorised for fundraising activities?

No. A commitment to complying with regulation should be declared as part of a charity registering with the ACNC. The controls and recourse available to the ACNC and the courts, as outlined in points 28 and 29 of the discussion paper, should be sufficient to underpin compliance, without further administrative burden.

2.13 What types of conduct should result in a charity being banned from fundraising? How long should any bans last?

1. Misrepresentation of the charity - suggesting it is associated with another charity or entity or is undertaking work that it is not doing (this would need to be identified within official materials – a volunteer may not be operating from official statements or a fundraiser may be speaking based on personal experience rather than official information).
2. Fraudulent activities that suggest misappropriation of funds
3. Activities where false or misleading information is being presented to the public
4. Insolvency

Bans should be in place until confirmed, inappropriate activities are rectified and the charity is back operating within the proposed regulations.

While firm action against offenders is essential, it should be noted that a highly skilled, deceptive and abusive individual staff member or volunteer could have the capacity to undermine the work and standing of an otherwise ethical agency before discovery. Unlawful and inappropriate conduct – e.g. fraud, deception, misappropriation of funds

and a range of other breaches articulated in existing laws and regulation – should therefore be judged on a case-by-case basis.

Arbitrary judgement, for example on the extent to which a rogue individual is the transgressor compared with a systemic culture of institutional corruption, should apply, with the penalty geared to the extent of organisational culpability. Penalty provisions should allow for permanent bans to be recommended in extreme cases, however stipulating a set ban for all offenders is in our view impractical.

In addition, to our comments with regard to penalty provisions we also note the discussion papers reference to oversight and appeal provisions through the court system. Given the expense, delay and technical nature of court proceedings, we are of the view that an internal appeal and dispute resolution process within ACNC should be built in to any regulation. This would accord with the principles of natural justice and would afford any charity which believes it has been incorrectly sanctioned under the regulations to appeal in both a cost and time effective manner. This process would then obviously remain the subject of judicial review as required by administrative law.

Chapter 3 responses

3.1 Should the aforementioned provisions of the ACL apply to the fundraising activities of charities?

The provisions identified under section 36 of the Discussion Paper would be a logical step forward. It would however need to be clear how these areas would be interpreted in the event that a volunteer fundraiser was providing information to a member of the public. Cancer Council SA engages with thousands of individuals who undertake fundraising activities voluntarily each year. It would be difficult to police each of their activities and hard to ensure that volunteers retain the necessary organisational knowledge to accurately represent all facets of the charity and its work.

The Australian Consumer Law (ACL) is much more easily applied to commercial relationships

because ultimately the individual engaging in the subject behaviour is an employee who falls within the legal doctrine of vicarious liability. Therefore, Cancer Council could support the inclusion of such provision to the extent that they applied to paid staff. However, given the nature and legal and practical limitations of the relationship between volunteers and the charity they are working for, we have formed the view that any such provision would need to be specifically adapted to apply to volunteers. Furthermore, the penalty provisions would need to be altered to reflect the unique nature of the relationship.

3.2 Should the fundraising activities of charities be regulated in relation to calling hours? If so, what calling hours should be permitted?

There is limited benefit in restricting calling hours. Organisations such as the Salvation Army undertake fundraising through proven channels out of normal business hours. In many instances, the more successful merchandise fundraising activities provide collection and support mechanisms for employees moving to and from workplaces. Primary collection times can be before 9 am and sometimes after 5 pm.

Fundraising activities can also occur at events which operate outside of normal hours. A fundraising campaign that is attached to a public event which may be outside of these hours is not uncommon. As an example the Santos Tour Down Under in South Australia, operates on public roads and Cancer Council employees collect donations

on-ground over 8 days, starting on a Sunday and ending on the following Sunday.

Would this limit a religious charity from collecting donations as part of a service on a Sunday or public holiday? Would this require the charity to police the activities of volunteer fundraisers who may have a donation box at a school fete or ask their neighbours for a donation on a Sunday?

Calling hours are usually self-regulating. Charities have limited resources and will usually only operate within hours that prove successful for collection. Calling someone at a time that they deem is inappropriate will rarely end with a successful donation and would quickly prove to be a waste of a charity's time.

3.3 Should unsolicited selling provisions of the ACL be explicitly applied to charitable entities?

Alternatively, should charitable entities be exempt from the unsolicited selling provisions of the ACL?

It would be fair to say that most people do not actively seek a charity to donate to on any given day. Much of the fundraising of charities occurs opportunistically when someone encounters a fundraising activity and decides to donate or participate. If the regulations around unsolicited selling were applied to collecting donations then many of the existing fundraising activities may cease.

Charitable entities should be exempt from the unsolicited selling provisions of the ACL. Current

regulations exist through the Telemarketing Industry Standard.

The ACL was specifically designed to protect consumers in a commercial setting and in relation to the sale of goods and services, it is not appropriate to apply a regulatory regime designed for this purpose to the charitable sector which exists for an entirely different purpose and is driven by a different set of motivations. If the Australian Government wishes to apply some of the principles of the ACL to the charitable sector then it would be necessary to redraft them in a way that is specifically appropriate to the operation of the sector.

Chapter 4 responses

4.1 Should all charities be required to state their ABN on all public documents? Are there any exceptions that should apply?

Charities should be required to state their ABN on all 'public documents' which relate to or are calling for donations. There are some public documents which relate to the work undertaken by the organisation which should not require the display of the ABN, for example, a charity which also acts as a lobby group, advocating to Government should not be required to display its ABN on a poster

advocating for increased funding for a particular program or increased legislative restrictions on particular activities.

In addition, consideration should be given to flexibilities for federated bodies that mass-produce printed materials for use by member organisations which each hold individual ABNs.

4.2 Should persons engaged in charitable fundraising activities be required to provide information about whether the collector is paid and the name of the charity?

We suggest the wording "Authorised collector". <Charity name> which complies with the Fundraising Institute of Australia Code of Practice".

Providing information about whether the collector is paid or unpaid tells little to the donor about how

cost effective the fundraising activity is or how the collector is remunerated. If a staff member of the charity is present at a fundraising event, would they be required to be acknowledged as a paid collector even if it were on a weekend?

4.3 Should persons engaged in charitable fundraising activities be required to wear name badges and provide contact details for the relevant charity?

This should remain optional and identified as best practice. Making name badges mandatory will contribute to increased administration costs, requiring charities to produce, print, distribute and police the wearing of badges. Cancer Council SA has in excess of 11,000 volunteer collectors each year and the cost of producing individual badges and enforce wearing will become excessive.

People wishing to commit fraud (which is why introducing a badge could be useful) can easily copy the badge in its generic state and add further legitimacy to their fraudulent activities.

It is worth noting the administration implications of the following: If a volunteer is working on a collection site for one or two hours per year, is the charity required to produce a specific badge for

them? The logistics required to administer sites will be more complicated, adding to administration costs and making it less attractive to volunteers to co-ordinate these sites. If a volunteer arrives at a site without their badge are their services to be refused until they can obtain a badge?

Recommendation: All fundraising co-ordinators and or sites are provided an 'Authority to Fundraise' letter from the charity that details all the required information, and on the reverse side details of any mandatory items contained within ACNC fundraising regulations. This would replace the badge and ensure a document is available upon request at all collection sites/activities. Badges in this instance would become a recommendation, but not a mandatory requirement.

4.4 Should specific requirements apply to unattended collection points, advertisements or print materials? What should these requirements be?

The challenge with application of information across all promotional materials is the applicability to various mediums. Consider that the ability to disclose certain information during a fifteen second radio advert is different to a small website banner advert or 'Google advert' and different to a promotional flyer. Providing that the charity can be recognised in an advert by either name, logo (including name), or that the action from their advert – such as a click through on a website banner ad, takes them to a place that the charity can be identified in, such as a website, would be satisfactory.

The below information should ultimately be available to a donor at the time of donating or registering.

This full information may not be visible on an advert but must be available at the time of making the actual donation.

- the charity name;
- the purpose for which funds are being collected – the cause;
- contact details of the charity or collection agent;
- the charity licence number or ABN; and
- the charity's or collection agent's website or national web portal website.

4.5 Should a charity be required to disclose whether the charity is a Deductible Gift Recipient and whether the gift is tax deductible?

This would be a useful exercise providing that the public receive some education on what DGR status means. A DGR logo might be useful for use on promotional material to convey this fact.

4.6 Are there other information disclosure requirements that should apply at the time of giving? Please provide examples.

Wherever practical the following information should be provided:

- the charity name;
- the purpose for which funds are being collected – the cause;
- contact details of the charity or collection agent;
- the charity licence number or ABN; and
- the charity's or collection agent's website or national web portal website.

4.7 Should charities be required to provide contact details of the ACNC and a link to the ACNC website, on their public documents?

Cancer Council SA does not support this as a mandatory requirement. However, linking to the ACNC could be encouraged and promoted to prospective donors as an indication of a charity's bona fides.

Chapter 5 responses

5.1 Should reporting requirements contain qualitative elements, such as a description of the beneficiaries and outcomes achieved?

Yes as the outcome of charities varies widely – this should be done through an annual report/review.

The challenge with this if reporting is through an online portal is that the work of some charities may take up a large amount of space if the impact on the community is to be qualified. The challenge

for charities at any time is educating the public on the direct and indirect impact of their work.

This information will also be highly subjective and without any industry measures of impact would prove useless when comparing charity impact on the community.

5.2 Should charities be required to report on the outcomes of any fundraising activities, including specific details relating to the amount of funds raised, any costs associated with raising those funds, and their remittance to the intended charity? Are there any exceptions that should apply?

Ideally the consolidated fundraising activities of the charity are the best indication of the charities ability to generate income that can be passed on to enable the intended charity outcomes. This full disclosure currently occurs with charities who are companies limited by guarantee using the Australian Accounting Standards and ASIC requirements.

Note that some charities find fundraising easier and obtain higher gift amounts than other charities

due to the emotive nature of their cause. Such comparisons provide little comparable insight into the ability of the charity to fundraise or the efficiency or effectiveness of a charity.

Charities should not be required to formally report on each individual fundraising event as it occurs but rather should continue to report on their consolidated fundraising activities as outlined above.

5.3 Should any such requirements be complemented with fundraising-specific legislated accounting, record keeping, and auditing requirements?

Reporting of such requirements requires a standard format. An enhanced accounting standard has the potential to provide prospective donors with more informed choices and could lead to greater transparency and accountability. However, given that Cancer Council SA is already subject to a range of legislative and accountancy requirements, the introduction of a new standard would only be supported if it achieved its key objective while also reducing administrative burden.

Regardless of whether the ACNC plans to introduce a 'leagues table' of fundraising organisations, it will certainly be produced by someone. Standard

accounting practices such as using the Australian Accounting Standards will be necessary as misrepresenting fundraising costs might be easier for those not using a reporting standard. The production of 'leagues tables' may impact negatively on charities reporting using an audited accounting standard who have little flexibility in the way they represent fundraising expenditure, while advantaging those using less a standardised means of reporting.

Financial records must be audited to ensure that correct information is represented to the public through the ACNC portal.

5.4 What other fundraising-specific record keeping or reporting requirements should apply to charities?

The administration burden to undertake fundraising activities in a responsible and transparent way is increasing. The requirement to undertake business online, to meet tax and other regulations, to provide secure data storage and meet Payment Card Industry Compliance (PCI Compliance) is increasing costs.

ACNC should provide a fundraising administration definition around the basic cost of fundraising activities – excluding the costs of a specific fundraising campaign. This basic general fundraising administration cost (as a portion of total fundraising activities) would help to highlight to the public that charities have to incur costs to meet the regulatory requirements – regardless of the campaign or activity. This is also one of the only

comparable measures that can be used across charities as these costs should remain relatively consistent.

Public disclosure of income and expense associated with fundraising activities should also provide the ability to comment on other educational elements of a fundraising campaign. As an example Cancer Council runs an event called Girls Night In – this event is a fundraising event that draws attention to the health checks women should be undertaking to help prevent cancer. The dual purpose of many campaigns should be highlighted to capture the full value that a fundraising campaign can deliver to a community. Fundraising income is only one element of value that can be derived from a charity campaign.

Chapter 6 responses

6.1 Should internet and electronic fundraising be prohibited unless conducted by a charity registered with the ACNC?

Yes – except in the case of a third party collection agency that is registered with ACNC and provides details on the beneficiary charity including links to the charity website.

6.2 Should charities conducting internet or electronic fundraising be required to state their ABN on all communications? Could this requirement be impractical in some circumstances?

This would be impractical in many instances online.

The key outcome of including an ABN should be to enable further investigation into a charity before making a donation. Ensuring that the ABN

is present at the time of donating is important and most online promotional mechanisms will drive someone to a place to donate.

6.3 Are there any technology-specific restrictions that should be placed on internet or electronic fundraising?

At the point of donating there should be an opportunity for the donor to seek further information from the charity's website. A link through to the website that contains full details on the charity, its purpose, governance and potentially its most recent financial history should be mandatory.

Secure payment gateways and PCI (payment card industry)-compliant websites and processes must be requirements of registered charities seeking to fundraise online.

Chapter 7 responses

7.1 Is regulation required for third party fundraising? If so, what should regulation require?

Third party fundraisers should be required to register and abide by FIA code of conduct or similar.

7.2 Is it appropriate to limit requirements on third party fundraising to those entities that earn a financial benefit?

Yes, this would be appropriate. Third parties who collect on behalf of charities will be less inclined to undertake fundraising activities if burdened with

an additional layer of bureaucracy. Many charities already require third parties to 'register' their activities.

7.3 Should third party fundraisers be required to register with the ACNC for fundraising purposes only? If so, what are the implications of requiring the registration of third party fundraisers?

For those organisations that receive a financial benefit from fundraising activities it would be appropriate for them to register with ACNC. This would ensure that any inappropriate activities could be reported separately and collected by ACNC to form a consolidated view of an organisations performance. Any third parties who are receiving high volumes of legitimate complaints may have to take remedial action overseen by ACNC.

In regard to reporting income and expenditure for these organisations it would be very difficult to report information that is both comparable and reflective of the lifetime value of a donor who is acquired through such means. Using an example of a regular giver signed up by a paid street advocate – the cost within any financial year and the

corresponding revenue will be significantly different depending on what point during the year the transaction occurs. 'Face to Face' contracts differ across organisations and in some organisations a face to face acquisition is treated as an investment, the cost of which is amortised over the estimated lifetime value of the donor – usually between three and five years. This reporting will differ to someone reporting on a cash basis where an acquisition will incur an up-front cost and may be subject to attrition rebates. While an expense is incurred by a third party they raise no income themselves – as such reporting income and expenditure by a third party may amount to an expense only and not reflective of the lifetime value of the donor whom they acquired on behalf of the charity.

7.4 Should third party fundraisers be required to state the name and ABN of charities for which they are collecting?

Yes, it is critical that a donor understands exactly who their donation is going to and that such an organisation is registered and reporting on the outcomes of its work.

7.5 Should third party fundraisers be required to disclose that they are collecting donations on behalf of a charity and the fees that they are paid for their services?

It would be appropriate that a third party disclose that they are collecting on behalf of a charity as with question 7.4.

Whether they are paid a fee or not for collecting is irrelevant providing that the charity continues to undertake its work and that net revenue continues to fund ongoing programs.

If a charity undertakes any other form of fundraising campaign it is not required to disclose the promotional cost at each point of contact. As an example – In the UK charities spend millions of pounds to run direct response TV campaigns that only breakeven in the first year but over several years return a strong income stream to the charity. Such a campaign does not require disclosure on each advert to highlight the cost of the advert. The use of a third party can be far more cost effective than other forms of donor acquisition so

it would be inappropriate to single out this form of donor acquisition to disclose costs at the time of acquisition.

Most fundraising campaigns that generate significant income incur costs – these costs are offset against income and charities make decisions everyday as to managing the costs to return the greatest amount for the charitable purpose. The FIA gives a guide of around 30 - 40% as an appropriate cost for running any campaign. Third party fundraisers fall into the same category as any other campaign and costs associated should be treated the same.

If asked by a member of the public whether they are a paid fundraiser they would be required to disclose that information honestly and use any statement prepared by the charity or third party agency to discuss the merit of this.

7.6 Should third party fundraisers (or charities) be required to inform potential donors that paid labour is being used for fundraising activities?

No. Not unless asked.

It would be of limited value highlighting that a charity has paid staff that are involved with a fundraising activity at every fundraising activity or on all promotional material.

The work undertaken by the charity, for its charitable purpose should be the focus of the ACNC. Trust in the sector should be about whether the charity is delivering on its promise to its donors,

not whether it has paid or unpaid staff involved in fundraising. Delving into this level of detail across promotional material provides a focus only on whether an organisation has paid staff or not – this does not improve trust or transparency in the sector – it merely highlights one small element of the operations of a charity. Efficient fundraising practice does not equal sustainable funding solutions or effective service delivery.

7.7 Is regulation required for private participators involved in charitable fundraising? If so, what should regulation require?

It would be idealistic to have a public register of any cause related marketing activities. The challenge will be that some of these activities will be of low value and the regulatory burden of reporting these activities would be further disincentive for organisations to participate. Perhaps activities that are promoted nationally should be required to

register the financial gain from any cause related marketing activity so that a consumer knows the value that goes to the charity following their support. The main interest in this register is likely to be the media rather than members of the public and it is unlikely to have any impact on public confidence in the charitable sector.



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