



Charitable Fundraising Regulation Reform Discussion Paper
Infrastructure, Competition and Consumer Division
Treasury
Langton Crescent
PARKES ACT 2600

5 April 2012

Dear Sir / Madam

**Discussion Paper and Draft Regulation Impact Statement:
Charitable Fundraising Regulation Reform**

We are pleased to have the opportunity to provide our response to the Discussion Paper and Draft Regulation Impact Statement issued by The Treasury in February 2012, entitled "Charitable Fundraising Regulation Reform".

With reference to the submission of our previous responses to Discussion Papers considering the implementation of the Australian Charities and Not-for-Profits Commission: Implementation Design dated 2 March 2012 and our response dated 19 July with respect to better targeting for not-for-profit (NFP) tax reform, we outline our key thoughts below on the "Charitable Fundraising Regulation Reform" paper.

1) *Implementation of a national approach to fundraising regulation:*

In order to facilitate charities fundraising activities, we believe that a key objective of fundraising regulation reform should be to ensure that fundraising legislation is consistent across the States and in the long term, there should be one uniform code. This will allow charities to continue their national fundraising activities efficiently without being required to deal with the burden of multiple sets of legislation as is currently the case.

Given that the relevant State departments already have the authority and structure to regulate NFP fundraising activities, in the short term, we believe that the relevant State departments should apply fundraising regulation which is consistent nationally. Ensuring that each State's fundraising regulation is consistent will reduce NFPs administrative burden of reviewing each State's fundraising regulation before they raise funds in multiple States as well as constantly monitoring their fundraising activities in each State to ensure that they comply with the relevant fundraising legislation in that State.

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In the long term, the replacement of the role of State-based Government departments by the Australian Charities and Not-for-Profit Commission (ACNC) as the governing authority of charitable fundraising activities would achieve consistency for both State and Federal regulation. This is also in line with the ACNC's ultimate objective of being the overall regulator of the NFP Sector.

2) *Tiered level of reporting and degree of exemption:*

As outlined in our response dated 2 March 2012, we agree that there should be a tiered level of requirements for the NFP sector, and the criteria for categorisation of these tiers should extend beyond the proposed revenue and DGR status. Consideration of factors such as net assets and level of public fundraising may also be relevant in setting such thresholds.

We agree that a threshold should be set to exempt these smaller entities from being burdened with complying with the full extent of the fundraising legislation as well as comprehensive reporting requirements. We agree that there is likely to be less risk associated with small charitable fundraising activities led by small local charities and therefore they should not be required to comply with comprehensive fundraising legislation. However, we do believe a minimum level of regulation should be placed on all fundraising activities, regardless of their size, such as registration with the relevant Government bodies and the reporting of basic information. This form of regulation would assist in ensuring that NFPs remain accountable with respect to their fundraising activities. It would also serve to protect the public from contributing to fundraising campaigns which were illegitimate and encourage the public to contribute to charities which are appropriately registered and operated. We believe this should be considered for all NFP entities, including those which may not meet the definition of a charity.

3) *Education of new regulation and reporting requirements:*

We believe that a key factor in the success of fundraising regulation reform is education of the NFP sector of this legislation. We believe that the ACNC, or the relevant State authority, should be responsible for ensuring that the results of this fundraising regulation reform is appropriately communicated to the NFP sector so that there is a genuine understanding of the legislation and how to comply with it by the sector.

This also may take the form of formal training programs that should be organised by the ACNC. As previously discussed, some charities may have limited staff who do not currently have the required skills to comply with this proposed legislation. Therefore, these charities will



require a greater level of guidance from the ACNC to ensure that they comply with these regulatory requirements.

4) Auditing of fundraising activities:

We believe that there should be no additional requirements for individual fundraising activities to be separately audited. These activities are already reviewed in conjunction with the charity's annual statutory audit, and as such, an additional layer of audit requirements would effectively result in a duplication of audit procedures. If the fundraising activity is material, then its potential audit risks should already be taken into account in the tests performed by the auditors during their annual audit process. Consequently, a separate audit of fundraising activities would be burdensome and an unnecessary cost to charities.

We welcome the opportunity to further discuss our views. Please do not hesitate to contact me on (02) 8266 2261 or Michelle Denny on (02) 8266 2602.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Craig McIlveen', with a long horizontal flourish extending to the right.

Craig McIlveen

Partner

Private Clients