

Senate Standing Committee on Economics
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AUSTRALIAN CHARITIES AND NOT-FOR-PROFITS COMMISSION (REPEAL) (No. 1) BILL 2014

The Fundraising Institute of Australia (FIA), established in 1968 with 1700 members representing a broad range of Australian Charities, is the national peak body representing professional fundraising in Australia.

FIA has developed the Principles and Standards of Fundraising Practice as the benchmark in ethical, accountable and transparent fundraising. These Principles and Standards are vital to how the fundraising profession is viewed by donors, government and the community.

While our members will express their individual views on the future of the ACNC in their own submissions, FIA submits the following for the Committee's consideration in relation to fundraising and the ACNC.

The ACNC does not have a direct role in relation to regulating the fundraising activities of charities and not-for-profit organizations because:

1. Fundraising activities are covered by State and Territory law, and
2. The previous government specified from the outset that the ACNC's remit would not include fundraising.

FIA has noted that some submissions to the Committee have referred to fundraising regulation in the context of the Repeal Bill. FIA is concerned that the Committee may form a view on the basis of these submissions that future fundraising regulation reform depends entirely on the continued existence of the ACNC in its current form, this is clearly not the case.

In fact, charitable fundraising regulation reform is under active consideration by the Consumer Affairs Forum (CAF). This is the biannual meeting of Commonwealth, State and Territory consumer affairs and fair trading ministers who are responsible for most fundraising-specific law. According to communiqués from previous meetings, CAF will be considering an options paper at its forthcoming meeting in June 2014.

It is also true, however, that the process of aligning and streamlining fundraising regulation has been delayed by uncertainty about the future of the ACNC. As the Committee has been told in many submissions, the South Australian and ACT governments intend to align their own reporting requirements with those of the ACNC.

From the perspective of fundraising this is not as meaningful as it appears because it will apply only to annual financial reporting. For charities which solicit donations nationally or in more than one jurisdiction, the most expensive and onerous regulations are the different permissions and reporting requirements for individual appeals, raffles and other activities referred to as fundraising-specific.

Could the ACNC play a role in aligning, harmonizing or streamlining fundraising-specific regulation?

Potentially, for example, the States and Territories accepting an ACNC registration as registration for fundraising in all States thereby reducing red tape, however the following two factors need to be taken into account.

First, although fundraising regulatory reform was an integral part of the previous government's NFP Reform process, it lagged behind other aspects such as the establishment of a regulator (hence this inquiry) and definition of a charity both of which are matters of Commonwealth responsibility. A discussion paper on fundraising reform was issued and submissions called for in 2012 but a report was never published.

Second, apart from the stated intentions of the South Australian and ACT governments to align their annual financial reporting requirements with the ACNC, the State and Territory governments including SA and ACT have not yet considered at a ministerial level the options for deregulatory reform of fundraising-specific regulation. History has shown that co-operation between jurisdictions on issues which affect consumer protection can be a slow process.

Fundraising-specific regulation reform remains an aspiration. There is not an agreed framework between governments to form the basis from which a regulator could operate. For this reason FIA considers that a potential role in fundraising regulation alignment sometime in the future is not an issue the Committee should take into account in making recommendations on the Bill under review.

In addition to addressing fundraising regulation alignment through the CAF process, FIA anticipates actively participating in the Commonwealth Government White Paper on Federalism process.

When announcing the Deregulation Repeal Day of which the Bill under review is a part, the Prime Minister reiterated his pre-election commitment to establish a high level review into federalism to identify areas for reform. The complexity and cost burdens of duplicated and overlapping fundraising regulation have been identified in submissions to this Committee.

This includes the important point that most charities still have to register with their State regulators for incorporation and state tax exemptions in addition to their fundraising regulators.

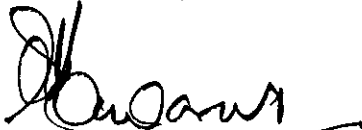
In the absence of the Commonwealth or a Commonwealth agency taking a lead role in regulatory reduction is hard to see where the impetus will come from to streamline the multiplicity of registration and reporting requirements.

FIA submits that if the Committee considers there is a need to address fundraising issues in its report on this reference, the Committee should recommend that the Commonwealth Government adopt fundraising regulatory reform as a matter to be addressed in the White Paper on Federalism.

FIA finds difficulty in commenting further on the ACNC Repeal Bill in the absence of the foreshadowed second Bill which will cover the measures proposed to replace it.

The writer would be happy to assist should any amplification or clarification be required.

Yours faithfully

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

Rob Edwards
Chief Executive Officer
1st May 2104