



FIA submission on OLGR's proposed Charitable Fundraising Regulation 2008

July 2008



We exist to make the world a better place by advancing professional fundraising through:

- *advocacy of standards*
- *professional development pathway*
- *measurable credentials*

so that our members achieve best practice

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14 July 2008

Charitable Fundraising Regulation Project
NSW Office of Liquor, Gaming and Racing
Department of the Arts, Sport and Recreation
GPO Box 7060
Sydney NSW 2001

FIA welcomes the opportunity to comment on the proposed Charitable Fundraising Regulation 2008. FIA particularly notes the Office of Liquor, Gaming and Racing's initiative to reduce red tape through streamlining the Charitable Fundraising Regulation 2008.

FIA is the national peak body for professional fundraising with a membership of approximately 1,600 individuals and over 80 organisations with an annual turnover of \$1 billion (See appendix 1). We therefore represent the interests of our members who are professional fundraisers.

Part 2, Clause 7, 7a and 7b: Exemptions

Exemptions to regulation confuse the regulatory environment, providing neither a level playing field for those charities that must accord with regulation nor for the public that assumes all charities are regulated. Exemptions accorded to religious organisations, political organisations, educational organisations and anti-cancer organisations mean that only a proportion of fundraising organisations are captured by the Charitable Fundraising Regulation 2003. This disadvantages those organisations which must comply with further regulation – usually the smaller charities which find it more difficult to fundraise – and the public which expects that regulation covers all charitable activity.

Compliance in New South Wales currently significantly adds to administrative costs and is not, in our view, proportional to the risk of fraud or malpractice, evidence of which appears to be scant. FIA notes that regulation should be flexible and should also be (as it is internationally) proportionate so that over-regulation is avoided. The argument of the 'lowest common denominator' approach does not hold if regulation is created with a view to being proportional to the risk.





FIA estimates that in Victoria the exemptions from legislation mean that only 20% of fundraising is captured. The situation is likely to be the same in NSW.

Excluding 80% of fundraising activity from the Regulation, militates against the intention of the Regulation and discriminates unfairly against the remaining 20% of organisations, which largely comprise organisations in the disability, art and culture and overseas aid areas. This is unsatisfactory when the public has an interest in the costs of fundraising and the regulator an even greater interest.

Corporate law allows for some differences between how small and medium businesses and large businesses must address corporate law. We put that this precedent should be considered in the nonprofit sector, making allowances for smaller and newer organisations. Both are likely to have higher costs of fundraising¹ than those organisations that are well established and thoroughly familiar to the public. While one has a job in front of it to make its cause known, let alone to fundraise for the cause, the other is likely to receive spontaneous donations, as well as solicited donations, and to benefit from economies of scale.

Schedule 1, Clause 5: Report on outcome of appeal or appeals

FIA members have raised concerns that the proposed increase of total gross income obtained necessary to trigger the operation of this clause from \$20,000 to \$100,000 may impact on public trust and confidence. We would be pleased to discuss this further with you as we agree this would reduce red tape and costs of administration.

Schedule 1, Clause 8: Ratio of expenses to receipts

The majority of states in Australia do not prescribe percentages to costs versus income for the simple reason that such a ratio has no particular use in determining the effectiveness of

¹ Independent research has shown that there are a number of factors that impact on costs of fundraising including size of organisation, popularity of cause, method of fundraising, in addition to other issues such as determining what an objective or 'acceptable' cost of fundraising might be. For these reasons, it is not accurate to suggest that costs of fundraising are a measure of efficiency.





charitable fundraising. Nor is this measure the main guide which the public uses to determine whether to make a gift to a charity. International regulation also steers away from prescribing ratios as these are not effective regulatory tools.

Effectiveness – and efficiency - in compliance and enforcement are critical elements in ensuring that the burden of compliance does not place an unreasonable organisational (resource) demand, adding to the overall costs of fundraising.

FIA accepts that costs of fundraising are one of several indicators that nonprofit organisations may wish to utilize for reasons relating to managing their internal systems and costs or for sector specific benchmarking exercises that may be conducted occasionally by fundraising practitioners. It is opposed however to any specific percentage or cost of fundraising ratio being used for purposes of regulation. Costs of fundraising are likely to vary according to organisational size, profile, cause and method of fundraising.

FIA recommends removing the imposed percentage to Schedule 1, Clause 8 altogether.

Schedule 1, Clause 18: Traders

FIA proposes that traders should be registered as fundraisers in a separate register or included in the current register listing as a trader. Currently, the Regulation requires the charity to send a letter of authority to traders who fundraise on their behalf. FIA believes traders who fundraise have a responsibility to comply with the Regulation as well as the charity. Regulation as it stands has meant charities are responsible for enforcing compliance with regulation for traders who fundraise on their behalf. This is impractical and often impossible to monitor. The Victorian Government requires traders to register before fundraising on behalf of any charity. The register notes their beneficiaries and role as a commercial operator.

Schedule 2: Conditions relating to participation of children in fundraising appeals

FIA members have raised some concerns about the use of children in fundraising appeals. FIA recommends the inclusion of a clause requiring fundraisers involved in children





fundraising to undergo a 'working with children check' similar to NSW Department of Education and Training².

Yours sincerely

Dr Sue-Anne Wallace FAICD MFIA
CHIEF EXECUTIVE OFFICER

² NSW Department of Education and Training, *Working with Children Check Policy*
Link: https://www.det.nsw.edu.au/policies/student_serv/child_protection/work_child/PD20050264.shtml
Accessed 14 July 2008





APPENDIX 1 Fundraising Institute Australia Background

We exist to make the world a better place by advancing professional fundraising through:

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Fundraising Institute Australia (FIA) established in 1968 is the national peak body for fundraising in Australia. FIA is a company limited by guarantee. As a nonprofit body, FIA is recognised as a charitable institution. The Library Trust Fund, a Deductible Gift Recipient, is run wholly through FIA.

Membership

FIA has approximately 1,600 members including over 80 Organisational Members with a turnover of \$1 billion. FIA engages with over five thousand fundraisers across Australia through its professional development programs.

What do charities do for Australia?

The Giving Australia report³ estimates the charitable sector is worth \$11 billion dollars to the economy in 2004. From figures taken from 1995/1996, Professor Mark Lyons estimates that “the third sector contributes 4.8% to the adjusted GDP”⁴ in Australia. The sector provides services to welfare and rights (51.6%), education (20.5%), cultural organisations (13.7%), health (4.5%), environmental (1.5%) and others⁵.

Professor Lyons notes that the contribution made by the charitable sector cannot just be measured economically. The services and social impact the charitable sector provides is immeasurable and invaluable.

³ *Giving Australia, Research on Philanthropy in Australia*, Australian Government Department of Family and Community Services, Canberra, October 2005. This project was led by The Australian Council of Social Services, with QUT’s Centre of Philanthropy and Non-profit Studies, University of Technology, Sydney’s Centre for Australian Community Organisations and Management, Fundraising Institute Australia Ltd, Roy Morgan Research PL and McNair Ingenuity Research PL.

⁴ Lyons, Mark *Third Sector: the contribution of nonprofit and cooperative enterprises in Australia* (Allen & Unwin, 2001) pp 198

⁵ Queensland University of Technology, Australian Centre for Philanthropy and Nonprofit Studies. Current Issues Information Sheet 2006/5: ATO Data Deductible Gift Recipients.

Link: http://www.bus.qut.edu.au/faculty/schools/accountancy/documents/CurrentIssues2006_5DGR2005.pdf

Accessed 17 April 2008

*Figures quoted are the percentage of organisations in each category.





APPENDIX 2 How to Choose a Charity

With over 22,000 Australian charities*, choosing a charity to support can be challenging.

We have put together a guide to assist you in deciding which charity is the right one for you.

*This figure is the number of Australian charities with Deductible Gift Recipient (DGR) status. There are many more charities that do not have DGR status.

Here are some questions to consider when you are choosing a charity.

What cause are you interested in supporting?

Are you passionate about animals, human rights, the environment, the arts, scientific research, education, welfare, health, sports, poverty or international affairs?

How can you help?

Decide whether you would like to support your charity financially or by donating your time and skills. Find out how you can get involved in your charity

Is the charity making a difference?

How is your charity working to achieve its mission?

Check its annual report to see what your charity has achieved in the past year.

What goals is your charity intending to achieve and how is it planning to do so?

You should have confidence in your charity.

Does your charity comply with FIA's Principles and Standards of Fundraising Practice?

Are you comfortable with how your charity is achieving its mission?

What makes your charity different?

What differentiates your chosen charity from others with similar missions?

Is your charity a deductible gift recipient (DGR)?

If so, your gift will be tax deductible.

Once you've chosen your charity, give and give as generously as you can.

Help your charity to reduce their administrative costs by giving generously, without being asked.





When you are satisfied with the answers you get from your charity, you will be able to donate generously, with confidence that your donation will be used effectively and efficiently to aid the cause that you are most passionate about.

If you would like further information on fundraising, go to www.fia.org.au.

