



**FUNDRAISING INSTITUTE AUSTRALIA**  
**SUBMISSION TO STATE SERVICES**  
**AUTHORITY'S**  
**REVIEW OF NFP REGULATION**  
**MAY 2007**



*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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## SUBMISSION TO STATE SERVICES AUTHORITY

### 1. BACKGROUND

#### ***Fundraising Institute Australia***

Fundraising Institute Australia (FIA), established in 1968, is the peak national body for fundraising in Australia. FIA is a company limited by guarantee. As a nonprofit body, FIA is recognised as a charitable institution.

#### Purpose

*We exist to make the world a better place by advancing professional fundraising through advocacy of standards, professional development pathways and measurable credentials so that our members can achieve best practice.*

#### Membership

From 1 July 2007, FIA members may be individual professional fundraisers or fundraising organizations. Currently, FIA engages with over three thousand fundraisers, representing more than two thousand nonprofit organisations, who subscribe to FIA's information services or attend FIA's professional development programs. Full membership of FIA at May 2007 comprised almost one thousand five hundred fundraisers.

Compliance with FIA's Code of Professional Conduct and Ethics is mandatory for FIA members.

### 2. SSA REVIEW OF NFP REGULATION

In commenting on your review of regulation of the not for profit (NFP) sector we have found it useful to consider the key function of the State Services Authority as these are also key functions of the NFP sector, viz.:

- Improving service delivery outcomes and standards;
- Promoting high standards of integrity and conduct;
- Strengthening professionalism and adaptability; and
- Promoting high standards of governance, accountability and performance.

In the light of our common interests in the health and robustness of the NFP sector, FIA welcomes the opportunity to submit a proposal for consideration by the SSA and the Victorian Government within the context of this review, namely:

- Reducing the regulatory burden (administration and compliance); and
- Maintaining accountability and transparency

in all aspects of NFP performance and service delivery. We further note your comment that 'regulation is a tool used by government to help to build trust and confidence in the sector and facilitate its important work'.





## 2.1 PRIOR REVIEWS TO REDUCE REGULATORY BURDEN

I attach (Attachment 1) FIA's submission to the Treasurer of Victoria (12 September 2006) in which FIA put forward a number of areas for consideration with regard to the regulatory burden:

RECOMMENDATION 1: COMPLETE THE REVIEW OF THE FUNDRAISING APPEALS ACT 1998

Additional areas in which the administrative burden of regulation of fundraising can be reduced:

RECOMMENDATION 2: REVIEW THE IMPACT OF FUNDRAISING REGULATION ON SMALL AND MEDIUM ENTERPRISES (SMES) TO REDUCE COMPLIANCE AND ADMINISTRATIVE BURDEN

RECOMMENDATION 3: ENHANCE COORDINATION BETWEEN CONSUMER AFFAIRS VICTORIA AND THE VICTORIAN COMMISSION FOR GAMBLING REGULATION TO REDUCE ADMINISTRATIVE BURDEN

RECOMMENDATION 4: REVIEW EXEMPTIONS FROM THE FUNDRAISING APPEALS ACT 1998 TO REDUCE INEQUITIES IN COMPLIANCE AND ADMINISTRATIVE BURDEN AND ENHANCE PUBLIC TRUST AND CONFIDENCE IN FUNDRAISING

RECOMMENDATION 5: DETERMINE MEANINGFUL TOOLS TO MONITOR COMPLIANCE – COSTS OF FUNDRAISING ARE NOT A MEASURE OF COMPLIANCE OR EFFICIENCY.

These priorities are more fully described in the document forwarded to the Treasurer on 12 September 2006 attached (Attachment 1). Since putting the submission to the Treasurer, we have continued to undertake further work and research on industry codes and make the following comments as a means by which the government could benefit from universal compliance with the codes.

## 2.2 GOVERNMENT REGULATION AND UNIVERSAL COMPLIANCE WITH INDUSTRY CODES

FIA's priority 2006 through 2008 is to develop comprehensive standards of fundraising practice.<sup>1</sup> This project was driven by independent research conducted by

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<sup>1</sup> **Elements of the Codes of Fundraising Practice:**

Principles:

- Code of Ethics, Code of Professional Conduct, Code of Acceptance and Refusal of Donations, The Donor's Bill of Rights, The Enforcement Process

Standards:





FIA in 2004 attached (Attachment 3) which pointed to the importance of industry self-regulation balancing government regulation to provide the Australian community with assurance of accountability for their charitable gifts.

The Codes aim to:

- support the rights of donors who make gifts
- establish a code of conduct for fundraisers
- guide fundraisers in ethical and professional practice
- enhance self-regulation of the fundraising industry

FIA's Codes are principles based and are mandatory for FIA members who, from 1 July 2007, will include both organisations and individuals. **Mr Matthew Turnour, ethicist and lawyer, who was recently a guest speaker at Queensland University of Technology's Centre on Philanthropy and Nonprofit Studies, commented publicly that the most exciting advance in industry management of ethical and professional conduct, is the overhaul of FIA's codes.**

Victorian Government legislation and regulation applies to a minority of organisations engaged in fundraising. FIA's analysis of the capture through registration estimates that because of the exemptions only 20% of fundraising income in Victoria is regulated through the Fundraising Appeals Act. The basis for this claim is that there are fewer than 2,000 organisations on the CAV Register, whereas approximately 15,000 organisations are actively fundraising. The compliance burden, which therefore impacts unevenly, is referred to in the attached paper of 12 September 2006 (page 6, 2 (i)) (Attachment 1).

Clearly there is a significant gap between compliance with government legislation and regulation of fundraising and industry compliance through mandatory codes.

FIA believes that SSA should consider the model that has been in place for the past ten years with the mandatory Code of Conduct run through the Australian Council for International Development (ACFID).

#### Australian Council for International Development (ACFID) Code of Conduct

It is mandatory for those members of ACFID who access federal government funds to be a signatory to the Code of Conduct. For those non-members who access federal funds it is mandatory that they are a signatory of the Code. They are not required to become a member of ACFID. Code signatories have a period of twelve

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- Code of Events, Code of Personal Solicitation of Public Places (F2F), Code of Telephone Fundraising and Telemarketing, Code of Payroll Giving and Matched Giving Schemes, Code of Bequests, Code of Raffles, Lotteries and Games of Chance, Code of Workplace Giving Partnerships, Code of Charity Challenge Events, Code of Fundraising from Grant Making Trusts and Foundations, Code of Fundraising in Schools, Code of e-Fundraising, Code of Reciprocal Mailings, Code of Direct Mail, Code of Direct Marketing





months to ensure complete compliance with the code as some requirements relate to governance and the organisation's constitution.

In a recent talk to the Code of Conduct Committee the officer from the Department of Foreign Affairs and Trade noted the importance of the mandatory code as a risk management tool for government in assuring accountability and transparency in use of government funds, in addition to providing the Australian public with assurance of accountability for their gifts. AUSAID covers in this way both financial and reputational risks of fundraising.

Forensic audits monitor government regulation in ensuring financial compliance (financial risks) and industry open self-regulation in ensuring behavioural compliance (reputational risks).

RECOMMENDATION 6 TO CLOSE THE GAP BETWEEN GOVERNMENT REGULATION AND INDUSTRY SELF-REGULATION:

- that the Victorian Government require all fundraising to be undertaken in accordance with an approved industry code;
- that the Victorian Government work with Fundraising Institute Australia to develop an industry code for fundraising practice (as proposed in the Government's Review of the Fundraising Appeals Act 1998 Proposals for Reform published 2005); and
- that the Victorian Government review the exemptions to the Fundraising Appeals Act and consider their impact on accountability and transparency in fundraising, thereby posing a threat to public trust and confidence.

### 2.3 GOVERNMENT RESPONSIBILITIES FOR ISSUES RELATING TO THE NOT FOR PROFIT SECTOR

There are various aspects of regulation of the NFP sector that sit in different departments including:

Consumer Affairs Victoria  
Victorian Commission for Gambling Regulation  
Department for Victorian Communities

This duplication creates an administrative burden that could be simplified to the benefit of NFP organisations, and indeed government.

Internationally the concept of a charities commission to consolidate the activities regulated by government has been widely adopted. No Australian government has adopted this structure. However a precedent exists in the way in which states and the federal government have considered the issue of women's affairs. A model that might be considered, therefore, is the model for the Office of Women's Policy (OWP), located in the Department for Victorian Communities, providing strategic policy





advice to the Victorian Government, with the aim of creating better outcomes for all women. This is not necessarily to presume that a charities office would sit in DVC.

RECOMMENDATION 7 TO CREATE EFFICIENCIES IN GOVERNMENT REGULATION OF THE NFP SECTOR AND ENHANCE THE SUSTAINABILITY OF THE NFP SECTOR:

- that the Victorian Government consolidate the regulation of the NFP: sector in one department/office

#### 2.4 GOVERNMENT ROLE IN THE PROMOTION OF THE VALUE OF THE NOT FOR PROFIT SECTOR TO VICTORIAN SOCIETY

Australia's nonprofit sector, beginning with the Benevolent Society in 1813, now consists of a wide spectrum of organisations addressing societal needs. Nonprofit organisations are the major providers of community services, sport and the representation of collective interests. They are significant providers of education and health services, arts and culture and hospitality services. They are the exclusive providers of religious services. This is a representation much broader than the traditional charitable organisations.

The \$11billion fund which the NFP sector contributes annually to Australian society (estimated at \$4 billion to Victorian society) is generally hidden in the blurred environment between government and business. Government has neglected the important role the NFP sector plays in development and maintenance of core services to society. While the NFP's intersection with society is community based, its importance is national.

RECOMMENDATION 8 TO MAKE PUBLIC THE VALUE OF THE NFP SECTOR AND THE IMPORTANCE OF PUBLIC GIFTS FOR ITS WORK

- that the Victorian Government develop, in partnership with the NFP sector, a public relations campaign to promote:
  - the value of the NFP sector to Victorians
  - its diversity
  - its integrity through an industry code of conduct
  - its accountability through government regulation

Such a campaign relating to statutory and non-statutory processes is, in the opinion of FIA, a government role in ensuring there is public awareness of regulation. A NSW initiative run by FIA in cooperation with the NSW Government, Charity Awareness Week, could also be adopted by the Victorian Government.

#### 2.5 BUSINESS ASSISTANCE TOOL KIT





The Victorian Government could assist NFP organisations in understanding issues of governance and management.

With consultant Dr Ted Flack, FIA has recently completed a project with the Queensland Government to develop a Business Assistance Tool Kit, a manual to assist NFPs to better manage their responsibilities concerning corporate governance, financial management, risk assessment, management and regulatory compliance. Minimal additional work would be required (est. \$10,000) to update the manual for Victorian NFPs. Such a manual could be provided to new NFPs at the time of incorporation and to organisations registering to undertake fundraising.

RECOMMENDATION 9 TO ENHANCE THE SUSTAINABILITY OF THE NFP SECTOR BY PROVIDING APPROPRIATE TOOLS TO ASSIST ORGANISATIONAL MANAGEMENT

- that the Victorian Government develop an industry manual/ business assistance tool kit to assist Victorian NFPs address better their management and accountability.

2.6 RESPONSES TO SECTIONS 5.1 AND 5.2 OF THE REVIEW

*5.1 NFP regulation*

*5.2 Government systems, processes and reporting requirements*

FIA has sought the comments of its members in drawing together broad conclusions about the regulation of the sector. The questions you have asked under 5.1 and 5.2 require responses from NFPs undertaking fundraising in Victoria.

RECOMMENDATION 10: GATHER DATA FROM VICTORIAN NFPS

- That the Victorian Government assist FIA to survey its members (429 individuals working in 269 organisations) to gather specific data in response to questions 5.1 and 5.2.

