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Re: Charitable Fundraising Amendment Bill 2020

Dear Anjaline,

Thank you for including FIA in your public consultation of proposed regulation changes to the Charitable Fundraising Regulation 2020. I am writing to provide additional comments, having now had an opportunity to consider the Regulatory Impact Statement (RIS).

FIA agrees that Option 1 brings confusion, shows little guidance and would be costly to the Government. Option 2 of maintaining the status quo will not improve public confidence in the sector and could create uncertainty for charitable fundraisers as the Bergin Report's law reforms would not be introduced. The regulatory framework gaps would decrease the Regulator's effectiveness.

Option 3 is the preferred option in FIA's view in that it streamlines current rules that are scattered across different documents into one singular document. It improves compliance and promotes self-regulation as there will be less confusion around how to comply with the charitable fundraising regime. Better accountability and compliance will boost public confidence and perception of charities in NSW. FIA also agrees with the Government that Option 3 provides the greatest net benefit in comparison to the other options and is the preferred option.

We welcome the initiative to reduce red tape by building accountability and transparency for fundraising into the Act, thereby eliminating fraudulent activity in charitable fundraising and accountability standards and ensuring that the interests of intended beneficiaries are protected.

FIA is also supportive of measures aimed at aligning financial and reporting requirements with the ACNC. We also appreciate the effort that appears to be made to bring it into alignment with other states (Victoria, Western Australia and South Australia) in regard to licensing conditions and enforcement provisions.

In FIA's view, this will facilitate better compliance, governance and increased transparency as charitable funds obtained from appeals can be appropriately identified and traceable to their source.

5.1 Definition of key terms

"Fundraising appeal" or "appeal" is not clearly defined in this existing or proposed Act and we would recommend a clear definition of what constitutes an appeal. For example, we tend to refer to "appeals" as a targeted direct mail activation or a large-scale campaign. However, it's not clear if this encompasses all fundraising activities or those with mass marketing or public facing efforts.

5.7 Receipts must be issued for all money received, clause 16

We had some initial concerns around the strong wording of "must", particularly when it comes to third-party fundraising. However if we interpret the wording "a single receipt can be issued for the gross amount of money if it is received through a collection box or device" to be encompassing of third-party and peer-to-peer fundraising collections, then this should be ok. Although I would question who is to be the receipt recipient of a collection box?

5.8 Record keeping requirements, clause 17

Without a clear definition of fundraising appeal, these administrative requirements associated with this section are still unclear. Regardless, keeping records of income and expenditure for "each appeal" will require far more administration and financial management than present. This clause feels like an administrative burden and increases the administrative red tape for charities. If we are to provide detailed income/expenditure reporting for each individual fundraising appeal, this will significantly impact the workload of both fundraising and finance teams.

Further, as there is no standardised accounting framework for how charities define expenses, there will be great inconsistencies in how this is measured. For instance, do salaries come under appeal expenses? How should charities determine if an expense is specific to an appeal, especially if amortised across the fiscal year?

5.8 Record keeping requirements, clause 18

Recording "all persons associated with the appeal, including all traders, paid employees and all volunteers, and the activities they engage in, regarding the fundraising appeal" seems like another

admin-heavy and unnecessary task. We can understand the need for recording with a large-scale volunteer collection event, but for ALL fundraising appeals seems absurd. (Again, a definition of appeal would be helpful here).

As an example, with the case of a traditional direct mail appeal would it be required to capture the names of the whole fundraising team, the support/case worker who introduced the case study, the volunteers who helped fold and mail the letters, the CEO as the signatory, anyone who reviewed it, the names of the people at the mailhouse who printed it, the team who process the incoming donations? It is unclear and again, increases the admin load for charities already stretched for resources.

5.9 Financial reporting, clause 19

Further to the feedback discussed in 5.8:17, requiring the annual financial report to contain “an income statement that summarises the income and expenditure of each fundraising appeal” requires further unnecessary admin for our financial management teams. It also draws attention to individual fundraising items, when an overall fundraising income/expenditure should suffice. There will always be fundraising activities with higher/lower ROI and financial merit – it’s our role to ensure we have a good balance to provide a sustainable future and an overall positive net return. Defining the individual expenses and return for each appeal is unnecessary and has the same challenges outlined in the earlier clause.

Furthermore, FIA’s members have particular concern to point 5.8 Record keeping requirements, clause 18 – as a volunteer based organisation with thousands of members raising funds at key appeal times throughout the year in their local communities, the need to register each of these volunteers would be prohibitive given the lack of adequate administrative support staff available in those communities/regions.

Overall, FIA find many of these changes to be adding to the administrative requirements for charities, and not in a way that is productive or helpful. We are supportive of changes that improve transparency in fundraising overall, but do not believe that these admin-heavy tasks will result in improvements to the way fundraising is conducted by charities. We also welcome the new data sharing arrangement between the ACNC and NSW which will enable entities that are registered with the ACNC to submit financial reporting directly to the ACNC. However, we seek further clarification on what is needed regarding a charity’s liability (accountability) for the actions of individuals who undertake fundraising on behalf of a charity without the prior knowledge and consent of the charity. Some limitation on the charity’s liability should be considered.

In FIA’s view, the proposed amendments that would make former board members accountable for up to ten years after the event in question appears to be excessive. While we understand and support the intent of the provision, we believe this measure is likely to have a chilling effect on the

sector, making it harder than ever to attract skilled and competent board directors. Introducing a five-year duration for authorities to fundraise would be more consistent with the broad objective of the amendments to reduce paperwork.

FIA welcomes the initiative to remake the regulation and introduce stronger accountability measures in terms of clearer record-keeping and accounting requirements, FIA also welcomes a consolidation and streamlining of current rules that are scattered across different documents and move them into one singular regulatory document. FIA agrees the enhancement of the regulation will enhance the level of community engagement and confidence with the sector, meaning greater revenue, impact and benefit to charities and their beneficiaries.

We look forward to further consultation on this and other proposals.

Regards,



Katherine Raskob
Chief Executive Officer