

FUNDRAISING INSTITUTE AUSTRALIA
Charitable Fundraising in Australia
Proposed cross-border recognition model for charitable fundraisers
Discussion paper
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FIA welcomes the opportunity to make a submission to the NSW Department of Fair Trading in relation to the proposed cross-border recognition model for charitable fundraisers.

About FIA

Fundraising Institute Australia is Australia's national peak body representing professional fundraising in Australia. It has over 1200 members who are charities, NFPs, suppliers of fundraising services and individual fundraising professionals.

Most major registered charities are FIA members, accounting for more than 80 per cent of the nearly \$10.5 billion donated by Australians each year.

As the peak body for fundraising, FIA champion and facilitate best practice, with a self-regulatory Code for ethical fundraising and through professional development, networking and advocacy for all members.

In this submission, FIA recommends that

1. The proposed model be agreed to by all states and implemented by the end of 2020.
2. Improvements to the model be made to achieve true harmonisation.
3. Development of a **National Fundraising Framework** to streamline all fundraising regulations into one consistent model as part of FIA's **Red Tape Reduction Action Plan (RTRAP)**

Proposed Model

FIA has welcomed the recent public consultation of proposed cross-border recognition model for charitable fundraisers.

FIA feel the proposed model assists in streamlining current rules that are scattered in multiple jurisdictions. We feel this will improve compliance and promote 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 while providing significant savings of \$15.1 million per year.¹ These changes can be implemented by the end of 2020.

FIA welcomes the proposal that once registered with the ACNC, a charity would no longer have to register for fundraising separately in individual jurisdictions. This is a good first step and signifies a model of mutual recognition that can be built upon. FIA acknowledges that majority of jurisdictions have already moved or have agreed to move to deemed fundraising authority. However, we recommend important improvements.

FIA recommends that all jurisdictions commit to automatic notification which would remove an unnecessary step and in line with current jurisdictions that allow it.

The discussion paper indicates that states and territories will retain their existing regulatory regimes. FIA feels that states and territories should agree to a National Fundraising Framework set out in our Red Tape Reduction Action Plan (RTAP) which would assist in further streamlining and reducing the financial cost to charities.

If states and territories were to agree to a list of, perhaps their top 10 requirements shared by each, this would significantly reduce the red-tape burden for many charities.

¹ <https://www2.deloitte.com/au/en/pages/economics/articles/cutting-red-tape-align-charity-regulation.html>

FIA believe auditing requirements and financial thresholds should be aligned in all jurisdictions with the ACNC standards. FIA feels the ACNC should have the power to investigate charities and require additional auditing and financial scrutiny if they believed malpractice had occurred. Information provided to the ACNC should include what fundraising appeals occurred in each state, which commercial fundraisers were used, how much money was raised in each state.

We welcome the role the NSW Government has taken in reducing red tape for the Charities sector. FIA is supportive of the measures outlined in the financial and reporting requirements within the ACNC. We also appreciate the efforts that appear to be made in bringing it into alignment with other states (Victoria, New South Wales, ACT, Western Australia and South Australia) in regard to licensing conditions and enforcement provisions.

FIA welcomes the new data sharing arrangements between the ACNC and all jurisdictions 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.

However, FIA feels although this discussion paper is a good first step in achieving harmonisation, there are additional areas required to achieve further red tape reduction. FIA proposed in 2019 a plan to reduce red tape as follows:

Red Tape Reduction Action Plan (RTRAP)

- 1) **Develop a basic licence approach** that could be adopted across all states and territories. Work with the ACNC and states/territories on a technological solution to enable one stop licensing for national campaigns.
- 2) All state and territory fundraising regulators to establish a **'one-stop' arrangement** for ACNC registered charities to reduce the compliance costs of licensing and reporting both to the ACNC and State and Territory fundraising regulators
- 3) Federal and State Governments appoint an expert panel to develop a **National Model Fundraising Framework** (12-week timeframe) in close consultation with state and territory regulators and not-for-profit peak bodies.
- 4) **Negotiate the progressive amendment** of state and territory existing fundraising legislation to comply with the agreed National Framework.
- 5) **Amend the ACNC legislation** to include powers to allow the ACNC to register the fundraising activities of charities in accordance with the National Model. (State and territory regulators would continue to regulate non-charity, not-for-profit fundraising entities.)

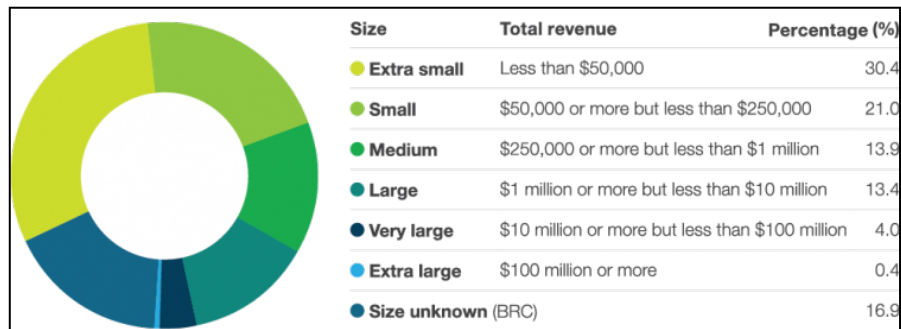
FIA acknowledges states and territories whom have completed steps 1 and 2 as part of their regulatory reform agendas.

Exemptions from fundraising authority

Many charities and other not-for-profit organisations are exempt from fundraising legislation in each jurisdiction. Many jurisdictions provide a wide variety of exemptions (for example for religious organisations) or because they are so small (under \$15k in NSW and under \$20k in Victoria). Based on the ACNC's most recent [Charities Report](https://www.acnc.gov.au/tools/reports/australian-charities-report-2018)² almost a third of Australian charities are defined as 'extra

² <https://www.acnc.gov.au/tools/reports/australian-charities-report-2018>

small', with total revenue of less than \$50,000. These charities are much less likely to register with the ACNC and therefore would fall under their state's regulatory purview.



FIA encourages all jurisdictions to raise their fundraising exemption thresholds simultaneously to \$50,000. The administrative burden this would be considerable and deliver a huge benefit to some of Australia's smallest charities.

Financial Costings

Under current regulatory regimes the average cost to comply with the all the various state and territory requirements is \$15.1ⁱmillion per year.

Conclusion

FIA agree to the proposed implementation of the cross-border recognition model for charitable fundraising as a start. However, we believe additional steps need to be taken urgently and have outlined recommendations state and Commonwealth regulators can take to significantly reduce red tape, save charities significant costs during a critical time and as a result, strengthen the fundraising sector for the future.

Reform of the sector is urgently needed in the charities and not-for-profits sector. By adopting our proposed red tape reduction action plan (RTRAP) we firmly believe further harmonisation reforms can occur before the end of 2021.

FIA recognises that harmonisation is an essential policy reform agenda. We believe there is an ongoing role for charities and Government to work closely together to achieve our aims.

ⁱ <https://www2.deloitte.com/au/en/pages/economics/articles/cutting-red-tape-align-charity-regulation.html>