BAKER IDI RESPONSE TO:

Discussion Paper - Charitable Fundraising Regulation Reform

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Preamble

Baker IDI Heart and Diabetes Institute welcomes the opportunity to respond to the *Charitable Fundraising Regulation Reform - Discussion paper* and *draft regulation impact statement.*

Baker IDI is one of Australia's largest independent not-for-profit (*NFP*) medical research facilities.

Securing financial support is a very real consideration for the institute, particularly in the current climate of global financial insecurity and the pressures on governments and their budgets. These challenges are not unique to Baker IDI. Across the charities and NFP sector, there is increasing pressure to find new revenue streams to ensure long term viability. Baker IDI relies heavily on fundraising from corporate and private donors to continue its work. However, getting people to give more in austere and uncertain times is not easy.

Australia is well–placed to build a strong, reliable base of philanthropic support for medical research. We represent only 0.33% of the global population, coming in 54th on a global ranking of population size, while boasting the 7th highest per capita Gross Domestic Product in the world. On a measure of our personal generosity, Australia was ranked on the World Giving Index 2011 as the most 'charitable giving country', with 70% of the population giving money to charities and 38% having volunteered time for an organisation in the last month.

Currently, Commonwealth, state, territory and local governments regulate different parts of the NFP sector for different and overlapping purposes. For example, laws under each jurisdiction provide tax concessions, exemptions from registration and permit requirements and exemptions or limitations on legal liability, and impose fundraising and lottery regulations. Opportunities to consolidate these various regulatory functions and remove overlap and duplication need to be fully explored as part of the review of charitable fundraising regulation, rather than the review being conducted in isolation.

Reform to charitable fundraising regulation is long overdue. Every Australian State and Territory (except the Northern Territory) has a different regulatory framework for charitable fundraising.

However, we need to be clear what we are striving for here. Transparency and information is essential, but so too are accessible opportunities to give and a clear demonstration of impact. We need to make fundraising easier and we need to make giving easier. This money is important and will make a difference. A giving culture is an essential part of what makes society function.

A nationally consistent approach to fundraising regulation, reducing the red tape and streamlining reporting will genuinely assist the NFP sector and make fundraising easier. Currently fundraising legislation is the province of state and territory governments each differing in relation to the scope of regulated activities and entities and requirements in relation to registration, information disclosure and reporting. These differences impose a significant compliance burden on the sector, particularly for organisations such as Baker IDI operating at a national level. The success of any reforms in this area will therefore be almost entirely dependent on state and territory governments implementing the national approach to fundraising. The worst possible result would be the introduction of yet another layer of fundraising regulation on top of what already exists.

We also note that the Australian Government is concurrently progressing other reforms in the law and regulation of charities and NFP organisations including the establishment of the Australian Charities and Not for Profits Commission (*ANC*) (expected on 1 July 2012) and introduction of a statutory definition of charity (expected on 1 July 2013). Coordinating implementation of charitable fundraising regulation reform with other reforms (in particular registration by the ACNC) will also be critical to the success of the new regime.

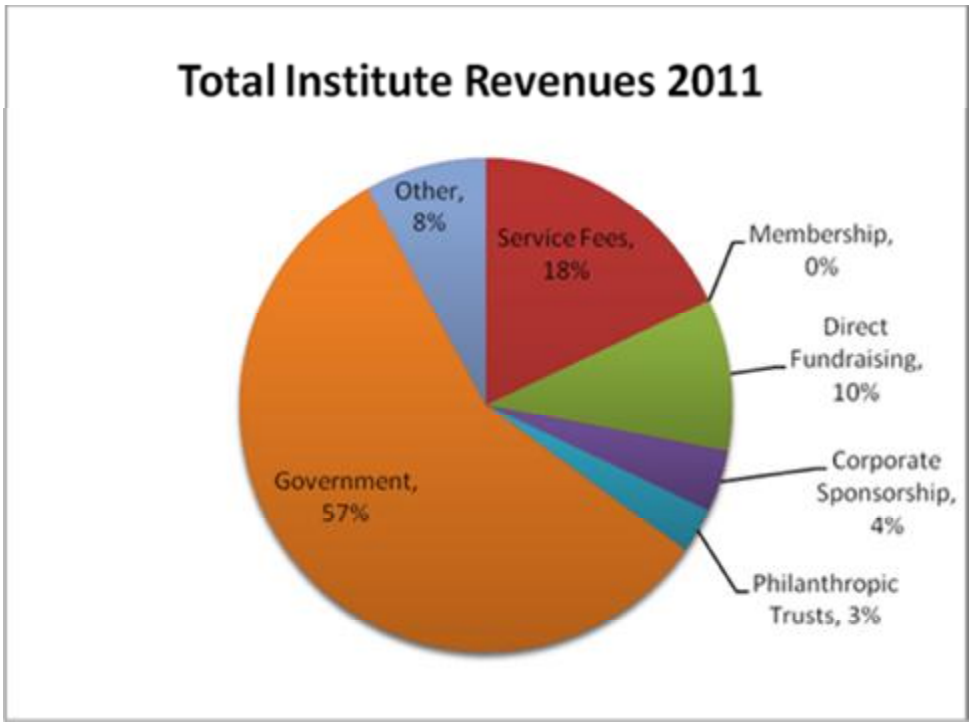
Baker IDI supports the shift from detailed and prescriptive rules towards principle-based, outcome-focused and proportionate regulatory approaches. It is important that regulation can respond rapidly to changes in technology or society. Principles are far more flexible and durable thereby minimising unnecessary restrictions, impositions and regulatory duplication. A proportionate regulatory regime will provide the support necessary to allow the NFP sector to continue to make its vital contribution to Australian civil society. Public (and government) trust and confidence in the sector, in turn, helps charities and other NFPs achieve their mission.

About Baker IDI

Baker IDI Heart and Diabetes Institute is an internationally renowned medical research facility. The institute's work extends from the laboratory to hospital research and wide-scale national and international community studies with a focus on diagnosis, prevention and treatment of diabetes and cardiovascular disease.

Baker IDI was created in 2008 after the merger of the Baker Heart Research Institute and the International Diabetes Institute (IDI). The Baker Heart Institute was established in 1926 and last year the merged entity celebrated 85 years of medical research.

As one of Australia's largest medical research facilities Baker IDI employs in excess of 600 people across three Australian states as well as Singapore. The institute receives annual revenue in excess of $70 million from a broad range of sources as shown in the following chart:



In terms of governance Baker IDI is a public company limited by guarantee, subject to the requirements of the *Corporations Act*, with a board of experienced directors who have responsibility for overseeing the company's affairs. The Institute must act in accordance with the objects in its Constitution, which are clearly defined and are consistent with its NFP status as a health promotion charity.

Our wide range of funding partners ensures an equally wide range of reporting requirements. Each of the federal government through DoHA and NHMRC, state government, commercial partners, philanthropic trusts and foundations and international research funders like the Juvenile Diabetes research Foundation (JDRF), require evidence of our robust governance structure when applying for funding as well as comprehensive reporting on our grant expenditure against contractual obligations.

As a deductible gifts recipient we are required to comply with ATO governance and reporting requirements, and are subject to annual audit by our external auditors Ernst Young.

Responses to consultation paper questions

Baker IDI provides the following responses to questions of relevance from the consultation paper.

Consultation questions

Chapter 2 – Defining the scope of regulated activities

2.1 Is it necessary to have specific regulation that deals with charitable fundraising? Please outline your views.

Baker IDI supports regulation of charitable fundraising to protect the public from fraud, maintain public faith in the fundraising methods of organisations holding themselves out as charities and maintaining the revenue base for the sector's charitable activities.

A nationally consistent approach to fundraising regulation will genuinely assist the NFP sector, and be welcomed by Baker IDI. The overarching goal of any such regulation should be to facilitate and support the further development of the NFP sector and its contribution to Australian society. Replacement of the complex and highly prescriptive rules-based regulation which currently exist in most states and territories with a standardised registration scheme which requires only that information which is truly needed and useful to ferret out and prosecute fraudulent operators and solicitation activities would benefit the sector, regulators and the community.

2.2 Is there evidence about the financial or other impact of existing fundraising regulation on the costs faced by charities, particularly charities that operate in more than one state or territory? Please provide examples.

The direct and indirect economic costs of state regulatory costs to the sector typically include costs associated with obtaining and maintaining the necessary authorisations in each individual state and territory in which fundraising activities are to be conducted. There are also the costs associated with the auditing of financial statements and other reporting and notification requirements, "overhead" compliance costs, as well as atypical compliance costs incurred by being the target of regulatory enforcement activity. The inclusion of disclosure statements in direct mail and telephone solicitations adds additional costs to any fundraising campaign, exacerbated by the differing requirements in different jurisdictions.

Significant hours by Baker IDI's legal team are spent ensuring compliance with the complex and inconsistent regulatory regime currently in place across different states and territories. Not all NFPs have this capacity. If the bar is set too high, only the well resourced will be able to comply.

While it is impossible to quantify or measure the actual costs associated with these activities it is clear that the burden is significant and its adverse impact on the return on fundraising investment should not be underestimated.

2.4 Should the activities mentioned above be exempted from fundraising regulation?

Baker IDI supports a nationally consistent approach to the exemption of activities from fundraising regulation. Currently, the scope of regulated activities and entities differs across the various states and territories. For example lotteries and raffles are regulated in some jurisdictions and are exempt

in others. However, the new scheme should be comprehensive as well as nationally consistent. A single legislative scheme covering all regulated fundraising activities is preferred to the exemption of certain fundraising activities which are regulated under another state or territory law, such as lotteries and raffles.

However, Baker IDI supports exemptions from fundraising regulation entirely those fundraising activities unlikely to raise significant public interest concerns or where there is no need to address information asymmetry.

2.7 Should national fundraising regulation be limited to fundraising of large amounts? If so, what is an appropriate threshold level and why?

A key principle of good regulation is that it is proportionate. If smaller scale fundraising presents less risk to the community in terms of loss or fraud accordingly, national fundraising regulation should be limited to fundraising of large amounts. The proposed monetary threshold level of $50,000 raised by a single entity, or a group of closely related organisations, seems appropriate.

2.8 Should existing state or territory fundraising legislation continue to apply to smaller entities that engage in fundraising activities that are below the proposed monetary threshold?

As the burden of compliance with differing state and territory fundraising legislation is acknowledged to be one of the key drivers behind a nationally consistent approach, continuing to apply existing state and territory legislation to smaller entities that engage in fundraising activities that are below the proposed monetary threshold, would result in the greatest burden being imposed on entities that obtain the least financial benefit. Therefore, existing state or territory fundraising legislation should not continue to apply to smaller entities that engage in fundraising activities that are below the proposed monetary threshold.

2.9 Should a transition period apply to give charities that will be covered by a nationally consistent approach time to transition to a new national law? If so, for how long should the transition period apply?

There will need to be clear transitional arrangements wherever possible to avoid imposing unnecessary reporting requirements on existing charities and NFPs. For example, the ACNC could implement transitional arrangements that enable charities and NFPs to lodge financial reports in accordance with their existing requirements for at least the first reporting period.

2.10 What should be the role of the ACNC in relation to fundraising?

If the stated long-term objective of the ACNC to be a national 'one-stop shop' for NFP regulation is to be achieved, it is appropriate that the ACNC take responsibility for all fundraising regulatory functions for the NFP sector. Currently registration by the ACNC is proposed to be voluntary however, registration is required if NFP entities wish to access Commonwealth support earmarked for the sector, including exemptions, concessions and benefits. If registration by the ACNC also allowed organisations to engage in fundraising activities, a significant reduction in complexity may be achieved for the sector, at the same time adding to donor transparency through the public portal arrangements that the ACNC is proposing from 1 July 2013.

It needs to be clear what information will be collected by the ACNC, for what purpose, how it will be used, and most importantly, what information will be available on the ACNC's public information portal. The information collected needs to be restricted to that information necessary to protect the public from fraud and maintain public faith in charitable fundraising methods.

The ACNC register has the potential to increase free, public access to financial and descriptive information about charities and NFP. This can improve accountability and transparency. However, the ACNC's information portal should improve not exacerbate the current problem. Even Incremental increases in the amount of information the ACNC requires to be reported can place great pressure of those trying to cope with the pre-existing compliance burden. Any increase in information reporting requirements needs to be supported by a full const benefit analysis. Also, the potential for the register to lead to overly simplistic and misleading "league table" comparisons should be mitigated for example, by ensuring consistency in expenses and income reporting. Different charities calculate their costs differently for example some include staff some only include direct fundraising costs. The public need to be able to compare apples with apples.

2.11 Should charities registered on the ACNC be automatically authorised for fundraising activities under the proposed national legislation?

Yes, charities registered with the ACNC should automatically, upon registration, have authorisation to engage in Australia wide fundraising activities. Baker IDI supports the proposal that there be no fees on charities for applying and obtaining ACNC registration.

2.13 What types of conduct should result in a charity being banned from fundraising? How long should any bans last?

The ACNC should have the power to ban a charity from fundraising activities in certain circumstances such as insolvency and if there is evidence of significant wrongdoing in the course of fundraising, such as unscrupulous practices, fraud and misapplication of funds. However, any decision of the ACNC should be reviewable by the Courts.

Chapter 3 – Regulating the conduct of fundraising

3.1 Should the aforementioned provisions of the ACL apply to the fundraising activities of charities?

Extending the generic conduct provisions of the ACL to fundraising activities requires careful consideration. In particular, the sanctions and remedies must be appropriate to the charities and NFP sector. Further, the compliance burden is not insignificant. Application of the provisions of the ACL to charitable fundraising would require development, implementation, management and monitoring of a compliance management system to ensure legal and regulatory obligations in these areas are met. The cost-benefit analysis of applying the provisions of the ACL to the fundraising activities of charities needs to take account of these additional costs on the sector.

The division, in terms of jurisdictional and functional responsibilities, between the different enforcement agencies, would need to be clarified. At the national level, the ACCC is responsible for enforcing the generic consumer protections of the ACL. It is unclear whether the ACCC would continue to have enforcement responsibility if the ACL provisions are extended to fundraising

activities, or whether jurisdiction would be transferred to the ACNC. There are also eight lead consumer agencies that administer and enforce consumer protection policy in the States and Territories: NSW Fair Trading, Consumer Affairs Victoria (CAV), Queensland Office of Fair Trading (OFT), WA Department of Commerce, SA Office of Consumer and Business Affairs (OCBA), Tasmanian Office of Consumer Affairs and Fair Trading, ACT Consumer Affairs and Fair Trading and Northern Territory Consumer Affairs. Ascertaining which agency has jurisdiction in overlapping cases is likely to pose a considerable source of confusion for the public and the sector alike.

3.2 Should the fundraising activities of charities be regulated in relation to calling hours? If so, what calling hours should be permitted?

A single national regulatory framework should as far as possible not discriminate between different forms of charitable fundraising (including door-to-door and telephone). Replacing inconsistent state and territory regimes with a single, national approach would result in reduced compliance costs and improve consistency in enforcement approaches. Permitted calling hours should be 9am – 8pm seven days a week. These should not be able to be altered by state and territory legislation as is the case with the default calling hours under section 73 of the ACL.

Chapter 4 – Information disclosure at the time of giving

4.2 Should persons engaged in charitable fundraising activities be required to provide information about whether the collector is paid and the name of the charity?

It is most important that anyone wishing to fundraise clarifies the purpose of the appeal to those they are raising funds from. Accordingly, there should be a requirement to name the charity that the funds will support.

While transparency and information disclosure to protect the public from fraud and maintain public faith in charitable fundraising methods is in the public interest, it is not clear why there is a distinction between an employee paid a salary to do this work directly and a third party paid a fee to do this work on behalf of the charity. Charities that do not have the staff and resources to conduct all aspects of its fundraising activities in-house and therefore engage third party fundraisers for a fee to conduct components of their fundraising activities, should not be disadvantaged *vis a vis* larger charities which have the resources to conduct all of its fundraising activities in-house. The point should be to ensure that charities are responsible in planning their fundraising campaigns. To that end, a key safeguard is the requirement for a minimum percentage of the funds to go towards the purpose of the appeal and a requirement on the charity to ensure this. This needs to be averaged over all appeals and/or fundraising activities over for example, a 12 month period or the period of registration with ACNC, not on an individual appeal basis.

In Baker IDI's experience, providing potential donors with the name of the multiple organisations (third party fundraiser / charity on whose behalf it is raising funds) can lead to donor confusion. The message about the purpose of the appeal is diluted or even lost completely. This information should be available to prospective donors if they seek it, but it should not be mandatory at the time of the appeal.

4.4 Should specific requirements apply to unattended collection points, advertisements or print materials? What should these requirements be?

The various and differing legal and administrative requirements of different states and territories in relation to disclosure statements for face-to-face collection, unattended collection points, telemarketing and printed materials are an absolute compliance minefield and have involved considerable Baker IDI staff hours to navigate.

For example in relation to printed materials, currently not all States and Territories require disclosure of whether the collector is paid. Some jurisdictions require only the name of the collector and a statement that they are paid. Other states require identification of a paid collector by name, place of business, telephone number, fax number, email address and website address. In some states even the font size and display of the third party fundraiser's logo is specifically regulated. Some states and territories have extremely detailed requirements in relation to disclosure of the fees paid to third party fundraisers .

For example, regulation 15 of the *Charitable Fundraising Regulation 2008* (NSW) requires in any "advertisement, notice or information" amongst other things, disclosure of:

- details of the basis of the benefit to be received by the authorised fundraiser is to be calculated or provided (*not* to be expressed as a percentage of the "net" income obtained from the appeal) (emphasis in the original);
- details of the basis of the benefit to be received by the authorised fundraiser is to be calculated or provided (*not* to be expressed as a percentage of the "net" income obtained from the appeal) (emphasis in the original);
- the date the appeal commenced, or will commence, and the date on which it will end.

Suggested disclosure statements provided to Baker IDI by the NSW Office of Liquor, Gaming and Racing that would satisfy the above requirements are as follows:

- " (*full name of the trader) will receive a one off amount or a percentage of the first years pledge in undertaking this fundraising activity on behalf of (full name of the authority holder) and this will be paid within (number) months of receiving your pledge. Over the average period of the pledge, which has been calculated as (number) years (number) months, this amount will not exceed (number) per cent of the total average pledge amount from all donors".* (our emphasis)

- Details of the basis on which the benefit to be received by the authority holder is calculated or provided-where the authority holder does not incur any costs apart from the payment to the trader an acceptable disclosure would be "*(full name of authority holder) receives the remainder of the funds from the pledge appeal, to help it undertake its vital services".*

- Details of the basis on which the benefit to be received by the authority holder is calculated or provided-where the authority holder incurs additional costs to the payment to the trader an acceptable disclosure would be "*(full name of trader) receives the remainder of the funds from the pledge appeal and from that amount pays the other costs connected with the appeal. Over the average period of the pledge, this amount will not exceed (number) per cent of the total pledge from all donors. The balance of funds will help the authority holder undertake its services".*

The above disclosure statement is required in each piece of printed material. On a one page document, this can represent a considerable proportion of the page being dedicated to the disclosure statement. Often its inclusion can push the document over one page which results in a significant increase in printing costs.

There are similar requirements in relation to a "leaflet or advertisement" about an appeal under the *Collections Regulations 2008 (*Qld), including :

- a statement showing particulars of the arrangements to be made under the agreement about the beneficial entitlements of the promoter and the charity or association.

In this case, we have been informed by the Qld Office of Fair Trading that:

> *"the use of the wording "not exceeding" is not considered appropriate as it may imply that the fees paid may be significantly less, when the agreement provides for set fees.*
>
> (cf the example wording provided by the NSW Office of Liquor, Gaming and Racing above.)

The Qld Office of Fair Trading suggested instead to "use a range of payments between __% and __% OR a minimum of __%."

However, unlike NSW which requires the statement in each item of written material, in Queensland the disclosure statement is only required on the pledge form.

The requirements of telemarketing scripts in relation to disclosure of fees paid to third party collectors are less onerous. In both jurisdictions a disclosure of the percentage of donations that go towards the payment of fundraising expenses such as fees to commercial fundraisers is all that is required.

The requirements in most jurisdictions in relation to collections carried out personally are the least onerous – most jurisdictions requiring only a statement that the person is a "paid collector".

In Victoria, the public disclosure condition only applies where the fundraiser estimates that less than 50% of fundraising proceeds will be distributed to beneficiaries, in which case it applies to all fundraising activities it conducts. The percentage of proceeds can be averaged over all activities during the registration period.

Given these jurisdictional differences and idiosyncrasies, it becomes very difficult to have faith that the current regulatory regime in any jurisdiction is justified and proportionate.

As stated above, Baker IDI supports a principle-based, outcome-focused and proportionate regulatory regime (rather than a rules-based approach). Such an approach should apply across all fundraising activities. Unless there is sound justification supported by objective evidence for specific disclosure requirements they should be avoided.

It is important to balance the need for transparency and information disclosure with the potential to overwhelm or confuse potential donors. What may be important to some donors to know before they decide whether or not to support a particular charity may not be important to others. It is important potential donors are provided with all the information they personally require to make an

informed decision, however, it does not necessarily follow that the standard telemarketing script or written material provided as part of the appeal to all donors must satisfy all the information needs of all potential donors. There are alternative ways potential donors may obtain the information they require, for example, by asking specific questions or by obtaining information from the ACNC's public information portal.

Rather than disclosure requirements, a requirement that a minimum percentage of the funds to go towards the purpose of the appeal (averaged over all fundraising activities in a given period of at least 12 months) would be sufficient protection for donors. For example, industry standards allow expenses up to 30 percent of income. There could also be a requirement that this information be provided to donors on request.

4.7 Should charities be required to provide contact details of the ACNC and a link to the ACNC website, on their public documents?

Baker IDI would support a requirement to provide contact details of the ACNC and a link to the ACNC website in all fundraising activities it conducts. The ACNC site could include a list of the registered third party collectors that each fundraisers uses to conduct its campaigns. However, this should be instead of, not in addition to, specific disclosure requirements.

Chapter 5 – Information disclosure after the time of giving

5.1 Should reporting requirements contain qualitative elements, such as a description of the beneficiaries and outcomes achieved?

This type of qualitative information appears to best left to individual charities to decide whether and how to communicate to its potential and regular donors, rather than mandated by fundraising legislation. Part of the regular communication Baker IDI has with its donors includes reporting on the manner in which funds are spent and the institute's achievements as a result of their support.

5.2 Should charities be required to report on the outcomes of any fundraising activities, including specific details relating to the amount of funds raised, any costs associated with raising those funds, and their remittance to the intended charity? Are there any exceptions that should apply?

See response to consultation question 5.1 above.

5.3 Should any such requirements be complemented with fundraising-specific legislated accounting, record keeping, and auditing requirements?

Opportunities to streamline reporting under the ACNC should be fully explored and unnecessary restrictions, impositions and regulatory duplication avoided wherever possible.

5.4 What other fundraising-specific record keeping or reporting requirements should apply to charities?

See response to consultation question 5.3 above.

Chapter 6 – Internet and electronic fundraising

6.1 Should internet and electronic fundraising be prohibited unless conducted by a charity registered with the ACNC?

Yes, charities registered with the ACNC should automatically, upon registration, have authorisation to engage in Australia wide fundraising activities, including internet and electronic fundraising. Similarly the exemptions from the requirement to be registered should apply to all fundraising activities, including internet and electronic fundraising.

6.3 Are there any technology-specific restrictions that should be placed on internet or electronic fundraising?

As stated above, Baker IDI supports a principle-based, outcome-focused and proportionate regulatory regime (rather than a rules-based approach). Such an approach should apply across all fundraising activities. The need for specific requirements in relation to particular fundraising activities should be avoided except where there is sound justification supported by objective evidence and the response not burden sector any more than is necessary in the public good.

Chapter 7 – Fundraising by third parties on behalf of charities

7.1 Is regulation required for third party fundraising? If so, what should regulation require?

Baker IDI would welcome separate registration of third party commercial fundraisers with the ACNC and for the ACNC to take action directly against a third party fundraiser that breach fundraising laws. It would considerably reduce the compliance burden on Baker IDI and shift the responsibility for monitoring compliance to a single enforcement authority adequately resourced and appropriately qualified to monitor such compliance.

Baker IDI depends for the success of its fundraising and programs on the goodwill of the Australian community. Accordingly, Baker IDI seeks to ensure its commercial fundraisers conduct their activities for and on behalf of Baker IDI:

- honestly;
- in ways that are not deceptive or misleading;
- so as to enhance, and not detract from, Baker IDI's good name and reputation; and
- so as to ensure the security of funds and items of value donated to Baker IDI.

The terms and conditions of that engagement require our commercial fundraiser to comply with all applicable laws, statutes, regulations and industry codes.

For example, in performing telemarketing services, we require compliance with the following:

- The *Do Not Call Register Act 2006 (*Cth) ('DNCRA'), Part 6 of the *Telecommunications Act 1977* (Cth) ('Telecommunications Act') and the *Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard 2007* (Cth) ('Telecommunications Standard'), and to take all reasonable steps to ensure that their employees and agents comply with the DNCRA, Part 6 of the Telecommunications Act and the Telecommunications Standard in the making of telemarketing calls. This includes not making telemarketing calls

within the hours designated in the Telecommunications Standard. Where more stringent calling hour restrictions apply under a state or territory law, we require compliance with the more stringent law.

- The *Privacy Act 1988* (Cth), including the National Privacy Principles contained in Schedule 3 to that Act, and any other relevant State or Territory law which regulates the collection, use and disclosure of Personal Information.

- The *Fundraising Act* 1998 (Vic) and similar and relevant legislative requirements to in any states or territories of Australia in which the relevant donor is located.

- All conditions attaching to any authority, licence or permit which Baker IDI holds in respect of its fundraising activities, as they apply from time to time.

In addition, state and territory regulators variously require:

- Authorisation of the commercial fundraiser under the Baker IDI's fundraising authority;

- Notification of the appointment of a commercial fundraiser and in some cases, approval of the formal agreement between the Baker IDI and the commercial fundraiser – in Queensland's *Guide to Commercial Agreements under Section 33 of the Collections Regulation 2008*, such approval will only be granted if the agreement covers the following minimum clauses:
    - Ø precise details as to who the parties are;
    - Ø arrangements agreed on;
    - Ø responsibilities of the parties;
    - Ø details of monetary consideration that is to be given to the charity;
    - Ø period of the agreement;
    - Ø which party will be responsible for complaints regarding any activities associated with the agreement;
    - Ø details of how donations will be processed as to ensure that they go, 100% in total, to the charity or association;
    - Ø that a sample of any printed advertising material or, in the case of telemarketing, a copy of the script to be used, will be forwarded to both the charity and the Office of Fair Trading (*OFT*) for prior approval;
    - Ø provisions for accountability of money and access of the charity and the OFT to the accounts of the commercial undertaking;
    - Ø disclosure of the commercial nature of the collection, the details of which differ depending on whether the collection is in person, by telephone or direct mail.

In some cases the required approvals are given within a matter of a day or two, in other jurisdictions it can take months to obtain the necessary approvals thereby adversely impacting the fundraising program and the maximisation of revenue collection.

The administrative and legislative responsibilities imposed on Baker IDI in relation to its third party fundraisers is extremely resource intensive. The time taken for approvals means that we need to finalise arrangements with third party fundraisers months out from the commencement of the

campaign which in a commercial context where the same operators are often conducting campaigns for numerous charities, is impracticable.

A national system of registration and one regulator would reduce complexity for the sector and provide greater protection to the community than can be provided by charities being required to monitor compliance with the myriad of laws and regulations that govern third party fundraiser activities. Also, the interaction between the regulatory powers of the ACNC and public information through the portal to be maintained by the ACNC will further improve transparency and accountability of third party fundraisers .

7.3 Should third party fundraisers be required to register with the ACNC for fundraising purposes only? If so, what are the implications of requiring the registration of third party fundraisers?

See response to consultation question 7.1.

7.5 Should third party fundraisers be required to disclose that they are collecting donations on behalf of a charity and the fees that they are paid for their services?

The concerns discussed above in relation to the creation of "league tables" (response consultation question 2.10) is particularly problematic in the reporting of fundraising costs. The requirement to disclose fees that third party fundraisers are being paid, particularly if it is linked to a particular charity or NFP, can lead to overly simplistic and potentially misleading comparisons. A deeper understanding of how fundraising appeals are conducted is required. For example:

- "regular giving" fundraising typically has an up-front cost of securing the givers, while future years can involve few costs and an income stream; and
- different fundraising activities can convey differing benefits for the giver (e.g. a donor versus a raffle participant).

This problem could, in part, be mitigated by how the information is presented (e.g. allowing a narrative statement on the ACNC website, reporting of overall income and expense ratios on an annual basis rather than on an appeal by appeal basis) and through education of the public by the ACNC.

7.6 Should third party fundraisers (or charities) be required to inform potential donors that paid labour is being used for fundraising activities?

See response to consultation questions 4.2 and 4.4 above.