



28 March 2012

The Manager  
Charitable Fundraising Regulation Reform Discussion Paper  
Infrastructure, Competition and Consumer Division  
Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [NFPReform@treasury.gov.au](mailto:NFPReform@treasury.gov.au)

Dear Manager

Submission to Paper: Review of Not-for-Profit (Charity) Fundraising Regulation Reform

Diabetes Australia – Queensland would like to lodge a response to the invitation to comment due Thursday 05 April 2012.

Diabetes Australia - Queensland is a health promotion charity assisting people with diabetes in Queensland. Diabetes is the fastest growing disease in Australia with 60 new cases being diagnosed in Queensland each day. There is an urgent need to increase awareness of diabetes and ways it can be prevented. Our organisation represents 50,000 members and 180,000 registrants on the National Diabetes Supply Scheme (NDSS) and is directly involved in delivering a range of initiatives and programs to raise community awareness about the seriousness of diabetes and to prevent people developing type 2 diabetes; detection campaigns to ensure diabetes is diagnosed early; management programs to support people who have diabetes and, supporting research to find a cure for diabetes.

The not-for-profit sector is increasingly competitive, entrepreneurial and seeking closer links to the Government and corporate sectors. Legislation needs to be flexible enough to support this competitive and entrepreneurial need rather than inhibit it. Charities need to be able to work with Governments on policy issues and comment publicly without fear of sanction (formal or informal). The legislative framework needs to complement the community services delivered by this sector and needs to avoid implementation of bureaucratic burden i.e. via standard on reporting that may be onerous on smaller and specific purpose NFP's.

The attachment provides our response to questions we believe applicable to our organisation and the community in which we serve and where possible we have cited examples to illustrate our position.

Thank you for the opportunity to participate in the consultative process and forward our views in relation to the Fundraising Regulation Reform for the Not-for-Profit (Charity) sector.

Sincerely

A handwritten signature in blue ink that reads "Michele Clatworthy".

Michele Clatworthy  
Chief Financial Officer

## Responses to Consultation Questions – Review of Not-for-profit Charitable Fundraising Regulation Reform

Question No.	Question and Answer
2.1	Is it necessary to have specific regulation that deals with charitable fundraising? Please outline your views.
	A regulatory framework that is understood by donors is likely to result in donor confidence and an understanding of where donated funds are applied. A nationally consistent regulation dealing with charitable fundraising would support that objective.
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.
2.3	What evidence, if any, is available to demonstrate the impact of existing fundraising regulation on public confidence and participation by the community in fundraising activities?
2.4	Should the activities mentioned above be exempted from fundraising regulation?
	Any fundraising activity undertaken which results in an unconditional gift should be included in the fundraising regulation. If the examples cited include goods or services in return (ie website representation/advertising on home page) then that activity should be exempted. The rationale being that there is a clear expectation of what is to be delivered in return for the monies provided.
2.5	Are there additional fundraising activities that should be exempt from fundraising regulation? If so, please provide an explanation of why the relevant activities should be exempt.
	Any activity undertaking which does not result in an unconditional gift ie sale of goods (other than fundraising merchandise - ie \$2 and receive a red nose for Red Nose Day).
2.6	Is the financial or other effect of existing fundraising regulation on smaller charities disproportionate? Please provide quantitative evidence of this if it is readily available.

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Question No.	Question and Answer
2.7	Should national fundraising regulation be limited to fundraising of large amounts? If so, what is an appropriate threshold level and why?
	Whilst instigating a threshold level to fundraising makes sense the potential to damage the reputation of charities is likely to be at the grass roots collection level which is less than the threshold level. For example, people posing as representatives of charities door knocking or using collection tins at events to solicit cash. How would the fundraising regulation mitigate this risk?
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?
	Differing legislation applying to charities would likely lead to market confusion. To achieve consistency it is preferred to have national fundraising regulation to ensure consistency.
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?
	A transition period is a good mechanism to allow for change to be understood and implemented. Perhaps a 12 month transition period with an option to early adopt.
2.10	What should be the role of the ACNC in relation to fundraising?
	The role should be one of regulator so charities clearly informed of their obligations and which body regulates and rules on these matters.
2.11	Should charities registered on the ACNC be automatically authorised for fundraising activities under the proposed national legislation?
	This would appear to be a logical outcome for charities registered on the ACNC.
2.12	Are there any additional conditions that should be satisfied before a charity registered with the ACNC is also authorised for fundraising activities?

## Responses to Consultation Questions – Review of Not-for-profit Charitable Fundraising Regulation Reform

Question No.	Question and Answer
2.13	<p>What types of conduct should result in a charity being banned from fundraising? How long should any bans last?</p>
3.1	<p>Should the aforementioned provisions of the ACL apply to the fundraising activities of charities?</p> <p>We see no harm in principles-based regulation rather than prescriptive legislation using the ACL as an example. It may be helpful for the clarity to be the subject of some guidance papers, as opposed to in the legislation itself, to avoid being too prescriptive.</p>
3.2	<p>Should the fundraising activities of charities be regulated in relation to calling hours? If so, what calling hours should be permitted?</p> <p>Yes, however calling hours may vary from charity to charity so perhaps the calling hours are set similar to the ACL but with a process to allow for modification.</p>
3.3	<p>Should unsolicited selling provisions of the ACL be explicitly applied to charitable entities? Alternatively, should charitable entities be exempt from the unsolicited selling provision of the ACL?</p> <p>Charitable entities should be exempted from the unsolicited selling provision of the ACL and replaced with principle based legislation applicable to the issue.</p>
4.1	<p>Should all charities be required to state their ABN on all public documents? Are there any exceptions that should apply?</p> <p>Can see no harm in charities stating their ABN on all public documents.</p>
4.2	<p>Should persons engaged in charitable fundraising activities be required to provide information about whether the collector is paid and the name of the charity?</p> <p>Persons engaged in charitable fundraising activities should be required to provide the name of the charity. The purpose of disclosing whether the collector is paid or not may have an adverse impact on those undertaking the charitable fundraising activity.</p>

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Question No.	Question and Answer
4.3	<p data-bbox="379 495 1409 562">Should persons engaged in charitable fundraising activities be required to wear name badges and provide contact details for the relevant charity?</p> <p data-bbox="379 622 1377 689">Persons engaged in charitable fundraising activities should be required to provide the contact details for the relevant charity.</p> <p data-bbox="379 719 1249 786">The wearing of name badges would not necessarily result in preventing inappropriate solicitation of funds.</p>
4.4	<p data-bbox="379 819 1409 887">Should specific requirements apply to unattended collection points, advertisements or print materials? What should these requirements be?</p>
4.5	<p data-bbox="379 1016 1409 1084">Should a charity be required to disclose whether the charity is a Deductible Gift Recipient and whether the gift is tax deductible?</p> <p data-bbox="379 1113 1385 1211">Persons engaged in charitable fundraising activities should be required to disclose whether the charity is a Deductible Gift Recipient and that the gift <b>may</b> be tax deductible (dependent on donor's taxation affairs).</p>
4.6	<p data-bbox="379 1245 1409 1312">Are there other information disclosure requirements that should apply at the time of giving? Please provide examples.</p>
4.7	<p data-bbox="379 1413 1409 1480">Should charities be required to provide contact details of the ACNC and a link to the ACNC website, on their public documents?</p> <p data-bbox="379 1541 1409 1639">Currently a charity does not put a link of contact details of other regulators and a link to their websites on their public documents (ie ATO, ASIC, etc) so am unclear of the benefit of this requirement so - no.</p>
5.1	<p data-bbox="379 1671 1409 1738">Should reporting requirements contain qualitative elements, such as a description of the beneficiaries and outcomes achieved?</p> <p data-bbox="379 1798 1106 1832">Can see no harm in charities providing qualitative elements.</p>

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Question No.	Question and Answer
5.2	<p>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?</p> <p>Exceptions: The regulation would need to accommodate those gifts where the donor wishes to keep the amount and wishes for its usages (ie to establish a Foundation) private and confidential.</p>
5.3	<p>Should any such requirements be complemented with fundraising-specific legislated accounting, record keeping, and auditing requirements?</p> <p>Would seem a logical and practical approach.</p>
5.4	<p>What other fundraising-specific record keeping or reporting requirements should apply to charities?</p>
6.1	<p>Should internet and electronic fundraising be prohibited unless conducted by a charity registered with the ACNC?</p>
	<p>Can see no harm in charities being prohibited from internet and electronic fundraising unless registered with the ACNC.</p>
6.2	<p>Should charities conducting internet or electronic fundraising be required to state their ABN on all communications? Could this requirement be impractical in some circumstances?</p>
	<p>Whilst can see no harm in charities stating their ABN on internet fundraising communications (including emails) it may not be practical for sms messaging.</p>
6.3	<p>Are there any technology-specific restrictions that should be placed on internet or electronic fundraising?</p>

## Responses to Consultation Questions – Review of Not-for-profit Charitable Fundraising Regulation Reform

Question No.	Question and Answer
7.1	Is regulation required for third party fundraising? If so, what should regulation require?
	It would seem appropriate for third party fundraising to be subject to regulation ensure the protection of the credibility and trustworthiness of Charities and their fundraising activities.
7.2	Is it appropriate to limit requirements on third party fundraising to those entities that earn a financial benefit?
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?
	Can see no harm in third party fundraisers being required to register with the ACNC for fundraising purposes only. May need to address where a charity itself is a third party fundraiser - would they need to register twice?
7.4	Should third party fundraisers be required to state the name and ABN of charities for which they are collecting?
	Can see no harm in third party fundraisers being required to state the name and ABN of charities for which they are collecting.
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?
	Third party fundraisers should be required to disclose that they are collecting donations on behalf of a charity. Perhaps disclosure that x% of the donation will be applied to the cost of the third party fundraising activity might be a more workable option.
7.6	Should third party fundraisers (or charities) be required to inform potential donors that paid labour is being used for fundraising activities?
7.7	Is regulation required for private participators involved in charitable fundraising? If so, what should regulation require?

