

Submission on ACNC Implementation Design Discussion Paper
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Manager
Charitable Fundraising Regulation Reform Discussion Paper
The Treasury
Langton Crescent
PARKES ACT 2600
By email: NFPReform@treasury.gov.au

13 March 2011

Dear Sir/Madam,

I write in response to your invitation to make submission in response to the ACNC Charitable fundraising regulation reform Discussion Paper and draft regulation impact statement. Whilst generally supportive of the policy direction contained in the proposals, in the following responses to the questions posed, I draw your attention to (a) several serious omissions in the scope of the document and, (b) several issues arising from the proposals that could seriously detract from the achievement of the policy objectives contained in the document, if implemented without amendment.

The following issues require careful re-consideration:

1. The scope of proposed definition of "fundraising". The discussion paper's focus is far too narrow since it almost exclusively focuses on *in vivo* donations, made either directly to the charity, through paid collectors or through private, third party "participators". There is no reference to bequests and only minor references to other forms of fundraising with passing reference to "lotteries" in Chapter 2.

In Australia, the term "fundraising" covers a much wider wide range of activities than donations. Some are regulated in some States and not in others. For example, the Queensland Collections Act covers a very wide range of "fundraising" activities under its definition of "appeals for support". These would include soliciting bequests, "challenge" fundraising events, charity nights, balls and dinners, fetes, charity premieres, charitable food stalls, raffles, charitable merchandising, button or "flag" days, charity auctions, sponsorships and cause related marketing, charity clothing bins, money boxes, etc. It should be noted that most charities are engaged in one or more of these other types of fundraising activities in addition to soliciting donations.

The important feature of these activities, which makes them different from normal commercial transactions, is that such activities are conducted under the authority of the charity and members of the public are asked to make a donation or purchase at least partly motivated by the proposition that a proportion of their contribution will support the charitable purpose.

The risk to the consumer in these types of activities, and the reason for the regulation, is that the consumer neither has access to information, nor the power to obtain it, that would assure his/herself that a contribution had in fact been made to the charitable purpose. It is also possible for commercial vendors to market their own goods and services with reference to a charitable purpose when no such contribution is made¹.

¹ See at Attachment A, NSW Office of Liquor, Gaming and Racing Fact Sheet entitled "Traders".

Any consideration of the fundraising activities that are to be regulated cannot ignore these other forms of fundraising. To leave them to be regulated by the States and Territories whilst transferring the regulation of donations to ACNC, simply adds to the regulatory burden imposed on charities by splitting the reporting requirements imposed on charities between Commonwealth and State. The artificial separation of donations from other forms of fundraising would require very precise definition as discussed below.

2. The protection of charities. The Discussion Paper does not adequately consider aspects of the current State-based fundraising regulation that are designed to protect charities from the activities of unscrupulous individuals or dishonest commercial operators. This type of risk occurs where individuals or commercial entities sell their goods and services with the promise to the customer that part of the purchase price will support a charity.

The state, through the office of the Attorney General, has a traditionally had a role in the protection of charitable assets. This important function is reflected in the regulation of charities in most jurisdictions which address situations where the charity is in a disadvantaged position. In these circumstances it may not be in the interests of the commercial entity to disclose that information. This is reason that in most jurisdictions special arrangements are required to protect the interests of the charity. No reference is made in the Discussion Paper to this issue.

Several other forms of "fundraising" are not mentioned in the Discussion Paper including "cause related marketing" (licensed use of the charity's name to sell commercial products and services²) and commercial "sponsorships" (sale of advertising, recognition and publicity opportunities³). It can be argued that the commercial entities and the charities engaged in these types of fundraising can be expected to regulate themselves.

Whilst a convincing argument can be put that commercial entities, government agencies and philanthropic trusts can reasonably be expected to ensure that the decisions they make about donations and grants are soundly based, the argument does not hold true where it is the charity that needs protection from unscrupulous commercial operators.

Case Study 1

A local commercial bowling alley manager approaches a local charity with a fundraising idea. He offers to give the charity \$2 from each player's fees sold on Tuesday nights in "Charity Month". All he asks is for the charity to promote the event and free publicity for the Centre.

The promotion appears to be a great success and when it is over the charity gets in touch with the manager to collect their proceeds. The manager gives them \$50 and tells the charity that although the attendance looked good, many of the players were regular players and they were not counted in the agreement. The representatives of the charity are not satisfied since they are aware of at least 50 of their members were players during the promotion and they argue saying that members of the community supported the event in the expectation that they were supporting the charity. The manager of the bowling alley is unmoved and the charity is not in a position to argue.

² See Heart Foundation Red Tck Campaign at <http://www.heartfoundation.org.au/healthy-eating/heart-foundation-tick/pages/default.aspx>

³ See sponsorship of Ronald McDonald House Charity Ball at <http://www.rmhc.org.au/events/canberra-gala-ball-2012>

Case Study 2

A large furniture store advertises that 10 cents of every dollar spent in our store during "Charity Week" will be donated to Sick Kids Charity. Charity Week is a great success with large crowds attending the store. Afterwards there is no way that the charity can determine whether the cheque they received for \$1,200 is adequate and they are not sure whether the company cheque is a tax-deductible donation or a royalty payment for the use of the charity's name.

Similarly, most jurisdictions prohibit the application of charitable funds to a private bank account.

Case study 3

Mrs Jones conducts a charity stall at the local markets every Saturday selling donated goods. Because she sometimes has several hundred dollars in her safe keeping, she banks the proceeds into her personal bank account. She soon gets into the habit of delaying posting the cheque to the charity and gets the benefit of the offset on her mortgage account.

No mention of this kind of issue is made in the Discussion Paper.

These Case studies highlight the dual role of much fundraising regulation in that there are both consumer protection issues involved and the protection of charitable trusts. The Discussion paper appears to have taken an exclusively consumer protection approach to fundraising regulation.

In our view, it is imperative that the introduction of any proposed national regulation of fundraising does NOT proceed on the basis of a temporary increase in the regulatory burden with the stated intent of a reduction of regulatory burden at some undetermined time in the future.

Our responses to the consultation questions follow.

Yours sincerely

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Responses to the Consultation questions:

2.1 Is it necessary to have specific regulation that deals with charitable fundraising?

Yes. But the regulatory mechanisms need to be targeted at three levels. At the community level, all those who solicit funds from the public (as opposed to soliciting members of a congregation or club) for a charitable purpose, whether that be in the form of a donation or a reciprocal transaction with proceeds to the charity, ought to be under the close supervision of the governing body of the charity (the trustees). The regulation of fundraising activities is best regulated by those who are both close enough to supervise and by those who have a real concern to maintain the reputation of their organisation. The trustees are in the best position to manage all risks associated with the organisation's fundraising activities. The regulatory instruments most suited to this level of regulation are principle-based, supported by standards and codes of practice published by ACNC.

At the State jurisdiction level, the generic provisions of the law around fraud, false pretences, misappropriation, stealing, nuisance, privacy, consumer protection, etc. need to be amended where necessary to ensure that they cover offences that might arise from typical fundraising transactions. The one exception to this approach must be in relation to the sale of charitable lottery tickets. It would be most detrimental to this type of fundraising if the purchase of charitable lottery (raffle) tickets were to be subject to the same "cooling off" provisions of generic consumer protection laws. Details of amendments to generic laws should be considered after close consultation with consumer protection authorities in States and Territories and after information has been gathered from such authorities about prosecutions in their jurisdictions that have arisen from the charitable fundraising.

At the Commonwealth level, ACNC should confine itself to its role in providing public information about charities and the provision of education materials to charities about risk management in relation to fundraising. As a part of that role, ACNC should fund research into fundraising practices in Australia so that the education materials are well informed and current.

The ACNC might also encourage the adoption of Standards and Codes such as those developed by the Australian Council for International Development (ACFID) and Fundraising Institute Australia (FIA) and provide support to those bodies to allow them to deal with complaints and breaches of the codes.

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.

Yes. Take for example the nine (9) separately incorporated St Vincent de Paul Societies in Australia. In an ideal regulatory environment, each of the nine legal entities would register just once and each would report separately to the ACNC, using the same chart of accounts. This would mean that they would collect their accounting information using a common definition of "fundraising".

If fact, at present each of the nine separate entities are technically required to register as fundraising charities in seven States or Territories whilst two of the nine entities are required to register in five. This is because (a) St Vincent de Paul Society conducts fundraising on a national basis using a common web site to solicit funds, and (b) the Society is treated as an

exempt religious charity in Queensland and New South Wales but treated as a registrable charity in the Australian Capital Territory, Victoria, Tasmania, South Australia and Western Australia. There is no requirement to register in Northern Territory. Strictly, the current regulatory environment requires the nine Societies in Australia to maintain a total of 54 registrations!

The current administrative burden is not caused solely by the requirements for multiple registrations, but rather caused by each of the nine separate entities being required to prepare returns to regulators based on different definitions. This means that strictly speaking, each of the nine Societies are required to report using up to seven different formats of non-comparable data.

Take for example the non-comparable data caused by the various definitions of fundraising. In Victoria "fundraising" revenue and expenditure disclosures do not include funds solicited from philanthropic trusts and foundations. In all the other States, it does. In NSW revenues and expenses from the conduct of bequests promotions are not included in disclosures about "fundraising" but in Queensland it would be included. There are many other such examples.

The discussion document appears to be proposing that, for the purpose of the ACNC's Annual Information Return, only "fundraising" revenues from donations are to be included in the national regulation. Such a proposal would further complicate and add to the reporting burden since other sources of fundraising income and expenditure would still have to be reported to the various State regulators. How would fundraising costs be apportioned between the variously regulated sources of revenue?

Case Study 4.

A children's charity conducts an annual Charity Ball. Tickets to the Ball are sold at \$200 per ticket and the publicity material states that \$100 of every ticket sold will go to supporting the accommodations costs of financially disadvantaged families whilst their severely premature babies are recovering.

Prior to the Ball, the charity solicits gifts-in-kind for the charity auction and during the Ball several items are auctioned for sums that entitle the successful bidders to a tax deductible receipt for the "contribution" portion of the sum paid⁴.

To off-set the costs of the meal and entertainment at the Ball, the organisers have secured several "sponsorships" from corporate donors including the donation \$3,500 worth of wine and a \$5,000 donation from a pharmaceutical company that has a range of products used in neonatal wards (in return for corporate logos on Sponsors' Board and on the menus on all the tables).

Which of these fundraising activities are to be treated as donations? How will the children's charity in Case Study 4 determine whether the all or part of the revenue and costs generated by their charity ball are to be declared in their ACNC return or in the State regulator's return or both?

⁴ See Australian Taxation Office web site at <http://www.ato.gov.au/content/56543.htm>

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?*

There is little evidence that existing fundraising regulation has any beneficial impact on public confidence or participation by the community in fundraising activities. The evidence of its impact is limited to one major study that directly addresses the issue and several other pieces of evidence that provide some support for that view as follows.

In a major study by Berman and Davidson published in 2003⁵, it was found that levels of giving (adjusted for population size) in different Australian States and Territories are unaffected by variations in the level of regulatory activity (Berman and Davidson, 2003). In support of this finding, several other observations can be made. First, it is clear from the statistics available from "Google Analytics" reports of major charity's web sites that the proportion of visitors to the web sites of charities, that also visit the pages on which financial reports are located, is extraordinarily small. Further, that less than 0.65% of those who make donations on-line examine the audited financial statements of the charity to which they are donating.

The available evidence suggests that the collection of this kind of data by State regulators in order to make more information of this kind available to the public may not be a response to real widespread demand. There is an argument however, to support the registration of charities, not because the information collected by the regulators is useful to donors, but rather because such formal registration is a quality signal to donors⁶.

Second, the annual reports of the State and Territory Departments responsible for regulating charitable fundraising provide very little evidence of regulatory activity in this area. The numbers and types of offences prosecuted by State regulators, using specific fundraising legislation, indicate that special fundraising regulation is rarely used to prosecute individuals or de-register charities. It appears that where prosecution have been pursued, generic legislation has been used rather than the specialised fundraising regulation available.

Third, it is important to note that significant numbers of charities are exempt from the fundraising legislation in the jurisdictions in which they conduct fundraising. For example, hospital foundations in Queensland are partially exempt, religious organisations are exempt in all jurisdictions, pre-school service providers in Victoria are exempt, several well-known charities that are incorporated in each State by special statute are exempt and universities are exempt in most jurisdictions. Such widespread exemptions of some of the largest, most successful and best known charities in Australia suggest that regulation of their fundraising activities does not, on its own enhance public trust or encourage participation.

In the light of the available research on the subject and relying on the available evidence about the coverage and use of fundraising regulation by the States and Territories, it is not

⁵ Berman, G. (2001). A Charity Case: Efficiency and Accountability of Nonprofit Welfare Organisations in Australia. Unpublished Doctor of Philosophy Thesis, Royal Melbourne Institute of Technology, Melbourne. and Berman, G. and Davidson, S. (2003). Do Donors Care? Some Australian Evidence. *International Journal of Voluntary and Nonprofit Organizations*, 14(4), 421-429.

⁶ Flack, T. (2007) Annual reports in a system of accountability for fundraising charities. Unpublished PhD Thesis, Queensland University of Technology, Brisbane.

unreasonable to conclude that existing fundraising regulation has little beneficial impact on public confidence or on levels of participation by the community in fundraising activities.

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

The following responses are offered on each of the fundraising activities nominated:

Soliciting for government grants – on the basis that governments can require information and regular reporting on the outcomes from funding provided to charities.

Agreed.

Corporate donations or donations from public and private ancillary funds – on the basis that these entities are likely to be better placed than an individual member of the public to conduct due diligence before donating to a potential recipient.

Disagree. Whilst the proposition that ancillary funds and large corporations are likely to be able to command the information they need from applicants to determine whether or not to make a grant is reasonable, the same cannot be said of all “corporate” donations. The problem is that “corporate” may include small businesses, clubs, associations and local branches of corporations that do not have the capacity necessary to conduct due diligence. In many ways they are no better placed than are individuals to command the information needed to conduct due diligence. Understood in terms of business in local communities, deregulation of fundraising from small business is an argument for deregulation of fundraising altogether.

Workplace appeals for assistance for colleagues and their families – on the basis that the recipients of such funds are usually personally known to at least a significant proportion of the donors.

There are two issues here. The first is whether workplace giving to any charity should be de-regulated and the second whether appeals for workplace “colleagues and their families” should be de-regulated. The issues associated with workplace giving to any charity are the same as those associated with corporate donations referred to above. Whilst it is reasonable to assume that large corporations will have the capacity to protect themselves from fraudulent solicitations, the same cannot be said for small to medium business, many of whom will not have the infrastructure necessary to conduct due diligence.

The question of whether the appeals conducted for beneficiaries who are “colleagues and friends” should be de-regulated is very different. At present appeals for “necessitous persons” are specifically regulated in some States and covered in more general terms in others, in order to ensure that anyone soliciting donations from the public are properly registered. This is a necessary precaution against bogus appeals and misrepresentations.

Donations to religious organisations from their own members – also on the basis that the recipients of such funds are usually personally known to at least a significant proportion of the donors.

Agreed, although the way in which the definition of “religious organisation” is administered in State and Territory jurisdictions varies and needs to be made common across Australia. For example, St Vincent de Paul Society New South Wales is incorporated under the Church Lands Act in that State and exempt under the religious organisations exemption, whilst the Society in

Victoria is incorporated as an Incorporated Association and regulated as a secular organisation in that State.

2.5 Are there additional fundraising activities that should be exempt from fundraising regulation?

At present, there is a wide range of special regulations covering relatively minor fundraising activities that could be left to local government to regulate. These include:

- Street collections, badge or button days, street stalls, etc;
- Donations "in lieu of flowers", money boxes, collection tins, etc;
- Charity clothing bins;
- Doorknocks and the employment of minors as collectors.

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.

No. In general existing fundraising regulation regulates activities in ways that do not impose disproportionate burdens on smaller charities.

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

No. If the primary arguments in favour of regulating fundraising are based on consumer protection and on the protection of charitable assets, then the scale of the fundraising activities is not the most important determinate of whether the fundraising activities ought to be regulated or not. This is because the consumer who is deceived or defrauded of \$20 is entitled to the same protection as the consumer who is defrauded of \$1,000. Similarly, the small charity that is the victim of misappropriation of its assets might reasonably expect that its interests are being protected in the same way as those of a large charity.

IMPORTANT

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?

No. It is vital that the sector's 20 year struggle for a single national regulator replaces the state-based fundraising regulators. The splitting of responsibilities between the ACNC and State Consumer Affairs Departments would be the worst possible outcome as the ACNC would become an additional regulator and not a replacement regulator. Most charities would still have to report to their State regulators regarding their fundraising activities (no change) in addition to their new reporting obligations to the ACNC. The effect of such a split arrangement would be to disproportionately burden smaller charities with yet another layer of regulation.

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?

The sooner the new nationally-consistent fundraising regulation is introduced the better, but only if the new regulations replace the State-based regulation. If the development of the new national regulatory regime takes time to negotiate with the States and Territories, then time should be allowed for that to be successful. The delay of a further year or two is warranted, given that it has taken 20 years to get this far.

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

See response to Question 2.1 above.

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

Yes.

2.12 Are there any additional conditions that should be satisfied before a charity registered with the ACNC is also authorised for fundraising activities?

Yes. The Board of the charity (or by whatever name it is otherwise known) should be required to agree to adopt and enforce a set of National Standards and Codes of Fundraising Practice as a condition for their registration.

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

Any intervention by the regulator should, in the first instance, be educational and corrective rather than punitive, since in most cases breaches of the regulations will be breaches of omission rather than deliberate. In circumstances where there is inadequate corrective action or where the breach is particularly egregious, the ACNC should appoint a suitable person or persons as "Visitors" to initiate corrective action. De-regulation should be considered as a last resort and only implemented when there are adequate arrangements in place to ensure no disadvantage to the beneficiaries of the charity.

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

The provisions of the ACL need to be amended where necessary to ensure that they cover offences that might arise from typical fundraising transactions. The one exception to this approach must be in relation to the sale of charitable lottery tickets. It would be most detrimental to this type of fundraising if the purchase of charitable lottery (raffle) tickets were to be subject to the same "cooling off" provisions of generic consumer protection laws.

Details of amendments to generic laws should be considered only after close consultation with consumer protection authorities in States and Territories and after information has been gathered from such authorities about prosecutions in their jurisdictions that have arisen from the charitable fundraising.

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

Yes. The application of ACL would be appropriate in most cases; however State and Territory regulation should be amended to allow the current calling hours for charitable collections to be maintained.

3.3 Should unsolicited selling provisions of the ACL be explicitly applied to charitable entities? Alternatively, should charitable entities be exempt from the unsolicited selling provisions of the ACL?

Yes. The provisions of ACL should apply to charitable fundraising activities with appropriate amendments to ensure that there is no detriment to current fundraising activities regulated by the States.

4.1 Should all charities be required to state their ABN on all public documents? Are there any exceptions that should apply?

Yes. All public documents published by charities should include the registered name of the charity and its ABN.

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?

Persons engaged in charitable fundraising should be required to disclose the basis of their relationship with the charity when asked.

4.3 Should persons engaged in charitable fundraising activities be required to wear name badges and provide contact details for the relevant charity?

Persons engaged in charitable fundraising should be required to disclose their name and the contact details of the charity when asked.

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

Yes. All unattended collection points, advertisements or print materials published by charities should include the registered name of the charity and its ABN.

4.5 Should a charity be required to disclose whether the charity is a Deductible Gift Recipient and whether the gift is tax deductible?

No. The availability of tax-deductibility of gifts is subject to important conditions imposed by the Australian Taxation Office which may give rise to misunderstandings if there is a requirement to disclose such an endorsement.

4.6 Are there other information disclosure requirements that should apply at the time of giving? Please provide examples.

No.

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

No. However it would be useful if the charity's web site were to include a link to the ACNC web site and the charity's address were to be attached to their entry in the publicly available ACNC register.

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

Yes. The disclosure of outputs and outcomes are important information elements for an effective system of accountability. It will be important that these disclosures remain free-form and there is no attempt to over-regulate the structure of this data.

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?

No. Modern fundraising practice does not treat any one activity in isolation but rather is characterised as an integrated set of activities. For example, efforts to acquire new supporters, to upgrade the level of donors' contributions by way of gifts or purchases, their engagement as volunteers or even recruitment to the Board, are part of this integrated approach. Isolating any one activity and treating it as a stand-alone cost centre with discreet income and expenditure, is no longer appropriate and a relic of the days when charities conducted one-off badge days, etc.

The important measures of fundraising activities are measured over a three to five year time frame and inducements to report on shorter time-frames are damaging to the long term interests of both charity and future beneficiaries⁷.

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

Yes. The development of Australian accounting standards designed to address the specific needs of the not-for-profit sector is an important building block in the future regulation of charities and not-for-profit organisations. Without such standards and without a common dictionary of terms such as the Standard Chart of Accounts (SCOA) developed by Queensland University of Technology's Australian Centre of Philanthropy and Nonprofit Studies, comparable data will not be possible.

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

The preparation of audited annual financial statements in accordance with specialised accounting standards and a common data dictionary are all that should be necessary at ACNC level. Much more detailed records about fundraising activities ought to be maintained by the

⁷ Flack, T. (2004). The Mandatory disclosure of cost of fundraising ratios: Does it achieve the regulators' purposes? (CPNS26), Centre of Philanthropy and Nonprofit Studies Working Papers - Queensland University of Technology (pp. 1-27). Brisbane.

fundraising charity and these should be mandated in general terms the Standards and Codes promulgated by the ACNC.

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

Yes. Internet fundraising has changed the way all large, and many smaller fundraising charities operate. Since the internet provides all charities, whatever their size, with the opportunity to solicit donations and to sell goods and services across State borders, it is important that consumers are able to verify the identity of the charities they are in contact with via the World Wide Web. Evidence of registration with the ACNC is one way to achieve some measure of consumer protection.

The rapid expansion of the use of social media and the popularity of phenomena such as “crowd fundraising⁸” and “experiential fundraising⁹” has meant that more and more charities are using the web to raise funds.

6.2 Should charities conducting internet or electronic fundraising be required to state their ABN on all communications? Could this requirement be impractical in some circumstances?

Yes. This is important because many charities use campaign names for their fundraising. For example the Cancer Council of NSW “Do your thing” campaign needs to be clearly identified as a fundraising activity of the Cancer Council of NSW.

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

No. However developments in technology will need to be monitored to ensure that fundraising using new technologies remains transparent and accountable.

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

No. The decision by charities to engage a third party fundraiser (an authorised agent) is a matter for the controllers of the charity. The proper supervision of their agents is the responsibility of the controllers of the charity and they should be held accountable for the conduct of such agents.

7.2 It is appropriate to limit requirements on third party fundraising to those entities that earn a financial benefit?

No. All “agents” appointed by the charity to act on its behalf should be regulated by proper supervision by the charity. Whether the agent is a volunteer, is a paid employee or a contractor paid directly at commercial rates or receives compensation via indirect commercial benefits, makes no difference. These are commercial decisions best made by the charity in whose name the charity is raising funds.

⁸ See http://en.wikipedia.org/wiki/Crowd_funding

⁹ See for example <http://www.doyourthing.com.au/>

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?

No. (see comments in respect of "agents" above.)

7.4 Should third party fundraisers be required to state the name and ABN of charities for which they are collecting?

Yes. (see comments in respect of "agents" above.)

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?

No. (see comments in respect of "agents" above.)

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

No. (see comments in respect of "agents" above.)

7.7 Is regulation required for private participators involved in charitable fundraising? If so, what should regulation require?

Yes. No person should be permitted to conduct fundraising activities in the name of a charity without proper written authority.