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Charitable Fundraising Regulation Reform Discussion Paper  
Infrastructure, Competition and Consumer Division  
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To Whom it May Concern,

Life Without Barriers (LWB) appreciates the opportunity to contribute a submission to Treasury's Charitable Fundraising Regulation Reform Discussion Paper. In recognition of the vital role of charities, LWB supports reform that reduces the regulatory burden of fundraising activities and increases public confidence in the integrity of the sector.

### **About LWB**

LWB is a not-for-profit, non-government organisation committed to challenging systemic disadvantage and supporting vulnerable and marginalised people to reach their full potential.

LWB offers a range of programs and services to support disadvantaged people and communities including:

**Family Support and Out-of-Home Care;** We provide safe, stable and loving homes to vulnerable children and young people who cannot live with their families.

**Disability Services;** We work with people with a disability, their families and carers to break down social exclusion to engage meaningfully with their communities.

**Homelessness;** We work assertively to form relationships with people who are homeless, and leverage these relationships to link people with housing, health, education and employment and turn their lives around.

**Mental Health;** We work with people with a mental illness to promote and foster their recovery and to lead full and happy lives.

**Youth Justice;** We support young people and their family to break the offending cycles and become valued members of their community.

**Refugee and Asylum Seeker support;** We provide support and protection to children and young people who arrive in Australia seeking asylum without a parent or guardian.

LWB supports almost 5000 people with high and complex needs. Our services are delivered across urban, regional and rural centres in every state and territory in Australia as well as through areas of New Zealand.

## **Introduction**

Duplication of fundraising regulation across Australian States and Territories creates an unnecessary burden for charitable organisations that conduct, or aspire to conduct, fundraising activities in multiple jurisdictions. Financial supporters of charities also bear the brunt of duplicative regulation that potentially reduces the proportion of donations that reach a cause. Regulation is important to the integrity of fundraising activities, however it should be efficient and help charities to focus, as much as possible, on what they do best.

To truly benefit the sector, changes to fundraising regulation would need to fulfil two criteria:

1. Reduce the administrative and compliance burden for charities engaged in fundraising activities, particularly those operating across multiple jurisdictions.
2. Increase the transparency and accountability of fundraising activities and hence public confidence in the integrity of these activities.

Organisations conducting fundraising activities in multiple States and Territories are keenly aware of the burden created by inconsistencies and duplication in the regulatory environment. While a nationally consistent approach to fundraising regulation promises many benefits, it is dependent upon negotiations to secure the buy-in of state and territory governments and the successful passage of supporting legislation. This aspect should be a particular point of focus for Treasury, and will be a key determinant of whether reform maximises benefit to the sector.

### **Is regulation necessary?**

Regulation of charitable fundraising is a necessary prerequisite to help ensure that charitable organisations operate in a transparent and accountable manner. Effective regulation should enhance the ability of the sector to do what it does best while promoting public trust and confidence in fundraising activities. It is important to distinguish the need for regulation across different fundraising mechanisms. The bona fides of a charity may be unknown to potential donors approached in a public space, through a mail out, or over the phone, and in circumstances such as these, there is a strong rationale for effective regulation. Many organisations seek funding through mechanisms such as philanthropic grants and corporate sponsorships arrangements and these come with inherent checks and balances through due diligence, reporting, and acquittal requirements. As such, it is important to distinguish fundraising activities where there is something to be gained from regulatory reform from activities where effective self-regulation is already in place.

### **Activities that might be excluded from fundraising regulation**

Activities such as government grants and corporate donations should be exempted from fundraising regulation. Fundraising regulation should be concerned with transactions involving individual donors and other situations where there is an obvious information asymmetry. It should be accepted that corporate, philanthropic and government grants would necessarily involve extensive provision of information on behalf of the charity and

due diligence on the behalf of the funding body. Extensive accountabilities exist in these relationships and organisations should be able to make autonomous decisions as to what is an appropriate level of information provision.

### **Implementing a national approach to fundraising regulation**

There is a need for a level of consistency in fundraising regulation regardless of the size of a charity, and while smaller charities should not be subjected to unnecessary regulation, it is equally important to have checks in place that ensure that public trust and confidence in the sector as a whole is protected by an appropriate and consistent base line of regulation. As such, if smaller charities continue to be regulated under state or territory legislation, inconsistencies with charities regulated under national legislation may create a confusing regulatory framework for donors and the sector alike.

It is in the interest of the sector and regulatory bodies to have a process in place that enables a smooth transition to national regulation. As new responsibilities and functions assigned to the ACNC come into effect, charitable organisations will need to navigate a considerable amount of reform within the sector. The transition under changes proposed for charitable fundraising regulation will occur against the backdrop of broader reform, and the provision of accessible education and support will be critical to help organisations navigate further change. Effective change relies on the benefits of this process being clearly articulated, and this requires an appropriate supporting communication framework to be in place.

### **Registering for fundraising activities**

Considering the proposed scope of the ACNC, it is appropriate that charities registered with the ACNC should also be authorised to engage in fundraising activities across Australia. A national approach to registration for fundraising that replaces multiple state systems will deliver tangible benefits to the sector and is consistent with the ACNC's objective of reducing the administrative burden experienced by charities.

The donating public's expectation of fundraising integrity should be backed by provisions that safeguard the reputation of the broader sector in the event of a charity engaging in a serious breach such as fraudulent conduct or fundraising while insolvent. Any capacity for the ACNC to ban a charity from fundraising activities must be accompanied by a specific court review process and a defined timeframe for the completion of this process.

### **Information disclosure at the time of giving**

Regulation of fundraising activities should, where appropriate, utilise simple measures that enhance efficiency within the sector and provide donors with a simple mechanism for appraising the bona fides of an organisation and information related to its activities. As such, a requirement for all charities to state their ABN on all public documents would support the ACNC's dual function as an information portal and charity regulator.

Public awareness of the role of the ACNC is in the broader interest of charitable organisations and charities have a vested interest in mechanisms that foster public confidence in fundraising. A requirement for charities to provide details of the ACNC website on public documents is a reasonable measure that would enable the public to access credible and trustworthy information.

### **Information disclosure after the time of giving**

For organisations that produce an audited annual report, a link to the annual report should mitigate the need for duplicative reporting. In regards to requirements to report on outcomes such as funds raised, associated costs of fundraising and remittance to the intended charity, again, many organisations make this information available through annual reports. It is important that requirements for information disclosure strike a realistic balance between minimising the compliance burden for charities and meeting the expectations of the donating public. Considering the relationship between fundraising reform and reforms associated with the creation of the ACNC, questions regarding reporting must be considered in the broader context of an integrated and efficient charity regulator that serves the interest of the sector and the public.

### **Internet and electronic fundraising**

Fundraising regulations should be consistent across activities. There is some basis, however, to distinguish internet/electronic fundraising from other mechanisms due to the potential scope for fraudulent and misleading conduct in the online space. As such, it would be reasonable that only charities registered with the ACNC be authorised to fundraise electronically and this could be supported by appropriate security mechanisms. Charities conducting internet or electronic fundraising should be required to state their ABN on all communications, consistent with proposed requirements for other activities.

Thank you again for the opportunity to provide a submission on this issue.

For any questions regarding this submission, please contact Kristie Brown, National Manager, Public Affairs, Research and Communication: [Kristie.brown@lwb.org.au](mailto:Kristie.brown@lwb.org.au) or 02 9508 4133.

Sincerely,



Claire Robbs  
Chief Executive