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QUEENSLAND JUSTICES ASSOCIATION
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Charitable Fundraising Regulation Reform Discussion Paper
Infrastructure, Competition and Consumer Division
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Thank you for accepting our submission to the Charitable Fundraising Regulation Reform Discussion Paper, ("the Discussion Paper") due on Thursday, 5 April 2012.

We have responded to a number of Discussion Papers relevant to Queensland Justices Association (QJA) ahead of the establishment of the new regulator of non-profits, Australian Non-Profits & Charities Commission (ACNC) in October. In QJA's previous submissions, we have stated that it is "blurry" as to whether or not QJA is considered a "charity" or "charitable" because of the different State and Commonwealth regulators. We are considered charitable by Queensland's Office for State Revenue and the Commonwealth's Australian Securities and Investments Commission (ASIC), yet simply as a non-profit by the Australian Taxation Office (ATO) and Queensland's Office for Fair Trading. We see the establishment of a single regulator as a positive outcome for QJA.

In the interest of context, QJA is a peak industry body of Justices of the Peace in Queensland. JPs throughout Australia are volunteers, which distinguishes us from other industry bodies, because they are usually characterised by paid professions. This is the basis upon which we have lobbied for various charitable exemptions.

Please find below our responses to relevant questions: -

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

Yes, we agree with the reasons outlined in the Discussion Paper.

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.

We cannot comment, as we only operate within Queensland. We have not had costs associated with fundraising.

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?



No comment.

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

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

Yes, to both questions. Fundraising from an entity's own members should be exempted from fundraising regulation, regardless of whether it is a religious organisation. For example, if one of our members wished to bequest a gift to OJA in their will or donate to us whilst still alive, that should be no different from a church member donating to their church.

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.

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

Yes. Regulation should exist as much as necessary, but as little as possible. \$50,000 is a reasonable amount.

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 should be abolished and replaced with the single regulator, which should exempt the proposed threshold of \$50,000.

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 ACNC is best to choose a date and apply it from there on in. If notice is to be given, 12 months from the start of the new regulator should suffice.

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

The suggestions in the Discussion Paper are a reasonable role for the ACNC to play in fundraising.

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?

If they are already registered as a charity, they should also be authorised for fundraising activities. There is no need to complicate matters with yet another application, when a charity has already been assigned a certain status, is incorporated and has appropriate Objects in its Constitution.

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

If an entity has become insolvent or there has been a major impropriety, it either needs to close its doors, or a liquidator needs to be appointed and a new Board or management committee instated. There should be



approval from the ACNC if the latter occurs and the new Board or committee should have to demonstrate prudent financial management during a specified period.

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

We agree with generic regulations being applied. All other principles in the Discussion Paper are positive.

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

QJA does not engage in making telephone calls for fundraising. However, as a peak body for JPs, we hold professional development workshops which advise our members against giving money to charities over the telephone due to scams and identity fraud, if the member has not initiated the telephone call. Therefore, we would advise against the practice of charities cold calling the public altogether.

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?

The ACL should apply to charitable entities also due to the security risks of unsolicited selling.

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

Yes, they should. All entities collecting monies should have an ABN and they should display it on letterheads and other materials.

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?

They should state the name of the charity. They should disclose whether they are a volunteer or a paid collector.

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

Yes. They should have a name badge with a logo and provide an ABN and contact number if asked by donors or potential donors.

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

Yes, those suggested in the Discussion Paper are suitable.

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

All registered charities should have DGR status and this status should be disclosed so that the donor knows the donation is tax deductible for the purposes of clarity and uniformity.

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?



If the entity has a website where they fundraise, there is no harm in having a link to the ACNC website and the ACNC logo.

If by “public documents”, the discussion paper means annual reports or letters designed to fundraise, there are no objections to this. However, everyday correspondence should not require entities to have the contact details of ACNC.

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

Yes, however this should be met by the Annual Report of the organisation which is available to all their stakeholders. Organisations should not be required to create separate report.

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?

Once again, this should be met within the existing Annual Report of an entity.

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

Yes, a standard Chart of Accounts for charities and non-profits should apply and the ACNC should look to the Queensland University of Technology's Centre for Philanthropy and Non Profit Studies to this end. The new regulator, the academic research facility, peak bodies of community organisations and the private sector should work together to develop software and best practice methods of accounting and bookkeeping for the non-profit sector. This is especially true of organisations who receive multiple streams of funding, e.g. membership fees, Government grants, fundraising and donations. At the moment, there are limitations for those who manage the finances of non-profits because the software available is not tailored to non-profits with multiple income and expense streams. Further, Government departments at times do not understand the need to keep a Chart of Accounts as streamlined as possible. This needs to be resolved urgently to ensure uniformity of practice and reporting to members, funding bodies and the regulator, ACNC.

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

We need to be able to track projects over multiple financial years. The current software only allows us to report per financial year, which is inadequate for a project that runs over multiple financial years. At the moment, the only way we can keep track is to create separate bank accounts for specific projects. This is fine if the project is ongoing into the foreseeable future, however it is not good if a project has a definite start and end date.

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

Yes.

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. We do not foresee circumstances where it would be impractical, even with mobile apps, direct debits etc.

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



Once again, similar to the telephone fundraising, most would err on the side of caution if receiving unsolicited emails requesting donations. The *Spam Act 2003* should apply.

The ACNC should consult with industry to develop tools for fundraising that integrate with existing bookkeeping software, organisational websites and social media to create streamlined fundraising facilities. There should be capacity building funds available to assist organisations to accomplish this.

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

QJA has an Alliance with a commercial enterprise who fundraises on our behalf for every QJA referral to their banking and loan products. We may engage in similar agreements with other providers into the future. We do not believe further regulation is required.

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

We believe there are already provisions contained within the *Competition and Consumer Act 2010*, which superseded the *Trade Practices Act 1974*. The laws contained therein should apply, as they always have.

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?

Yes, it would promote corporations as socially responsible entities. This list should be publicly available. It would enable charities to search online for businesses who are already corporate fundraisers to search which causes certain businesses assist. For example, some businesses have a focus on fundraising for young people, or seniors etc and charities could pitch their cause accordingly. Alternatively, it would also assist if the a charity was thinking of approaching a business that was not listed, because if a business already has a high profile, but does not participate in corporate social responsibility, then charities could target those NOT listed and spread the request for donations and fundraising across the economy, rather than targeting the corporations who already have a good community reputation.

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

Yes.

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?

We believe a distinction should be made between volunteers who are collecting and those who are being paid to collect. Whether they are actually from the charity, or have been outsourced to a separate agency should also be required disclosure.

No disclosure beyond that should be required.

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

Only to distinguish between volunteers and paid collectors. This is a private business decision to devote staff and resources to corporate social responsibility. Profitable private business should be applauded for paying staff members devoted to raising money for charities (whilst also raising the profile of their business). They should not have prohibitive regulation standing in their way of supporting causes they wish to support. Charities who fundraise on their own behalf by employing staff should disclose to the extent they are being paid, as opposed to volunteer collectors. No individual dollar figures should have to be disclosed.



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

No, aside from the altruistic reasons for business to support charities, the other reason is to build their profiles as good corporate citizens. Profitable private businesses are hardly going to compromise their reputation by engaging in dodgy practices to do with charitable fundraising. Corporate donors are likely to self-disclose and self-regulate out of self-interest. However, regulation could be imposed internally to ensure employees stay within corporate ethics.

Thank you once again for considering our submission to the Discussion Paper.

We look forward to the establishment of the new regulator.

Yours sincerely
Queensland Justices Association

Ray Burrows
President