

4 April 2012

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

Email: NFPReform@treasury.gov.au

Dear Sir/Madam

Re: Consultation Paper – Charitable fundraising regulation reform

Thank you for providing Surf Life Saving New South Wales (SLSNSW) with the opportunity to respond to this Consultation Paper regarding the review of fundraising regulation in Australia.

SLSNSW is a registered charity. SLSNSW is affiliated with Surf Life Saving Australia (SLSA) Australia's major coastal water safety, drowning prevention and rescue authority.

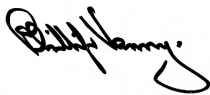
SLSNSW's core activities are:

- Coastal safety and lifesaving
- Education and Training
- Fitness and sport
- Junior, youth and member development
- Organisational development

SLSNSW is the peak body in NSW for 129 surf life saving clubs and 11 branches. It operates across all the state. These clubs and entities are all separately incorporated organisations and fall under the Charitable Fundraising Licence of SLSNSW. The continued operational viability of all of these entities is essential to providing a seamless high quality lifesaving operation in NSW. This viability in large part is dependent upon ongoing fundraising as government funding alone is not enough to maintain the necessary infrastructure and surf lifesaving equipment to provide a lifesaving service to the community.

I trust that our feedback will assist you in finalising the national fundraising legislation. If you have any questions in relation to our submission, please feel free to contact our Chief Financial Officer, Ross Bidencope on 02 9471 8060 or via email rbidencope@surflifesaving.com.au

Yours sincerely



Phillip Vanny
Chief Executive Officer
Surf Life Saving New South Wales

Question Responses

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

Yes, it is well recognised that specific regulation is required in order to create public certainty and public confidence in the Charitable Fundraising industry. Ideally one piece of national legislation or harmonised state legislation should control these areas so there are no operating loop holes between jurisdictions.

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.

As SLSNSW operates only within NSW we have no comment in relation to this question.

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?

The evidence is anecdotally based on the response to differing media articles highlighting the proportion of gross fundraising revenue that is consumed in fundraising and administration costs which created a high level of public anxiety. If specific ratios were set nationally for such costs as in the Charitable Fundraising Act 1991 and well publicised it make sense there would be a greater degree of public confidence. In addition, by publicising a specific ratio it would assist in managing the community expectations of how much money should go directly to the particular cause, because it would highlight that charities do need to spend a certain percentage of money (for administration and resources etc) to undertake fundraising activities.

4. Should the activities mentioned above be exempted from fundraising regulation?

It is considered reasonable that the activities of soliciting for government grants, corporate donations or donations from public and ancillary funds, workplace appeals for assistance for colleagues and their families and donations to religious organisations from their own members be exempt from fundraising regulation because of the specific relationships involved, thus the level of knowledge available to those being requested to donate.

However lotteries and raffles should not be exempt because they are covered by separate state legislation. To do so will create loopholes and fundraising havens in states where legislation is not as tight. The legislation should be harmonised nationally to create certainty.

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.

Not to the best of our knowledge

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.

Yes, the requirement in the Charitable Fundraising Act (NSW) 1991 that all license holders be audited is a significant financial impost on smaller entities given the most basic of audits averages about \$3,000, which may exceed the gross fundraising in some cases. Further registered auditors are becoming harder to source especially in regional areas where the cost of insurance and training requirement stipulated by their professional bodies has result in many auditors ceasing to provide such services as they consider it uneconomic and too hard.

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

No, better to have one national law in this area as a patch work of state and federal legislation will result in uncertainty and create loop holes that maybe exploited.

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?

States should be encouraged to have their legislation harmonized with the federal legislation for the reasons already mentioned in question 7.

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

There should probably be a 24 month transition period as it will probably take that long for the state legislation to be harmonised. The ACNC should be the:

- Educator and provider of resources (best practice guidelines)
- Registrar of charities
- Administrator of the legislation
- Information custodian
- Investigator of breaches

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

Yes, registered charities should automatically be authorized to carry out fundraising activities. However authorisation can be revoked for non compliance with legislation.

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

Given most charities in existence before 1 July 2011 are automatically going to be registered with ACNC they should be required to present evidence of their existing fundraising license under their respective state jurisdiction.

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

Activities such as fraud, misappropriation of funds and trading whilst insolvent should all result in a ban from fundraising. The duration of the ban should be determined by the courts and based upon the severity of the offence, but should start at 12 months.

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

SLSNSW considers the fundraising legislation itself should include specifically provision covering:

- Misleading or deceptive conduct;
- Unconscionable conduct;
- False or misleading representations; and
- Harassment and coercion.

It would not matter if the provisions were identical to those in the ACL. This is a cleaner option as opposed to having the ACL apply to Fundraising

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

Yes, the permitted calling hours should be in line with those permitted by the ACL being:

- Monday to Friday – from 9am to 6pm; and
- Saturday – from 9am to 5pm.
- Dealers are prohibited from approaching a person at any time on a Sunday or a public holiday.

15. 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?

SLSNSW considers charitable entities should be exempt from the provisions of unsolicited selling as people can be asked to have their phone number included on do not call lists if they feel strongly about not being contacted. To do otherwise would substantially diminish fundraising in Australia which would have a direct negative flow on to the valuable community services provided by most charities.

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

Yes, charities should be required to show their ABN on all public documents to assist with transparency and public confidence. It will allow prospective donors to do research into the charity in question.

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

Yes, this is already the case in NSW and should be included as part of best practice.

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

Yes, this already the case in NSW and should be included as part of best practice.

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

Once the ACNC charities register is online all unattended collection points should contain a link to the register so details of the charity concerned can be accessed.

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

Yes as donors need to know whether they can legally claim the donation as a tax deduction before they make any donation.

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

Donors should be made aware of the percentage of every dollar donated that actually gets spent on the altruistic purpose of the charity (net of fundraising and administration costs). Charities can provide explanations to support costing but the Donors will be fully informed and thus can make an informed decision on whether to donate or not.

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

Yes, as it will provide that extra degree of confidence to donors.

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

After reviewing the draft reporting requirements of the ACNC it is considered the standard reporting requirements should contain additional information that will assist in the differentiation of Charities. For example categorisation by: type of fundraising activity, industry 'emergency services' etc. and size of operations. Other than this information contained in Annual reports and websites should be sufficient.

24. 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?

When reporting to the ACNC charities should be required to provide a breakdown of fundraising revenue by type plus details of direct fundraising costs and marketing associated with fundraising. Further ratios of direct fundraising costs and the net surplus after costs should be provided. These are already required by the Charitable Fundraising Act 1991 in NSW.

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

Yes, the requirements should adopt the best requirements of existing state legislation without adding any further requirements. However the audit requirements should only apply to fundraising in excess of say \$250,000 otherwise it becomes a significant fundraising cost in its own right.

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

It should be a requirement that all charities adopt the Standard Chart of Accounts (SCOA) as recommend by COAG to promote uniformity of fundraising classification and reporting.

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

Yes, given the risks associated with internet and electronic fundraising each website should contain a link to the ACNC charities register so donors can undertake some research into the authenticity of the charity before making a donation.

28. 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

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

As mentioned above they should all have a link to the ACNC charities register so donor can undertake research on the charity in question and its authenticity.

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

Yes, third party fundraisers should be licensed by the ACNC as third party fundraiser in the same those providing financial advice need to be licensed by ASIC. The regulations should place boundaries on the amount third parties can deduct or charge charities for their contracted fundraising services.

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

That would seem reasonable.

32. 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 third party fundraisers should be required to register with the ACNC. The implications would be increased public confidence in the industry especially if the ACNC has control of some of the practices employed together with restrictions on the minimum percentages of Gross revenue that need to be passed on to the actual charities.

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

Third party fundraisers should be required to state the name and ABN of the charity so prospective donors can undertake some research into the charities affairs so they are properly informed. This is already required under the Charitable Fundraising Act in NSW.

34. 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?

Yes, so prospective donors are properly informed third party fundraisers should be required to disclose they are collecting donations on behalf of a charity and the fees that they are paid for their services. This is already a required under the Charitable Fundraising Act in NSW.

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

Yes, so prospective donors are properly informed third party fundraisers should be required to disclose that paid labour is being used for fundraising activities. This is already a required under the Charitable Fundraising Act in NSW.

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

Given the low level risk associated with private participators it is considered private participators should not be regulated as there is a large incentive on their part not to damage their reputation by doing anything untoward.