



## **Charitable Fundraising Regulation Reform**

**SUBMISSION OF THE SALVATION ARMY  
AUSTRALIA**

**APRIL 2012**

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## **The Salvation Army**

The Salvation Army is the most recognised charity in Australia. The Salvation Army's services are open to all, without discrimination. The foundation of The Salvation Army and its current ethos affirm its religious commitment and its social commitment as equal and indivisible. The Salvation Army describes this as a "holistic mission".

The Salvation Army is an evangelical part of the universal Christian Church. Its message is based on the Bible and its ministry is motivated by love of God. Its Mission is both spiritual and practical, encompassing the preaching of the Gospel of Jesus Christ and alleviating human suffering and distress without discrimination.

### **Opportunity to contribute**

The Salvation Army is pleased to have the opportunity to contribute in the consultation process on the charitable fundraising regulation reform.

### **Objects of The Salvation Army**

"The objects of The Salvation Army shall be the advancement of the Christian religion....and, pursuant thereto, the advancement of education, the relief of poverty and other charitable objects beneficial to society or the community of mankind as a whole."

(Extract from Section 3, The Salvation Army Act UK, 1980)

This diverse mission is expressed in one of the earliest mottos of The Salvation Army.....  
"Heart to God, Hand to Man".

### **Values of The Salvation Army**

The Salvation Army values:

<b>Human dignity</b>	we affirm the worth and capacity of all people
<b>Justice</b>	we promote healthy and whole relationships, and good society
<b>Hope</b>	we work for reconciliation, healing and transformation for all people and creation
<b>Compassion</b>	we feel compelled to stand with and do something about another's suffering
<b>Community</b>	we build community and meet with God in our encounter with others

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## **Attributes of The Salvation Army**

The Salvation Army is viewed by the community as highly committed, visible and trustworthy. The Salvation Army provides a seamless approach to welfare and community work with a network of people available to assist those seeking its services.

The Salvation Army is also seen as responding to current social needs with expertise and professionalism. The Salvation Army provides its services without discrimination and supports the most disadvantaged and marginalised in our society.

The Salvation Army introduces life changing approaches as it is committed to changing the lives of people in crisis and not just meeting their immediate needs.

The Salvation Army in Australia is a part of the worldwide Salvation Army church.

## **Services of The Salvation Army**

The types of services and welfare, which The Salvation Army provides to the local community, include the following:

- Homelessness Shelters
- Aged Care Centres (The Salvation Army provides accommodation for aged persons, catering for their nursing and health care needs, and preventing their isolation and loneliness)
- Bridge Programs (alcohol, drug and gambling rehabilitation programs)
- Safe-housing for victims of violence
- Crisis Accommodation Centres
- Family Crisis Centres
- Family Counselling
- Crisis Telephoning Services
- Survivors of Suicide Groups
- Youth Crisis Centres
- Crisis Counselling (including grief counselling)
- Financial Counselling
- Marriage Enrichment
- Child Care
- Emergency / Disaster Relief (The Salvation Army provides direct relief or alleviates the distresses caused by natural and man-made catastrophes)
- Emergency Relief / Financial hardship
- Migrant Services
- Court and Prison Services

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- Youth Support Services
  - Youth drop-in Centres
  - Intellectual Disability Services
  - Recreation programs for the elderly
  - Salvos Stores (sale of donated goods available for the public)
  - Employment Plus (placing long term unemployed into jobs)
  - Worship and other services (provided by The Salvation Army throughout Australia as a part of the universal Christian Church)
  - Red Shield Defence Services
  - Legal Services
  - Support of the Federal Government's Community Detention Program

## **The Salvation Army's Submission**

### **Discussion**

The Salvation Army is a holistic organisation that provides significant and diverse services to the Australian public.

It conducts its Social Work activities because of its commitment to the gospel of the Lord Jesus Christ. These are inextricably linked and cannot be separated. By way of formalising this concept, the objects of the Salvation Army are clearly documented in the UK Act 1980:

"The objects of The Salvation Army shall be the advancement of the Christian religion....and, pursuant thereto, the advancement of education, the relief of poverty and other charitable objects beneficial to society or the community of mankind as a whole."

The Salvation Army is charitable to its core.

To enable The Salvation Army to undertake the important work it carries out, the Australian public donate significant amounts of money each year. During the 2011 financial year The Salvation Army's Red Shield Appeal raised \$76.8million nationally. Of this total, \$10million was raised on the Neighbourhood Doorknock Appeal weekend held in May.

The Salvation Army relies on volunteers to assist in the process of collecting donations from the Australian public. During 2011 approximately 70,000 volunteers assisted The Salvation Army in the Red Shield Appeal.

The Salvation Army receives donations from a range of sources. These include the annual Neighbourhood Doorknock Appeal, street and pub/hotel collections, web site donations and people simply walking in off the street to make a gift to the work of The Salvation Army.

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In response to the discussion paper's question: *Is regulation necessary?* The Salvation Army reaffirms comments made in previous submissions: The Salvation Army supports the Government's reform agenda so long as it results in a reduction of compliance, compliance costs and complexity of administration.

In the context of fundraising regulation reform, The Salvation Army is concerned with any reform that would impose additional restrictions, complexity or costs on the ability of The Salvation Army to engage with the Australian public in this regard.

The discussion paper poses a number of questions and this submission will address the questions raised.

**Consultation questions:**

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

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?

2.1 The Salvation Army agrees with the premise that well designed and targeted fundraising regulation can be of benefit for both the charity and the Australian public. Appropriate regulation provides a consistent avenue for organisational compliance, as well as transparency and accountability which aids public confidence that charities can be held in trust to do what is right with the public's support.

In attaining outcomes that satisfy the needs of both the Australian public and charities with respect to fundraising activities, there is a need to develop specific regulations for this result. It is The Salvation Army's recommendation these regulations must retain sufficient flexibility and adaptability to enable a charity to fundraise freely and unconstrained.

This flexibility includes acceptable time periods for collections to be held (specifically from a charities perspective). In developing a regulatory regime there is also a need for the drafters of the regulation to understand the various elements of fundraising practice, the cost to initiate these and then to ensure that the cost of compliance is not prohibitive or unreasonable.

2.2 The Salvation Army is a large organisation operating across all States and Territories of Australia. To achieve maximum cost savings The Salvation Army, where ever possible, will standardise materials. Unfortunately the operation of specific state based fundraising requirements result in the need to create specific documentation and materials that are relevant only in the one jurisdiction. An example is from South Australia where:

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- There is a prescribed requirement for the state based Collections for Charitable Purposes (CCP) number to be included on all receipts for tax deductible receipts;
  - There is a requirement for volunteer collectors to provide a web address for financial reports, when asked from a donor;
  - There is a requirement of volunteers (and the organisation more widely) to provide upon request, a central phone number (for a Government department) for any complaints or queries about their fundraising activity;
  - There is a proposed regulation that these details (i.e. the CCP number, website address and Government phone number) are carried in all forms of advertising. This will include radio, television and print. As a result of this it will require specific state based receipt books and marketing materials to be developed and printed. This will result in a loss of efficiencies and an increase in costs.

2.3 The Salvation Army is not aware of any evidence that demonstrates the existing fundraising regulation has an impact on public confidence or participation. In contrast the Australian public measure an organisation such as The Salvation Army by what it does. The Salvation Army is a highly trusted organisation due to its history and actions. This trust has been earned – it has not arisen as a result of any regulation.

**Consultation questions:**

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?

If so, please provide an explanation of why the relevant activities should be exempt.

2.4 In addition to determining if specific activities should be exempted from any fundraising regulation, it is important to note that certain jurisdictions exempt organisations in their entirety from fundraising regulation.

An example is in NSW where the *Charitable Fundraising Act 1991* does not apply to a religious body or organisation in respect of which a proclamation is in force under section 26 of the *Marriage Act 1961* (Commonwealth), a religious body, or an organisation or office, within a denomination in respect of which such a proclamation is in force, or a body or organisation affiliated with and approved by the religious body subject to further requirements being met.

Similar exemptions also apply in Victoria.

The Salvation Army recommends the adoption of organisation exemptions is maintained. The removal of the exemptions will directly result in increased administration costs.

2.5 It would be helpful to see a more extensive list of what is anticipated to be included and what is not, to better enable us to provide a considered response to this question.

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**Consultation questions:**

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.

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

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?

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?

2.6 As The Salvation Army is a large charity we are unable to provide appropriate feedback on this question.

2.7 To the extent an organisation is required to be regulated for fundraising purposes, regulation should be consistent and uniform across the charitable sector. Similar to the proposed ACNC tiers of compliance (it is noted the actual tier levels are still to be finalised), the compliance for fundraising regulation should be scaled dependent upon annual fundraising totals. The tiers should be based upon what is deemed manageable by a charity and ensuring they are not disadvantaged by compliance. Compliance should be both reasonable and affordable within an organisation's capacity.

2.8 The Salvation Army submits that if a national fundraising regulation regime is to be established, such a regime must only be established on the basis the State/Territory based fundraising regulations no longer exist.

2.9 Transitional arrangements are imperative with any regulatory change. The actual length of time required would be dependent upon the magnitude of the regulatory changes imposed.

**Consultation questions:**

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

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

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

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

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2.10 It is understood the role of the ACNC will be that of a regulatory body for charitable purposes and organisations ie application, registration & authorising, monitoring for compliance and disciplining and de-registering. If a national fundraising regulation regime is to be established it is sensible the ACNC is utilised as the regulator as opposed to the creation of a new, separate fundraising regulator.

2.11 An organisation that is accepted by the ACNC as being charitable should have an automatic entitlement to fundraise. It becomes a separate issue as to whether or not any or all of the future fundraising rules then apply to specific charities.

2.12 No, we refer to our response to question 2.11 as well.

2.13 When establishing a set of rules/requirements that relate to behaviour management it is important to separate minor and insignificant breaches to those of breaches that may, for example, be of a material, offensive, or illegal nature. Conduct that contravenes legislation and accepted good practice standards, and whereby a charity, having been notified of this unacceptable practice, has not rectified this within an acceptable period of time could be banned from fundraising.

The period of time for this ban might depend upon the severity of the contravention and what is required to satisfy that changes have been made to these unacceptable practices, ie. personnel may be removed/replaced. The charity could be issued a prescription of matters to be attained for obtaining the ban being lifted, and upon review of these their authority may be reinstated.

**Consultation question:**

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

3.1 The Salvation Army would uphold the principle of the inclusion of the four listed concepts from Australian Consumer Law. The Salvation Army identifies the concepts as being acceptable and necessary to good practice within the charitable industry. The Salvation Army agrees these concepts are more about behaviour and should not be burdensome to meet compliance. The Salvation Army does however recommend if these concepts are to be used they are specifically included in the legislation that creates the fundraising regime as opposed to amending the separate Australian Consumer Law act.

**Consultation question:**

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



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3.2 The Salvation Army is greatly concerned about the potential impact of restricted time periods in which fundraising could occur.

Firstly, The Salvation Army is deeply concerned with any limitation that could be imposed that would affect the Red Shield Appeal. As previously stated, the Neighbourhood Doorknock Appeal raised approximately \$10million for the 2011 annual Red Shield Appeal. For the past 45 years, the Red Shield Appeal Doorknock has been successfully conducted on a Sunday and without any significant complaints from the Australian public.

Data from our own Newspoll research shows that people have a preference to giving to someone representing The Salvation Army on the street and at the door. The public generally are accepting and expecting of The Salvation Army to call on them at the door. This is certainly the case on the Red Shield Appeal doorknock weekend.

Accordingly The Salvation Army strongly submits that this opportunity to continue to engage with the Australian public must not be removed.

The second area of concern for The Salvation Army is any restriction that may be imposed that limits the ability to undertake collections at train stations, shopping centres, agricultural shows, sporting and other major events, and hotels/clubs and pubs. These activities have been undertaken by The Salvation Army for nearly 100 years and the activities commence early in the morning (at train stations) and end late at night (in pubs, clubs and hotels).

In the development of time restrictions on fundraising, flexibility should be considered in relation to day light hours, whether or not the collection occurs in public places or at private homes, and the operating hours of the public places.

The Salvation Army believes it reasonable that the public are not approached in person in their homes after dark and thus suggest 6.00 pm or when dark to be reasonable with the exception. Where the collection might be held in a shopping centre or other public place, The Salvation Army proposes being able to collect within the stated operating hours of that location. ie. where a Westfield Shopping Centre gives permission for collecting and is open/operating until 9.00 pm (and it is already dark) that the collecting can continue inside the premises.

Another example that needs to be considered is where there is a requirement by management for collection points to be in place in public places earlier and/or later than the operating hours suggested above. For example in Rundle Mall Adelaide we are typically required to set up a Christmas gifts and donations stand with a Christmas display early in the morning in anticipation of the shops opening at 8.00 am on the Sunday morning.

When considering time limitations for collections, it may be relevant to distinguish between collections that utilise employees and un-paid volunteers to those collections who are operated by paid third party collectors. In the case of the latter, these professionally run collections may need to be subject to more restricted time frames to achieve a balance between the expectations of the public and those of the charity.

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**Consultation question:**

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?

3.3 The Salvation Army does not undertake unsolicited selling that would be subject to these rules. Accordingly The Salvation Army does not particularly have a direct opinion on this aspect. However The Salvation Army would not expect the nominal selling of its publication The Warcry in pubs and hotels to be affected.

**Consultation questions:**

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

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?

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

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

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

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

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

4.1 The Salvation Army upholds the practice and believes it is reasonable that charities declare their ABN on the receipt a donor receives. The Salvation Army would be concerned if the phrase 'public document' in relation to a donation is extended to advertising and all other materials The Salvation Army may produce.

4.2 The Salvation Army upholds the practice and believes it is reasonable for the person representing the charity to provide the details of whether they are a paid collector or a volunteer/employee and the name of the charity for which they are engaged in charitable fundraising activity.

4.3 The Salvation Army upholds the practice and believes it is reasonable for a person engaged in charitable fundraising activities to wear a name badge and to provide contact

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details of the charity (the contact details might be printed on the receipt book or on the volunteer badge itself).

4.4 The Salvation Army upholds the practice and believes it is reasonable for unattended collection points (point of sale collection containers), advertisements or print materials to contain information such as:

- The charities name
- Contact details (phone number and/or website address)

4.5 The Salvation Army upholds the practice and believes it is reasonable for a charity to disclose whether the charity is a deductible gift recipient and whether the gift is tax deductible (this information should be printed on receipts as well).

4.6 The Salvation Army is not aware of other disclosure requirements that should apply at the time of giving.

4.7 The Salvation Army upholds the practice and believes it would be reasonable for a charity to provide contact details of the ACNC (phone number and website address) on their public documents (receipt books, website and unattended collection containers). However, we would recommend this is not necessary for advertising materials (posters, banners, television ads, radio ads and some brochures).

**Consultation questions:**

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

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?

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

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

5.1 The Salvation Army currently includes some qualitative elements, ie. case studies of persons assisted through our service delivery. Some of this is included in the annual report and other service reports. The Salvation Army would be generally supportive of this aspect as long as it does not become labour intensive, time consuming and detract from that which is attempted to be achieved. The Salvation Army notes however the ACNC has also consulted on the reporting of charitable organisations and accordingly there needs to be consistency and ease of compliance.

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5.2 The Salvation Army includes broad details of this element in their financials of the annual report, ie. including the determined ratio % for expenditure to raise funds through fundraising activities.

The Salvation Army is concerned with the development of prescriptive fundraising reporting and also highlights the risk that organisations within the charitable sector do not report in identical ways and therefore this can lead to even greater confusion for members of the public who are trying to understand the reported data.

The Salvation Army is concerned with what detail might be required to be included and the extent of this detail ie. Will it be required for each fundraising activity or fundraising at an organisational level? Output reporting can also be misleading as it may take some time to realise the success of the activity (“life time” value). In addition, the outlay to implement bequest programmes will not be realised for some years to come, etc.

5.3 The Salvation Army is supportive of requirements that aid transparency and accountability. Whether this requires fundraising-specific legislated accounting, record keeping and auditing requirements or not may depend upon what is proposed and we would suggest consultation should be held on the specifics of this. What is made available to the public might also require consultation, assuring clarity to terminology and fundraising specific practice, ie. acquisition, etc. Again it is noted the ACNC are developing reporting frameworks and on this basis it is necessary for this to be undertaken jointly and not in separate reporting silos.

5.4 The Salvation Army does not have any other requirements to suggest at this time.

**Consultation questions:**

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

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?

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

6.1 The Salvation Army would uphold the proposal for a charity to conduct fundraising by means of internet and electronic means, but that they firstly must be registered with the ACNC. This is one way to form assurance of genuineness and accountability from the charity to the public.

6.2 The Salvation Army would not envisage the requirement to state their ABN on communications specifically relating to fundraising to be impractical, as long as the stating of this is not directed in such a manner that it detracts from the piece of mailing created, ie. it should be clear enough such as carried in a footer, but not included in the core message. Another consideration would be that a phone number is included whereby the public can clarify any concerns. The Salvation Army recognises however there may be instances of

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accidental omission of an ABN in an email and if this occurs there should not be any penalties attributed to this oversight.

6.3 The Salvation Army does not see the need for any further technology specific restrictions to be placed on internet or electronic fundraising.

**Consultation questions:**

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

7.2 It is 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?

7.4 Should third party fundraisers be 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?

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?

7.1 The Salvation Army would be supportive of regulation being developed for third party fundraising entities to the extent this enhances assurances to the public that appropriate business practices of these businesses are being monitored and implemented.

Such regulation should include the behaviours or manner by which those businesses are carried out, ie. respectful, polite, etc. of the public they interact with whilst representing the charity.

7.2 The Salvation Army would support not merely limiting requirements to third party fundraising entities who earn a financial benefit. All entities in this area should have some requirements of compliance which assures the public of accountability in good business practice, ie. the funds raised are actually getting to the charity concerned.

It should be noted that this should not be so onerous that they deter third party fundraising entities who are not receiving a financial benefit themselves, from fundraising for a charity.

7.3 The Salvation Army would support third party fundraising entities who are earning a financial benefit to be registered with the ACNC. This could be seen as a part of their license to operate in this sector.

The Salvation Army does not believe third party fundraising entities that are not earning any financial benefit should be required to register with the ACNC. However in these circumstances, The Salvation Army is of the view there could be an agreement/process with

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the charity and the third party that clearly states the intentions and practices that must be adhered to in the process of the fundraising activity. These could be predetermined with input from the ACNC.

We would not be supportive of a registration process that inhibits the quick action of an appeal which would benefit greatly the persons for whom the activity was seeking monies to assist. It might be considered that not all third parties are fundraising on a continual basis. It is possible their involvement may be limited to a once off circumstance.

7.4 The Salvation Army would support the requirement that third party fundraisers should be able to state this information where requested. This could be enabled by way of communication mechanisms provided from the charity, including but not limited to collecting receptacles, ie. a label with the charities name, contact details and ABN. This should give confidence to the public in the legitimacy of the charity represented.

7.5 Third party fundraisers should disclose the name of the charity on whose behalf they are collecting donations. We do not support that they should be required to disclose the value of the fees received for the service provided. However they should be required to state they are being paid for the collection service. This has particular relevance to activities of acquisition whereby the public will not often understand the cost benefit of the service to the charity. Remembering that often third party fundraising engagement is to “buy in” a particular skill or service for a contracted period of time.

7.6 The Salvation Army would not necessarily support that this action is required in the first instance of engaging with a potential donor. However we have no objection to the requirement for a third party fundraiser to provide a truthful response when asked by a donor if the service is being conducted for a fee. The Salvation Army does submit though in the circumstances of door to door collections, that collectors should state if they are acting in the capacity of a volunteer/employee or a third party paid collector.

7.7 The Salvation Army would support, as stated, some foundational elements of behaviour and practice being established and that private participators enter into agreement with the concerned charity prior to engagement in a fundraising activity. This gives some assurances to the charity of the persons stated intentions in representing them.

If you have any questions in relation to this submission or would like any further clarification, please do not hesitate to contact us.

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