

5 April 2012

Manager
Consumer Policy Unit
Infrastructure Competition and Consumer Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: NFPReform@treasury.gov.au

Dear Sir/Madam,

Re: *Charitable fundraising regulation reform - discussion paper and draft regulation statement.*

Vision Australia is pleased to make a submission to the discussion paper and draft regulation statement on charitable fundraising regulation reform.

Introductory comments

Briefly, we are an economically significant national Not-for-Profit organisation. In 2010/11 we spent around \$90 million providing services, including approximately \$30 million derived through Local, State, Territory and Federal government sources. The remainder of our revenue was derived from investment and considerable fundraising efforts. We employ more than 700 full time equivalent personnel, operate 28 offices and provide services to close to 50,000 Australians who are blind or have low vision and their families, on a regular basis.

Our services provide vital support to people who are blind or have low vision and in doing so provide benefits to the government and taxpayers. The Productivity Commission has recently released a significant report on the disability sector, noting that while government increasingly relies on organisations such as Vision Australia for service delivery there is systemic, longstanding, chronic underfunding of the disability sector to deliver services. Consequently we rely on fundraising activities supported by arrangements that provide tax benefits, and the generous support of donors and beneficiaries to continue to deliver services.

Below we include some specific responses to particular questions raised in the discussion paper, followed by our general observations on the overall impact of these proposed reforms.

Consultation question:

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?

In relation to specific regulation dealing with charitable fundraising, existing state based arrangements add to our costs without, in our view, an attendant increase in public confidence or participation.

Vision Australia has a national client base and national fundraising programme, but several staff are required to spend significant amounts of time overseeing the various applications and renewals for state fundraising authorities, working with our third party suppliers to support their fundraising license applications on our behalf and overseeing lottery licenses. The various, federated authorities currently work to different standards that are both confusing and onerous. A single, national license to fundraise would be an immense help to Vision Australia's fundraising while providing a platform for increased public understanding and confidence.

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.

Vision Australia submits that certain activities should be exempted, particularly in relation to soliciting government grants and corporate donations, particularly at a time when charities are encouraging corporates to provide support to the sector.

The Productivity Commission's report on Disability Care and Support at Chapter 4, (including Recommendations 4.1 and 4.2) identifies greater involvement from business in community capacity building will provide a greater benefit and support to Australians with a disability. It is reasonable to assume adequate safeguards already exist within civil and criminal law, and corporate and philanthropic organisations, without the need of specific fundraising regulation.

The last 2 examples cited in the Treasury consultation paper at paragraph 18 involve detailed issues and we suspect that any benefit or advantage may be outweighed by the complexity required in any approach.

Vision Australia believes that the ACNC should be the one stop shop for charities, and we refer to comments in the Treasury discussion paper at paragraph 19 concerning lotteries and raffles. To further minimise duplication and reduce multiple reporting, and deliver on the promise of ACNC being a one-stop shop for charities, the interface between the ACNC and lotteries and raffles should be designed so that the ACNC is the regulator for our sector. Ideally, we would like to see these functions rolled into the ACNC.

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?

Vision Australia believes that national legislation should apply to all organisations that fundraise in any state. Keeping a state based system for some organisations and a national system for others will only continue the current, confusing state of affairs. Compliance costs for small organisations will conceivably be reduced by a single, national authority. Any legislation that does not take into account a small scale threshold would potentially adversely affect our ability to fundraise via the use of our third party auxiliaries. We believe that a small scale exemption is appropriate.

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?

Vision Australia believes the ACNC should be the fundraising regulator. In terms of the ACNC role in fundraising, Vision Australia can see that it might be welcomed and reduce the reporting burden for charities even further if charities registered with ACNC are automatically authorised to conduct

fundraising on a national basis. However, we can foresee that some sorts of organisations may not find it appropriate to register and they will still require some kind of oversight of their ability to fundraise. We are concerned this might create a two-tier compliance system which appears to be counter to the philosophy behind the review.

In relation to the Treasury consultation paper paragraph 27, Vision Australia already supports this approach as indicated in our previous submissions to Treasury made on 19th January 2012 to the 'ACNC Discussion paper to gather community feedback on elements of a new reporting framework for charities' and the 'Implementation design and draft legislation for the Australian Charities and Not-for-profit Commission (ACNC).'

Vision Australia supports the broad approach outlined in the Treasury consultation paper at paragraphs 28 and 29 to support public transparency and trust, while providing necessary enforcement to protect standards in the sector.

Consultation question:

- 3.1 Should the aforementioned provisions of the ACL apply to the fundraising activities of charities?
- 3.2 Should the fundraising activities of charities be regulated in relation to calling hours? If so, what calling hours should be permitted?
- 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 and other bodies including ACMA, Australian Communication and Media Authority, already have provision for door to door sales, telephone contacts which most charities and their suppliers conform to. We do not see any detriment to these being applied to the charity sector. However, we note that the unsolicited selling provisions are explicitly related to the purchase of goods over \$100. Charitable donations of that size are not a comparable transaction and we believe these should be exempted, particularly as most unsolicited selling by charities is for regular gifts – and it is not clear how a gift of \$20 per month or \$240 per year would be handled under the ACL unsolicited selling provision. Therefore we feel this provision is not currently applicable to charitable donation solicitation.

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?

In terms of other proposed aspects to improve accountability and transparency to the public, Vision Australia would be very happy for all charities to have to state their ABN on all public documents.

Collectors, paid or unpaid, should be required to wear a badge or display ID showing they are permitted to collect for the charity – showing the charity's name and ABN. To include a photograph, however, would be prohibitive in terms of cost and logistics for many events such as collection days at large events where many volunteers are recruited to collect.

Vision Australia sees no benefit to the public in defining whether the collector is paid or unpaid. Paid fundraisers have been proven to be more effective at soliciting long term regular gifts than volunteers. Yet to disclose their employee status is almost to stigmatise them. We feel that the other measures proposed in terms of disclosure of fundraising effectiveness will result in allowing the public to decide which methods they want to use as channel for their support, rather than allowing them to assume that volunteer support is somehow 'better' than paid.

Charities registered with the ACNC can choose to publicise that fact but we do not see that it is feasible to enforce them to include it on all documents. We would refer you to the Fundraising Standards Board in the UK who have provided a logo for charities to place on fundraising materials to signify their membership of that group to donors and potential donors. We feel this kind of logo based trust signifier would be better suited to the purpose than a requirement to put extra words on all material.

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?

Reporting requirements must include the impact on beneficiaries. This impact should be the primary way of addressing a charity's effectiveness in our view.

Vision Australia strongly asserts that to focus on simplistic statistics such as the cost of fundraising for an activity or the proportion of funds spent on administration would be a backward step in building donor trust and transparency. For example, the cost of fundraising for an activity such as face-to-face solicitation of regular givers might be very high in the first year, yet result in a seven-fold payback over time - much better than the average cash donor. Yet, to focus on year one Return on Investment (ROI) would make this look like a very poor activity when, in fact, it is the method of donor recruitment that delivers the best long term contribution for charities in Australia currently.

In relation to costs of administration, unless there is very consistent and transparent data collection in this area we foresee a continuation of the current situation in which organisations account for non-service delivery activity in such different ways that the ability to compare is hindered to the extent that comparison of administration cost ratios is virtually meaningless and in some instances detrimental. We are unable to see how the ACNC could ensure that cost information is provided under consistent accounting rules. Without that consistency, data presented on costs of administration will be open to error and misinterpretation - an outcome that would be the direct opposite of the intention of the legislation in our view.

Vision Australia strongly believes that within the reform proposals that are ultimately put forward there must be a strong emphasis and education to understand and support the importance of the return being the impact for clients and beneficiaries rather than in perpetuating any myth that an organisation with a stated, and often unsupported, low administration base is more efficient, and by implication somehow more worthy, than another that is more transparent about its fundraising or administrative costs.

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?

We believe it would be counter-productive and nigh on impossible to prohibit electronic fundraising unless the charity is registered with the ACNC. Third party fundraisers may choose to promote a charity they support as their beneficiary for online sponsorship. In terms of the question 'Would the charity be in breach if it was small and therefore not registered with ACNC?' we do not support this proposal.

We do believe that electronic communications should not be exempt from the need to show the charity's name and ABN.

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?

The above points should also apply to third party fundraisers for their specific fundraising activities as the function is identical to the fundraising function within Vision Australia only that it is outsourced. The disclosure of fees is unnecessary as per the previous points regarding low cost being a proxy for efficiency

Further comments in response

In summary and addition to the above points, Vision Australia supports arrangements for the NFP sector that do not add unnecessary or burdensome arrangements or costs for our operations when it comes to charity fundraising.

We would like:

- less time and resource required to comply with duplicative and burdensome arrangements, and consequently more time and resource directed towards helping the community;
- simplified administration and compliance procedures as well as no addition of new reporting requirements;
- protection and support of vital services that are delivered by NFPs and which have a demonstrable community need and provide benefits to government and Australian taxpayers; and
- an approach that will help improve public trust and confidence by promoting accountability and transparency of the sector through a focus on effectiveness of outcomes for clients as a result of monies raised.

Thank you for the opportunity to provide comment and we look forward to further developments as you continue your important work.

Yours sincerely

Gerard Menses
Chief Executive Officer
Vision Australia