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Charitable Fundraising
Better Regulation Division
Department of Customer Service
Level 23, 4 Parramatta Square
Darcy St and Macquarie St
Parramatta NSW 2150

Via email: charitablereforms@customerservice.nsw.gov.au

Discussion Paper - Charitable Fundraising in Australia: Proposed cross-border recognition model for charitable fundraisers

CPA Australia represents the diverse interests of more than 166,000 members working in over 100 countries and regions around the world. We make this submission on behalf of our members and in the broader public interest.

CPA Australia welcomes the proposals made by the Charitable Fundraising National Working Group (Working Group) in this Discussion Paper to streamline fundraising regulation across Australia through a cross-boarder recognition model for charitable fundraisers. We agree with the statement in the Discussion Paper that “inconsistent regulatory regimes across jurisdictions create complexity and uncertainty for charities and are a significant source of regulatory burden and costs”.

The long-standing concerns with Australia’s dysfunctional fundraising regulation regime are reflected in the number of inquiries and reports into the matter highlighted on page 5 of the Discussion Paper. CPA Australia has been advocating for fundraising regulation reform, both in its own right and as part of the #fixfundraising coalition, and has made a number of submissions¹ over the years with recommendations for fundraising regulation reform.

We welcome the broad intention and initial steps proposed in the Discussion Paper to reform the existing state/territory based fundraising regulatory regime. However, we believe there is a need for further regulatory reform to comprehensively address the issues surrounding fundraising regulation. On this basis, we provide the following comments on the proposed model for fundraising regulation.

¹ [Submission](#) on NSW Charitable Fundraising Regulation 2020 Consultation,
[Submission](#) on NSW Discussion Paper – Charitable Fundraising Review,
[Submission](#) on Senate Select Committee Inquiry into Charitable Fundraising in the 21st Century,
[Submission](#) on the Australian Consumer Law Review,
[Submission](#) to the Independent Review of the Australian Charities and Not-for-profits Commission Legislation

Deemed authorities

We support the proposal that each Australian Charities and Not-for-profits Commission (ACNC) registered charity could be deemed to hold a local fundraising authority in each participating jurisdiction. However, we do not agree that individual jurisdictions should have the flexibility to manage who is authorised to fundraise, including applying additional conditions for deemed authorisation. We also do not agree with the proposal that, regardless of whether a fundraiser holds a deemed authority the obligations under local regulatory regimes could still apply and local regulators would not be restricted from establishing their own processes and procedures for dealing with deemed authority holders. Allowing such flexibility could potentially lead to different requirements being enforced by different jurisdictions and will undermine the primary purpose of the initiative to ensure there is a consistent fundraising regulatory regime across Australia.

The proposal for “deemed authorisation” effectively brings fundraising entities under the ACNC’s regulatory oversight. Although the legislation underpinning the ACNC has been developed to oversee Australia’s charities sector, there are no specific provisions within it for fundraising regulation. Moreover, the ACNC is currently not sufficiently resourced to regulate fundraising. We refer you to our [submission](#) in response to the independent review of ACNC legislation where we have made recommendations for the ACNC to become the primary regulator for fundraising in Australia.

By establishing “deemed authorisation” across all jurisdictions, all fundraising entities who have such authorisation would only be required to comply with ACNC regulatory obligations. This will bring about the much-needed consistency and streamlining of fundraising regulation. However, fundraising entities that are not registered with the ACNC will still potentially be faced with regulatory burden and unnecessary costs due to disparate and inconsistent local fundraising regulations. We see no reason why such entities should be subject to different requirements simply because they are not registered with the ACNC. To address this we recommend that all state/territory fundraising laws be updated to be aligned with the requirements of the ACNC legislation.

Notification requirements

All financial and other information relating to registered charities is freely available on the ACNC’s public register. Where such information is readily accessible through the ACNC website, we see no reason why a fundraising entity that is also an ACNC registered charity should still be required to notify a relevant local authority that it intends to undertake fundraising in that jurisdiction and comply with any relevant local regulatory requirements. Accordingly, we do not support this proposal.

Auditing requirements

The Discussion Paper proposes that each jurisdiction would have the option to either comply with local auditing requirements or obtain copies of financial information from the ACNC as an alternative means of satisfying local requirements. We agree with the statement in the Discussion Paper that the latter arrangement would deliver a more significant reduction of red tape and administrative costs. Accordingly, we recommend that all jurisdictions should establish the practice of only obtaining the necessary financial information from the ACNC as a means of satisfying local requirements. For the reasons stated previously, we do not believe jurisdictions should pursue compliance with local audit requirements.

Information sharing arrangements

We agree with the proposals for information sharing arrangements.

Definition of “charity”

The Discussion Paper does not give consideration to the definition of the term “charity” as applied to fundraising regulation across jurisdictions. Presently, there is no uniformity around how the term is used for the purposes of fundraising regulation across jurisdictions, with 45 different definitions existing in operation. We refer to the ACNC paper [A common charity definition?](#) that considers this matter further and also note that the [Independent Review of the ACNC legislation](#) (page 112) made reference to this issue. In [responding](#) to the Independent Review recommendations, the Government noted, and is consulting with states and territories on, this matter (page 21).

We believe there should only be a single definition of the term “charity” set out in Commonwealth legislation, *Charities Act 2013* and therefore recommend the Working Group takes this matter on board in progressing the fundraising regulation reforms.

If you require further information on the views expressed above, please contact Ram Subramanian on +61 3 9606 9755 or ram.subramanian@cpaaustralia.com.au.

Your sincerely

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