

From: Kerrie Gilbert
To: [Committee, Charity Fundraising \(SEN\)](#)
Subject: URGENT - National Inquiry into Fundraising
Date: Wednesday, 18 July 2018 3:38:25 PM
Importance: High

Dear Sir/Madam

I strongly support the national inquiry into fundraising.

I welcome this inquiry into fundraising. Overwhelmingly, fundraising is a significant source of regulatory burden for our organisation. I am responsible for keeping up to date the fundraising and charitable collections registration and follow-up of sending financial reports and completing income statements each year for all states – for two entities. This is only one part of my role but it takes up such a large amount of my time and is completely cumbersome and confusing as each state has its own requirements and time frame for submitting registrations. Though I am very pleased to see that South Australia, Tasmania and ACT are now part of ACNC – this has reduced the workload somewhat but still requires being vigilant about deadlines – each state is different. It is so important that they can merge their regulations to evolve from a central organisation.

A few very important points to be considered are:

The laws are outdated: they do not effectively support fundraising across State and Territory borders or through digital platforms. If we want collect funds from donors outside our State (or Territory) we have to work through seven different laws involving more than 133,000 words and 480 pages of legislation and regulations, as well as extensive case law, policy and codes of conduct. We have to be aware of matters including distribution of artificial flowers and tokens and worry about \$14,000 fines for not using capital letters on handwritten identification badges when fundraising. We have to sort through if and when a licence is needed; how long it is valid for; what must be reported; and how and when it is reported. It is burdensome. This outdated regime would not be tolerated by business. It wastes our precious resources; those resources that we could be using to achieve our purpose [insert purpose, i.e. housing more people from sleeping rough]

Point 2: We agree with the solution put forward by Justice Connect and *#fixfundraising* partners to *#fixfundraising*. This solution will deliver Stronger, Smarter, Simpler laws to support us (charities), and fundraisers and donors.

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Point 3. The fundraising problem – and the need for a national and fit-for-purpose fundraising regulatory regime - has been well Documented

1. Clarification and minor amendment to the Australian Consumer Law: Clarification and minor amendment to the Australian Consumer Law to ensure its application to fundraising activities is clear and broad

2. Repeal of fragmented State & Territory laws: Repeal state and territory laws, and State and Territory regulators instead focus on regulating conduct using the Australian Consumer Law or other general laws to take action for misconduct

3. Guidance (code) to improve conduct (regulators and self-regulatory): A short plain English, mandatory code of conduct for all fundraisers, supported by the work of self-regulatory bodies

Stronger: Using the Australian Consumer Law (supported by a conduct code) to put protection of all donors at the heart of all fundraising regulation across the nation (regardless of method used to fundraise)

Smarter: Principles based regulation (backed by national process for reform) is more likely to capture innovation and changes to methods of fundraising, without territorial limitations

Simpler: Creating a truly national system of regulation by removing duplicate and burdensome requirements for registration (licensing) and reporting, allowing for ethical conduct to be central to all fundraisers and fundraising activity

2008: "The committee recommends that a National Fundraising Act be developed following a referral of powers from states and territories to the Commonwealth ... It should apply nationally ... it should clearly regulate contemporary fundraising activities such as internet fundraising" Senate Standing Committee on Economics, Report of the Inquiry into the Definition of Charities and Related Organisations (December 2008)

2010: Fundraising legislation differs significantly between jurisdictions, adding to costs incurred by the NFP sector. Harmonisation of fundraising legislation through the adoption of a model act should be an early priority for governments. Australian Productivity Commission Contribution of the Not-for-profit Sector 2010 p xxiv

2016: "Overwhelmingly, fundraising is the source of the greatest amount of regulatory burden for charitable organisations ... the annual regulatory burden associated with fundraising regulations is estimated at approximately \$13.3 million per year across the sector" Deloitte Access Economics, ACNC: Cutting Red Tape: Options to align State, Territory and Commonwealth charity regulation, Final Report, 23 February 2016)

2016: Fundraising regulation has not kept pace with new forms of fundraising, particularly as online campaigns for funds have grown through the use of third party websites. The current arrangements treat fundraising as an activity isolated to one state or territory, when, in reality, even small organisations may attract interest nationally and internationally through online channels such as crowdsourcing website Deloitte Access Economics, ACNC: Cutting Red Tape: Options to align State, Territory and Commonwealth charity regulation, Final Report, 23 February 2016)

2018: Given that charitable fundraising is now a cross-border and international phenomenon, particularly through the internet, a single, unified Australian statutory regime would be of very significant benefit" - Report of the Inquiry under the *Charitable Fundraising Act 1991* (NSW), Feb 2018

Point 4. What we need is for all Australian governments to take action to fix the problem. They must make it a priority. They must take action now. They must work together to provide us, other charities and other not-for-profits and the donating public with a national fundraising regulatory regime. The Federal Government can take a lead under the Australian Consumer Law. It is simply not good enough to do nothing. It's time to *#fixfundraising*.

Kind Regards

Kerrie Gilbert