



FUNDRAISING
Institute - Australia Ltd.

**Submission to House of Representatives
Legal and Constitutional Affairs Committee Inquiry**

into

Harmonisation of Legal Systems

FIA SUBMISSION TO THE INQUIRY ON HARMONISATION OF LEGAL SYSTEMS

1. FIA has found in consultation with its members that there is a majority view towards harmonisation of reporting requirements because most organisations are required to report to different parts of government and the report requirements are not consistent.
2. FIA agrees that national harmonisation has relevance for all fundraisers. A survey of FIA members indicated that approximately 50 per cent of those surveyed worked predominantly or exclusively in their 'home state' while 50 per cent worked across state borders and are currently required to meet different regulations in each state in which they fundraise. Interestingly, more than two thirds responded that they favoured national harmonisation of fundraising regulation as a means to improve their capacity to fundraise. Accordingly, national harmonisation is seen as being relevant to industry practice, even for those fundraisers that work in only one state.
3. Members have reported that national organisations have significant challenges in working across all states because of the varying regulations which can impact on apparently simple tasks, such as direct mail campaigns.
4. FIA believes that any moves towards national harmonisation and national regulation are positive and should be encouraged.
5. FIA encourages governments to work together towards the development and implementation of a national approach to the regulation of fundraising and would be pleased to provide an industry perspective and assist the government in this endeavour.
6. FIA agrees that there is a role for government in the regulation of fundraising. As the Industry Commission report into charities noted three key objectives of fundraising legislation are:
 - To protect the public against fraud, misappropriation of funds and misleading conduct
 - To ensure that donors and the public have access to information
 - To ensure that organisations use acceptable fundraising practices (IC 1995:231).
7. There is an important role for government in protecting consumers from fraudulent practices, supporting the fundraising sector and providing an appropriate framework within which fundraising activity can take place.
8. Caution is needed however to not 'over regulate' in this area as there exist a range of other state and federal laws covering and protecting consumers in cases of fraud or misleading conduct (e.g. consumer protection laws, Trade Practices legislation, criminal codes) and others that cover account and record keeping and reporting requirements (associations incorporation acts (states), Corporations Act 2001 (Commonwealth)).
9. FIA acknowledges that the progression towards national harmonisation is a long-term goal which could be advanced through mutual recognition which recognises fundraising activities common across state borders. For example, direct mail is permitted Australia-wide so its recognition in all states should not be problematic, whereas street collections would pose issues as they are not universally permitted.
10. FIA would support to explore options for mutual recognition as a step towards national harmonisation but believes that national harmonisation of fundraising regulation will be more successful and effective if it takes place together with wider reform of the regulatory environment such as the development of national accounting standards for the not-for-profit sector. Calls for such reform are not new and specific recommendations have previously been put forward by a number of reports.

11. The not-for-profit sector is looking to the development of accounting standards that address their particular needs. Currently reporting requirements depend upon the specified accounting standards of the relevant incorporating legislation (such as Corporations Act 2001 (Commonwealth) and associations incorporation acts (states)). For fundraising organisations the more traditional accounting standards do not provide a good fit for fundraising practice where treatment of expenses should more appropriately be treated as capital investment amortised over time, such as expenditure for donor acquisition.
12. Implementation of national accounting standards would significantly aid the development of a national approach to the regulation of fundraising. Such national reporting standards would also enhance standardisation of account and record keeping, and improve transparency of the industry.
13. FIA wants to draw attention to a number of issues that present significant challenges to the fundraising sector.
14. The relative weaknesses of the regulatory environment for the Third Sector in Australia are well known to scholars and practitioners. In a recent review of the legal and regulatory environment for not-for-profit organisations in Australia, Professor Mark Lyons drew particular attention to at least five failings of the law:
 - Laws are not informed with a clear knowledge of the Third Sector and its operating logic
 - Insufficient attention is paid by legislators to the changing character of Third Sector organisations and changes in the economic and social environment of the sector
 - Laws are allowed to grow in a piecemeal fashion, inevitably leading to anachronisms and contradictions
 - Laws are not enforced, or are enforced haphazardly, even vindictively, usually because governments fail to budget sufficiently for their proper regulation; and
 - Laws are enforced over-rigorously, by a bureaucracy that ignores the intent of a law and effectively ensures that no organisation can benefit (Lyons 2003).
15. Lyons' view is supported by the findings from the extensive survey-based study conducted by Woodward and Marshall (2004) of over 1,000 not-for-profits in Australia that are registered as companies limited by guarantee. Among other things, this study highlighted:
 - The myriad possible legal structures that exist for not-for-profits
 - The confusing mix that exists between State and Federal regulations and regulators
 - The lack of nationally consistent reporting obligations
 - The fact that most not-for-profits want a new regulator (other than ASIC at the Federal level) to oversee their organisations.
16. In particular, FIA suggests that consideration be given to the following evidence-based recommendations contained in Woodward and Marshall (2004):
 - Establishing a single Commonwealth statutory framework covering all corporate bodies including for-profit, not-for-profit and incorporated associations. The States would need to refer all powers to the Commonwealth (e.g. as occurred for company regulation) for this to occur. This would enable a national approach to the regulation of not-for-profit organisations by a body like ASIC;
 - Introducing a single specialist not-for-profit legal structure perhaps by combining the best aspects of the corporations law and the incorporated associations laws;
 - Developing and implementing specific national accounting standards for not-for-profit organisations;

- Unifying the reporting and disclosure obligations for not-for-profit organisations across State and Federal jurisdictions; and
 - Developing a simple Standard Information Return similar to those used in the US, UK and proposed for New Zealand as a means for not-for-profit organisations to provide relevant information on their purposes and activities (including aspects of fundraising) to the public.
17. FIA recognizes that such recommendations would involve all state and federal agencies. Yet there is no denying the fundraising industry would benefit enormously.
18. FIA believes that as a means of progressing harmonisation of legislation the most appropriate model of fundraising regulation is one based on a framework of self regulation. By self regulation we mean a framework where organisations internalize the responsibility for ensuring their fundraising practices comply with a national Code of Conduct and that the systems for monitoring that compliance are open to relevant external stakeholders. This offers an approach that will achieve needed reforms more quickly (e.g. via mutual recognition procedures), and be inclusive and responsive to relevant stakeholders. By supporting such a model government can provide a lead role in the development and implementation of a national approach to the regulation of fundraising.
19. A national fundraising Code of Conduct would be mandatory for fundraisers. via a model of 'open self-regulation' is a good way to progress national harmonisation.
20. FIA has undertaken independent research of some key aspects of the regulation of fundraising and the changing world in which it operates. This research informs FIA's responses to the inquiry. FIA's position is endorsed by the National Board of Fundraising Institute Australia Ltd. (See [appendix 1](#) for a list of the Board of Directors, Fundraising Institute Australia Ltd)
21. The principal research findings focus on five main areas as follows:
- i. Harmonisation of legal systems
 - ii. Model for fundraising regulation
 - iii. Defining fundraising
 - iv. Community confidence in fundraising
 - v. Cost of fundraising
22. FIA's research demonstrates the changing environment in which fundraising occurs in contemporary society.

1 BACKGROUND INFORMATION

Fundraising Institute – Australia Ltd

The Australasian Society of Fundraisers (ASF) was established in 1968 at a meeting of a group of fundraisers in Melbourne. Over the next two years the constitution was revised, culminating in the birth of the Australasian Institute of Fundraising (TAIF) on 2 September 1972.

Fundraising Institute Australia Ltd (FIA), was registered as a Company on 23 June 1999. FIA is a company limited by guarantee. As a nonprofit body, FIA is recognized as a charitable fund.

Fundraising Institute Australia Ltd is the peak national body for fundraising in Australia.

Membership

FIA engages with over three thousand fundraisers, representing more than two thousand nonprofit organizations, who subscribe to FIA's information services or attend FIA's professional development programs. Full membership of FIA at March 2005 comprises over one thousand fundraisers. FIA's reach within the not-for-profit sector is across a wide spectrum of societal needs in community service, health and medical research, education and related services, religion, arts and cultural development, environment, overseas aid, indigenous affairs and sport and recreation. This representation has grown broader than the traditional 'charities'.

National Agenda

Nationally, FIA is working in collaboration with the Australian Council of Social Service (ACOSS), the lead agency in a project *Giving Australia*¹ for completion in 2005, funded by the Prime Minister's Community Business Partnership on behalf of the Australian Government Department of Family and Community Services. This project is researching philanthropy, fundraising and the development capacity of the nonprofit sector. FIA is also working towards a Memorandum of Understanding with Queensland University of Technology's Centre of Philanthropy and Nonprofit Studies.

FIA has made submissions to the following reviews relating to fundraising legislation and regulation since September 2004:

- Victorian Government's review of the Fundraising Appeals Act 1998
- Victorian Government's review of legislation on raffles
- Federal Privacy Commissioner's review of the private sector provisions of the Privacy Act 1988
- Australian Tax Office review of the draft taxation ruling what is a gift?
- Senate Enquiry into the Privacy Act 1988
- House of Representatives Legal and Constitutional Affairs Inquiry into Harmonisation of Legal Systems

A review has been announced recently by the Queensland Government (Incorporations Act).

International Agenda

Internationally, FIA has Memoranda of Understanding with the two principal US fundraising organisations, Association of Fundraising Professionals (AFP) and Association for Healthcare Philanthropy (AHP), and has adopted a code of practice with the Washington-based

¹ *Giving Australia*, led by The Australian Council of Social Services, with QUT's Centre of Philanthropy and Non-profit Studies, University of Technology, Sydney's Centre for Australian Community Organisations and Management, Fundraising Institute Australia Ltd, Roy Morgan Research PL and McNair Ingenuity Research PL, is conducting research on philanthropy in Australia.

ePhilanthropy Foundation, with whom FIA is working towards a Memorandum of Understanding. AHP Faculty head the teaching personnel in FIA's annual intensive professional development program Madison Down Under. FIA manages the examination for accreditation of senior fundraising executives through an international program, Certified Fundraising Executive (CFRE) based in Washington, US.

FIA is a member of the international consortium of twenty-four professional associations for fundraisers. The summit is working towards developing an International Code of Ethics for Fundraisers. The next meeting of the summit is scheduled for London in July 2005. FIA's work with the summit has been of significant value to the development of the project for FIA's codes of fundraising practice.

Professional Development

FIA has developed a comprehensive professional development pathway, from the Diploma of Fundraising Management (DFM) to the internationally-recognised Certified Fundraising Executive (CFRE). FIA has broad reach in its professional development programs, delivering approximately 10,000 hours to members and other professional fundraisers in 2004.

Professional development seminars held monthly by each chapter over breakfast or lunch, are an important way to network with colleagues while learning. Intensive professional development opportunities are provided with FIA's annual International Conference (February) and the four-day residential program Madison Down Under (held just out of Adelaide in August). FIA partners with other organizations where appropriate to bring keynote national and international speakers to a wide an audience of members and other fundraisers. The DFM is a distance learning program, usually completed over two and a half years, comprising eleven modules undertaken at the students' pace. Skills Training (Skills 1,2 and 3) offers vocational sessions to fundraisers from entry level to most experienced fundraising and is delivered by chapters in each state.

Standards of Fundraising Practice

FIA will be developing codes of fundraising practice during 2005 and 2006. FIA believes that alongside harmonised legislation, the codes are an important step to engaging with government, relevant stakeholders and the public, to develop a national approach to fundraising standards.

FIA will promote the standards as a major professional development tool for fundraisers. In line with good business practice, FIA will be establishing an ethics committee, led by the Vice-Chairman of FIA, to monitor endorsement and adherence to the standards and to address complaints of non-compliance or non-professional conduct.

The not-for-profit sector

Research undertaken by Professor Mark Lyons (University of Technology, Sydney) has shown there are as many as 700,000 nonprofit organizations, approximately half of which are incorporated as separate legal entities.² About 35,000 organisations employ over 600,000 paid staff and involve over 4 million volunteers. These organizations contribute about 3.3% to GDP (4.7% when the value of volunteer labour is included) and account for 6.8% of total employment.³

² Lyons, M (2001) *Third Sector: The contribution of nonprofit and cooperative enterprises in Australia* (Sydney: Allen and Unwin, 2001).

³ Woodward, S and Marshall, S (2004) *A better framework – reforming not-for-profit regulation*, University of Melbourne: Centre for Corporate Law and Securities Regulation.

Fundraising is a key activity of the nonprofit sector. Australians contributed between \$3 and \$5 billion to the sector in 2004.

Taken together, the financial and voluntary labour contributions of Australians to the sector – Lyons estimates that approximately 65 per cent of Australians belong to at least one nonprofit organization and about 40 per cent describe themselves as active members – provide clear indications that the nonprofit sector impacts on Australians in every walk of life.

Robert Fitzgerald, Chair of the National Roundtable of Nonprofit Organisations, has suggested that the nonprofit sector has an optimistic future (2003). Speaking last year at the Centre of Philanthropy and Nonprofit Studies at Queensland University of Technology (QUT) he evoked the words of Peter Drucker to reinforce the point:

The 21st Century will be the century of the social sector organisation. The more economy, money and information become global, the more community will matter. And only the social sector nonprofit organisation performs in the community, exploits its opportunities, mobilises its local resources, solves its problems. The leadership, competence, and management of the social sector nonprofit organisation will thus largely determine the values, vision, the cohesion and performance of 21st Century Society.

In terms of the importance of the sector to Australian society and wellbeing, the Fundraising Appeals Act needs to recognise the challenges of the sector, which result in part from what Fitzgerald calls a blurring between:

- Government and non-government roles and responsibilities
- For profit and not-for-profit endeavour
- Paid and voluntary effort
- Commercial and mission activity.

Fitzgerald posits that 'these blurrings have led to uncertainty in the public mind about the sector' (Fitzgerald 2003). This is not to say that there are not other significant challenges in the sector, including issues of governance, accountability, provision of responsive services, innovation and enterprise and advocacy, as Fitzgerald has suggested (2003).

The sector's contribution to Australian economy is already recognised. The Woodward and Marshall report (2004) estimates the economic value of the not-for-profit sector to contribute 4.7% of GDP and to account for 6.8% of total employment, adding more to GDP than the mining industry.

2 FIA RESEARCH ON HARMONISATION OF LEGAL SYSTEMS AND OTHER RELEVANT ISSUES

(i) Harmonisation of legal systems

This inquiry offers an opportunity to highlight a range of issues primarily concerned with national harmonisation and a national approach to the regulation of fundraising and how it can be best progressed (e.g. national Code of Conduct; mutual recognition; the development of national accounting standards for the not-for-profit sector). It should also be recognised that the recent review of the Privacy Act, conducted by the Federal Privacy Commissioner, also highlighted the major issue being the harmonisation of legal systems and the elimination of the complex, often contradicting, legal regulations of states and commonwealth.

A key question that arises from these issues is whether national harmonisation of the laws and regulations that govern not-for-profits and fundraising is desirable.

FIA believes that any moves towards national harmonisation and national regulation are positive and should be encouraged. Moreover, FIA believes that this inquiry can play a significant and leading role in furthering such moves.

Research has shown that the regulatory environment that governs the establishment and operations of not-for-profit organisations plays a critical role in sustaining and encouraging those very organisations (Salamon 1997; Lyons 2003). The regulatory environment and specific laws can either support the development of a healthy and vibrant Third Sector or stunt its growth and vitality. The relationship between the legal environment and the Third Sector was one of the areas examined in The Johns Hopkins Comparative Nonprofit Sector project, one of the most comprehensive comparative not-for-profit data sets developed. Studies based on that data show that the relative favourability of a country's laws and legal framework is positively related to the development and size of the not-for-profit sector in that country (Salamon and Toepler 2000). In other words, countries with good regulatory systems for not-for-profit organisations have healthier and stronger not-for-profit sectors. In an analysis of thirteen countries, four countries scored highly in terms of having highly favourable legal frameworks for not-for-profits:

- Israel
- Netherlands
- USA
- Mexico

These countries also had the relatively largest not-for-profit sectors in terms of share of total employment. Australia and most European countries ranked in the middle (i.e. had medium scores with respect to their legal framework and clustered around the middle in terms of not-for-profit share of employment) with Brazil and Japan scoring poorly in terms of their legal environment for not-for-profits and share of not-for-profit employment (Salamon and Toepler 2000).

The Australian situation may not seem that negative in a comparative sense but neither is it optimal and there is clearly room to improve the regulatory environment for the Third Sector.

The relative weaknesses of the regulatory environment for the Third Sector in Australia are well known to scholars and practitioners. In a recent review of the legal and regulatory environment for not-for-profit organisations in Australia, Professor Mark Lyons drew particular attention to at least five failings of the law:

- Laws are not informed with a clear knowledge of the Third Sector and its operating logic

- Insufficient attention is paid by legislators to the changing character of Third Sector organisations and changes in the economic and social environment of the sector
- Laws are allowed to grow in a piecemeal fashion, inevitably leading to anachronisms and contradictions
- Laws are not enforced, or are enforced haphazardly, even vindictively, usually because governments fail to budget sufficiently for their proper regulation; and
- Laws are enforced over-rigorously, by a bureaucracy that ignores the intent of a law and effectively ensures that no organisation can benefit (Lyons 2003).

Lyons illustrates these failures with particular reference to the various modes of incorporation available to not-for-profit organisations in Australia and the legislative environment relating to fundraising. It is worth quoting at length from Professor Lyons conclusion on fundraising:

The contrast between the simple legislative environment provided for-profit companies and the confusing muddle confronting those wishing to incorporate and raise funds for third sector organisations is nicely illustrated when we turn to fundraising. When for-profit companies wish to raise funds, by issuing shares or debentures, they seek permission from the same regulator that handled their incorporation. When nonprofits wish to raise funds they must seek a licence from yet another regulator. These are state and territory government agencies, operating under different pieces of legislation that differ in some aspects across jurisdictions. These differences make conducting a national fundraising campaign a nightmare (Lyons 2003)

Lyons' view is supported by the findings from the extensive survey-based study conducted by Woodward and Marshall (2004) of almost 2,000 not-for-profits in Australia that are registered as companies limited by guarantee. Among other things, this study highlighted:

- The myriad possible legal structures that exist for not-for-profits
- The confusing mix that exists between State and Federal regulations and regulators
- The lack of nationally consistent reporting obligations
- The fact that most not-for-profits want a new regulator (other than ASIC at the Federal level) to oversee their organisations.

As the authors note:

The underlying health of the NFP sector is at risk. The regulatory framework that underpins the sector is complex and riddled with inconsistencies. It is time for some preventative medicine. The relevant laws and regulatory bodies need to be fair, consistent and clear in order to promote NFPs that are transparent, accountable and credible. If these fundamentals are right, then growth and innovation are more likely to occur (Woodward and Marshall 2004:1; emphasis added).

A clear barrier to legal reform in a country like Australia is of course its Federal structure. Reform, as illustrated by the Federal regulations that now govern for-profits at a national level, is not impossible, but painstakingly slow. Some of the problems posed by current laws and regulatory systems were noted in a recent Victorian government Discussion Paper under 'National harmonisation' where it states:

...any organisation wishing to fundraise in more than one state is faced with a plethora of statutory requirements affecting national fundraising. This is problematic for large organisations with a national presence, but may also impinge on the activities of local groups that may wish to link with interstate organisations with similar objectives to undertake a national campaign (Consume Affairs Victoria 2004:12).

The complication remains however that state-based revisions and reforms of fundraising and not-for-profit legislation and regulations are limited as long as they remain confined to that state.

So what is the best way of moving towards and enhancing the prospects of harmonisation of fundraising and not-for-profit regulation?

First, FIA believes that developing a new national fundraising Code of Conduct via a model of 'open self-regulation' is a good way to progress national harmonisation. It offers an approach that will achieve needed reforms more quickly (e.g. via mutual recognition procedures), and be inclusive and responsive to relevant stakeholders. By supporting such a model the inquiry can provide a lead role in the development and implementation of a national approach to the regulation of fundraising.

Second, FIA believes that the national harmonisation of fundraising regulation will be more successful and effective if it takes place together with wider reform of the regulatory environment of the Third Sector such as the development of national accounting standards for the not-for-profit sector, such as exists in other industries such as the mining industry. Recognising that it will take time to implement a national accounting standard, FIA suggests an interim accounting standard as a forerunner to a national accounting standard. Calls for such reform are not new and specific recommendations have previously been put forward by:

- The Industry Commission's report on *Charitable Organisations in Australia* in 1995
- The government commissioned *Inquiry into Charitable and Related Organisations* in 2001, and
- A University of Melbourne study and report *A Better Framework – reforming not-for-profit regulation* in 2004 (Woodward and Marshall 2004).

FIA supports the general thrust of these reports' recommendations on national harmonisation. In particular, FIA suggests the government give consideration to the following evidence-based recommendations contained in Woodward and Marshall (2004):

- Establishing a single Commonwealth statutory framework covering all corporate bodies including for-profit, not-for-profit and incorporated associations. The States would need to refer all powers to the Commonwealth (e.g. as occurred for company regulation) for this to occur. This would enable a national approach to the regulation of not-for-profit organisations by a body like ASIC
- Introducing a single specialist not-for-profit legal structure perhaps by combining the best aspects of the corporations law and the incorporated associations laws
- Developing and implementing specific national accounting standards for not-for-profit organisations
- Unifying the reporting and disclosure obligations for not-for-profit organisations across State and Federal jurisdictions
- Developing a simple Standard Information Return similar to those used in the US, UK and proposed for New Zealand as a means for not-for-profit organisations to provide relevant information on their purposes and activities (including aspects of fundraising) to the public.

FIA recognizes that such recommendations may go beyond the terms of this inquiry and involve all state and federal agencies. Yet there is no denying the conclusion of Professor Lyons' review that the Third Sector would benefit enormously:

...if there was a single piece of legislation for incorporating all third sector organisations that sought a legal personality. In that way, the third sector would have a common identity to act as a counterweight to its diversity. Such legislation would clearly have to recognise some variations; placing easier reporting requirements on small

organisations, for example. And it ought to allow organisations to pursue different models of governance, provided some basic accountabilities were met. Drafting such legislation would be challenging (Lyons 2003).

(ii) Model for fundraising regulation

The Industry Commission's 1995 Report on Charitable Organisations in Australia acknowledged the contribution of the charitable sector to Australian economy and sought to enhance this capacity. Among its recommendations were those that sought to:

- Improve quality of services for clients
- Improve resourcing of the sector
- Improve national accountability measures
- Support mechanisms such as benchmarking to improve performance
- Develop a notion of co-responsibility between the sector and governments.

It has been widely acknowledged that the IC report 'provided a strong blueprint for improving the national regulatory framework and the accountability of nonprofit organisations', a reform supported by the Inquiry into the Definitions of Charities that further recommended the creation of a separate independent commission, such as the Charities Commission in the UK (Fitzgerald 2003).

These recommendations take a leap forward from the current state of regulation and are beyond the scope of this inquiry. Yet the questions must be raised so steps are taken to develop the most appropriate model to regulate fundraising.

FIA believes that the most appropriate model of fundraising regulation is one based on a framework of self regulation. By self regulation we mean a framework where organisations internalize the responsibility for ensuring their fundraising practices comply with a national Code of Conduct and that the systems for monitoring that compliance are open to relevant external stakeholders.

FIA agrees that there is a role for government in the regulation of fundraising. In brief, as the Industry Commission report into charities noted, three key objectives of fundraising legislation are:

- To protect the public against fraud, misappropriation of funds and misleading conduct
- To ensure that donors and the public have access to information
- To ensure that organisations use acceptable fundraising practices (IC 1995:231).

There is an important role for government in protecting consumers from fraudulent practices, supporting the fundraising sector and providing an appropriate framework within which fundraising activity can take place.

Caution is needed however to not 'over regulate' in this area as there exist a range of other state and federal laws covering and protecting consumers in cases of fraud or misleading conduct (e.g. consumer protection laws, Trade Practices legislation, criminal codes) and others that cover account and record keeping and reporting requirements (associations incorporation acts (states), Corporations Act 2001 (Commonwealth)).

A problem with overly prescriptive or 'hard' fundraising regulation is that it runs the risk of placing heavy compliance and administrative costs and burdens on organisations that are not often in a position to meet them without compromising their core social and community missions. Overly prescriptive regulation (e.g. mandating the disclosure of cost of fundraising ratios) can also work against the public interest by creating flawed and misleading perceptions of fundraising practice and reality.

So how can we achieve a regulatory balance between the legitimate needs of the public and fundraising organisations? A balance that also continues to enhance the public's confidence and trust in the not-for-profit sector.

The benefits of self-regulation, supported by a Code of Practice have been outlined in the recent work of regulatory and compliance expert Dr Christine Parker (2002a) from the University of Melbourne. Parker's framework ensures that self regulation is inclusive of relevant external stakeholders including government, hence her use of the term 'open or 'permeable' self-regulation:

This (open self regulation) does not mean that companies can be left alone to self-regulate responsibility. Indeed corporate responsibility self-regulation systems are only effective when they are open to external stakeholder perspectives and values...and it is the basis for democratic social responsibility for corporations and other organisations (Parker 2002b:2).

While Parker's work applies primarily to self-regulation and compliance programs in a variety of areas (e.g. environmental, sexual harassment, consumer protection and competition policy, financial services) within corporations, the principles and frameworks are also relevant to regulating fundraising by not-for-profits and commercial agents.

Fundraising organisations would be required to comply with a Code of Practice in order to be issued with a licence to fundraise by the government regulator. Similarly, any serious breaches of the Code could result in a licence being revoked or a registration not being renewed by the government regulator. The Code could be referred to and sanctioned by the Act. The Act can also specify how amendments to the Code can be made, for example through endorsement by FIA.

As part of adopting a self-regulatory approach, FIA also suggests that government give consideration to the self regulatory fundraising model being followed in the UK. The Cabinet Office Strategy Unit report into charities found that:

The Government considers that a self-regulatory scheme which the sector itself helps to set up and run has the best chance of success. This new scheme would build on the valuable work, including work on codes of good practice, already undertaken by organisations such as the Institute of Fundraising and the Public Fundraising Regulatory Association (SU 2002:66).

The Strategy Unit recommended the establishment of a new independent body governed by a board comprised of representatives from charities and the not-for-profit sector, fundraisers, government and other experts. This body is to develop a Code of Good Fundraising Practice as well as other specific codes that cover the wide range of fundraising activity. The role of the body is also to:

- Raise awareness and knowledge among the fundraising and broader community of fundraising regulations and practice
- Authorize abiding fundraising organisations to use a logo signifying their commitment to good practice
- Investigate complaints and alleged breaches of the code
- Issue sanctions for non-compliance such as naming and shaming, and expulsion from the scheme.

FIA believes that a similar style body could make for a good system of 'open self-regulation' of fundraising nationally, building on the professional work of the industry, including its development of a Code of Professional Conduct and Ethics. Establishing such a body would

provide a structured framework for the development of a revised Code of Practice between FIA and government as well as other relevant stakeholders. This body could also issue guidelines of the range and type of information that fundraising organisations should make available to donors and the wider public.

(iii) Defining fundraising

Caught up in the issues of legal systems is clarifying the term 'fundraising' or 'fundraising appeal' in order to determine what regulation applies to the activity.

A feature that distinguishes not-for-profit organisations from for-profit and government organisations is that they obtain their revenue from a wide range of sources (Lyons 2001). Such sources of revenue include income from the people who consume and pay for the services of a particular organisation, membership fees from those who may choose to join a particular organisation, fundraising, government funds and grants, and any interest or rents received from investments and other business activities.

Fundraising by not-for-profit organisations can be defined as 'making any "appeal for support" which contains a representation to the public purporting that the proceeds of an activity are intended to be used for a public or community purpose rather than private gain' (Flack 2004c). In this way activities that generate donations will be captured as fundraising, as will trading activities and 'gambling' activities, including lotteries and Bingo.

Fundraising revenue comes from a vast variety of fundraising techniques and activities including:

- donations of money or goods in kind from individuals or companies
- running special events
- organizing sponsorships
- bequests
- grants from foundations, trusts and governments
- workplace payroll giving programs
- lotteries and raffles
- memorial gifts
- membership fees
- direct marketing
- capital campaigns
- cause related marketing
- telemarketing
- face-to-face appeals
- road side collections
- door knock appeals
- online donations
- mail campaigns
- proceeds from the sale of goods

To what extent any one or combination of these fundraising techniques and activities (and the above list is not exhaustive) are present or relied upon by any particular not-for-profit organisation will vary according to a range of organisational (e.g. size, age, resources, staff experience) and environmental (e.g. donor profiles, time of year, regulatory frameworks etc.) factors.

While fundraising techniques and activities are varied, there is general consensus that fundraising is a philanthropic or altruistic activity, carried out for the benefit of a particular cause or issue rather than for commercial profit or benefit. Consumer Affairs Victoria (CAV) Discussion Paper has proffered the definition of fundraising in the Victorian Act as:

...a fundraising appeal occurs when a person seeks or receives a benefit (monetary or otherwise) by making a representation that the benefit is not being sought just for profit or commercial benefit. This captures the idea that there is an element of giving involved (CAV 2004:4).

Nevertheless, a complication in defining fundraising arises because different organisations and practitioners have different views as to what activities are legitimately seen as fundraising. Despite considerable advances in fundraising research and professionalism over the last decade (see Lindahl and Conley 2002), the fundraising profession is yet to agree upon a standard definition or comprehensive list of the kinds of activities that comprise fundraising.

Definitions of what activities comprise fundraising not only vary across countries (e.g. in the US fundraising activities such as fetes, fairs, recycling of donated goods, and charitable gambling are more likely to be classed as commercial income rather than fundraising and thus subject to income tax) but within countries (e.g. the different State and Territory based fundraising regulations in Australia vary considerably as to what is included and excluded in their respective definitions and lists of fundraising) (see Flack 2004a for an overview of these State-based differences).

Another complication in defining fundraising is the rapid change, both technological (e.g. Internet based fundraising) and organisational (e.g. the rise of venture philanthropy, cause related marketing and community-business partnerships) that has occurred within the not-for-profit sector over the last decade. As a recent review of fundraising concluded, 'chances are that we will see as much change between now and 2015 as we have since 1985 and possibly even more' (Lindahl and Conley 2002:106). The rapid speed of change has made it difficult for fundraising legislation and regulation to remain relevant and appropriate.

A further complication is the problem that a lack of a standard definition of fundraising creates for relying on or using cost of fundraising ratios in the sector.

So what should be the role of regulation in defining or setting parameters for fundraising activity?

FIA believes that until further progress is made towards national harmonisation or mutual recognition it may be counterproductive to define fundraising in an overly exclusive or restrictive way. Instead, it sees a more productive approach as developing a set of principles as part of a Code of Practice that would guide regulators and practitioners in taking a more consistent approach to determining what should comprise fundraising activities and costs. These principles would not only provide greater consistency but allow a degree of flexibility for organisations that may have unique fundraising needs or approaches because of the nature of their sector or environment. A similar approach was taken to the complex task of defining or redefining the term 'charity' by the Committee inquiring into the definition of charities and related organisations in Australia (Fitzgerald 2002).

FIA notes that greater clarity and consistency in what is considered fundraising across Australia is needed. While there is consensus on the core issue that fundraising is inextricably linked to the act of philanthropy, differences remain on what kinds of activities it comprises. FIA believes that an important precursor to defining fundraising via regulation is to first develop an agreed set of principles for fundraising activity between itself and other relevant stakeholders. The development of these principles could be undertaken as part of developing a Code of Practice.

(iv) Community confidence in fundraising

Part of the rationale for legislation and regulation of fundraising has been apparently to increase transparency and improve public confidence in fundraising and the organisations it serves. FIA supports measures that may improve or maintain the public's confidence in fundraising and not-for-profit organisations generally the universal registration of all fundraising organisations.

Nevertheless, FIA notes that not-for-profit organisations have and continue to enjoy high levels of public confidence and trust. For instance, in its most recent study of trust the World Economic Forum (WEF) found that ***the most trusted of institutions continue to be non-government organisations (NGOs)***.⁴ (emphasis added) This study was based on a global survey of 19,000 people across 20 countries and was conducted between November 2003 and February 2004. The precise question was:

'Please tell me how much you trust each of the following institutions to operate in the best interests of our society. Would you say you have a lot of trust, some trust, not much trust, or no trust at all...?'

This study found that almost two-thirds (65%) of people surveyed across the 20 countries had either a 'lot of trust' or 'some trust' in NGOs. The next most trusted institution was the United Nations (60%). This study also provided country-based findings and Table 1 shows the results for Australia. It suggests that Australians have even higher levels of trust and confidence in NGOs than other institutions compared to the international average, with over three-quarters of Australian respondents stating they had 'a lot of trust' and/or 'some trust' in NGOs.

Table 1: Australian's trust in institutions to operate in the best interests of our society

Institutions in rank order	A lot of trust	Some trust	Total trust
NGOs	20	57	77
United Nations	20	57	77
National Government	15	50	64
Trade unions	11	47	58
Large companies	7	50	57
Press and media	3	42	45
Global companies	3	37	40

Source: World Economic Forum, Global Survey on Trust, Update 2004

Notes: Sample size approximately 1,000 citizens in Australia.

Another survey commissioned by the WEF examined the role of leadership in levels of public trust. This survey of 15,000 people across 15 countries at the end of 2002 and beginning of

⁴ Several terms such as NGO, not-for-profit, charity, nonprofit are often used interchangeably to describe the range of organisations that comprise the Third Sector. According to Professor Mark Lyons, University of Technology Sydney, 'The Third Sector consists of private organisations that a) are formed and sustained by groups of people (members) acting voluntarily and without seeking personal profit to provide benefits for themselves or for others; b) that are democratically controlled and c) where any material benefit gained by a member is proportionate to their use of the organisation' (Lyons 2001:5). The term 'non-government organisation' (NGO) was coined by the United Nations when developing its Charter in post WWII period and traditionally the term was only used to refer to international agencies in the development and aid field. Since the 1980s NGO is used to describe formal, professionalized, independent, societal organisations whose main aim is to promote common goals at national or international level such as Greenpeace or the WWF (Martens 2002).

2003 asked respondents how much they trust various leaders to 'manage the challenges of the coming year in the best interests of you and your family'. Table 2 shows that leaders from NGOs enjoyed the highest levels of trust among the public (average across all 15 countries surveyed).

Table 2: Degree of trust in leaders

Type of leaders	Percentage saying 'a lot' and 'some trust'
NGO leaders	56
Leaders at the UN	42
Spiritual/religious leaders	41
Leaders of Western Europe	36
Managers of global economy	36
Managers of national economy	35
Executives of multinational corporations	33
Leaders of the USA	27

Source: World Economic Forum, Trust in Leaders survey, 2003.

Notes: Sample size approximately 15,000 citizens across 15 countries.

The high levels of trust in NGOs also emerge in global surveys of opinion and thought leaders. The global public relations firm Edelman regularly conducts the Edelman Annual Trust Barometer, a survey of 1,200 opinion leaders in Brazil, China, France, Germany, UK and the US. NGOs generally enjoy the highest levels of trust compared to other institutions in these countries. It also found that independent experts such as NGO representatives are considered among the most credible and trustworthy spokespersons, together with doctors or healthcare specialists and academics (Edelman 2004).

While this study did not include Australia, an earlier Edelman survey that also examined the responses of 200 opinion leaders in Australia found that they exhibited the highest level of trust in NGOs to 'do the right thing' compared to opinion leaders from the US or Europe (Edelman 2001).

Where there have been overt attacks on the credibility of organisations in Australia, such as attacks on The Smith Family, St Vincent de Paul Society, Australian Red Cross, overseas aid agencies, environmental agencies, the churches and nonprofit peak bodies, Fitzgerald has suggested that they have their source overseas, and in this regard he cites the role of the American Enterprise Institute whose website was launched specifically 'to expose the funding, operations and agendas of international NGOs' (Fitzgerald 2003).

FIA recognizes that trust and confidence, like reputation takes many years and decades to build but can be quickly lost. The high levels of trust and public confidence in fundraising organisations suggests that the public assumes that such organisations *do act* with integrity and in the public interest with often little appreciation for the multitude of existing regulatory codes. In the case of fundraising, damage to reputation and trust is more often due to poor communication and management by the fundraising organisations rather than any intended deceptive behaviour or fraud on their part.

It is unlikely that registration requirements alone can prevent the potentially harmful flow-on effects on public confidence and trust of this case and others like it. Instead, ensuring that organisations manage their fundraising appeals professionally in accordance with the provisions of a Code of Conduct will do more to maintain the existing high levels of public trust and confidence.

Nevertheless registration does provide a means of ensuring regulatory compliance, particularly if compliance with a Code of Conduct is also mandatory for registration.

(v) **Cost of fundraising**

If one of the issues for legislation is to enhance public confidence, then a key question is whether the Act should prescribe a percentage or limit to the costs of raising funds?

FIA is against the introduction of any prescribed percentage or limit to the costs of raising funds being enacted in any legislation. FIA sees a more productive way forward as ensuring that all organisations subscribe to and practice agreed standards of practice (Codes of Fundraising Practice). Any regulation of the cost of fundraising should be limited to requiring that a range of information that may be useful and relevant to donors and other stakeholders (e.g. mission and goals, governance structures, fundraising activities, programs and program evaluations) be available and provided by not-for-profit organisations upon request.

Unfortunately, regulators in Australia and overseas are increasingly looking to mandate the use of measures such as the Cost of Fundraising ratio (CoFR) by fundraising organisations. The CoFR is the proportion of fundraising expenses to total fundraising revenue.

The reasons that governments have become interested in specifying limits for fundraising costs in regulation include the belief that:

- High costs of fundraising may discourage giving
- It will enhance donor decision making as it facilitates comparisons across organisations
- It will enhance accountability for donor funds
- It will increase and maintain public confidence in charities and the not-for-profit sector
- It will prevent deception of members of the public
- It is a means of benchmarking fundraising efficiency and performance in the sector
- It will assist in the proper and efficient management of fundraising appeals
- It is a simple calculation to administer compared to other performance indicators.

The above reasons assume that the public and donors in particular would make use of CoFR in their decisions to give to a particular charity or not-for-profit organisation. The evidence about the correctness of this assumption is mixed. Some studies suggest that donors are interested in how charities use the funds they raise. A recent survey of 1,000 members of the British public found that three quarters thought it was 'important' or 'very important' for charities to provide information on the amount of money they spend on fundraising (including the cost of fundraising staff) (Charity Commission 2004). In Australia, surveys conducted by a range of organisations have also found that donors are interested in knowing the CoFR of charities (see references cited in Berman and Davidson 2003; Woodward and Marshall 2004).

Studies using US, Canadian and UK data suggest that donors are less inclined to support charities or causes with relatively higher costs of fundraising compared to those with lower costs. In contrast, other studies suggest that people's decision to give is unrelated to the CoFR and in fact that higher expenditure by charities on fundraising and publicity leads to higher levels of fundraising revenue in the future (Flack 2004a). One study using Australian data suggests that donors are more concerned with the 'donative act' rather than the purpose to which charities ultimately use their funds or fundraising costs (Berman and Davidson 2003:428). While the authors note that their study's findings should be interpreted cautiously they argue that their findings do 'not modify the conclusion that increased regulation and accountability will not necessarily increase charitable donations' (Berman and Davidson 2003:428).

While charities and not-for-profit organisations may use CoFR as an internal management tool or benchmark (see Paton 2003 for example), they are generally not likely to disclose the

costs of fundraising. For example, a study of 475 Australian charities by Givewell found that 50 per cent of charities in NSW and 26 per cent in Victoria disclosed their fundraising costs (cited in Woodward and Marshall 2004). A more recent and extensive study based on almost 2,000 not-for-profits across Australia found that almost one-quarter (24%) of organisations favoured disclosing cost of fundraising information to the public (Woodward and Marshall 2004:Ch.8). In other words, three-quarters of those that responded did not think they should disclose the cost of fundraising to the public. There was no difference in response between large and small organisations. Factors associated with organisations being more likely to be in favour of disclosing CoFR included:

- Public serving not-for-profits were more likely to be in favour of disclosure (33%) than member serving not-for-profits (17%);
- Organisations that had Public Benevolent Institution (PBI) status were more likely in favour (34%) than those with non-PBI (20%); and
- Organisations in the fields of environment (54%), education (40%), philanthropy (40%), and health (41%) were more likely to be in favour with interest groups and organisations in sports and recreation least likely to be in favour.

The relatively low interest in disclosing the CoFR on the part of NFPs is not due to their lack of interest in transparency or accountability but because most NFPs know that CoFR ratios in isolation are flawed and may in fact impede rather than enhance donor decision making as they create a misleading picture of fundraising dynamics and objectives.

So while regulators may see using the CoFR as an administratively simple tool the problem is that relying solely on a cost of fundraising ratio is inherently flawed as a means of addressing some of the previously noted reasons why governments have become more interested in using CoFRs (e.g. increasing public confidence in charities).

So what are the key shortcomings of the CoFR? Several well known problems with using CoFR have been noted in the scholarly and practitioner literature on fundraising (see Flack 2004a for an extensive review) but at least four deserve particular attention:

a) Causes of CoFR variability

The issue of the suitability and merit of using CoFR was also examined by the Industry Commission report into charities in the mid 1990s (IC 1995). A key problem with CoFR that the Commission highlighted was that fundraising costs could legitimately vary across organisations due to several factors that had little to do with efficiency or accountability or transparency. These included:

- An organisation's costs associated with developing a reputation and longer-term supporters
- The start-up costs associated with particular fundraising programs
- The fact that some programs or causes are more popular with the giving public than others
- The fact that some fundraising programs also comprise educational and awareness components
- The fact that some fundraising programs also aim at attracting volunteers and/or goods in kind as well as money (IC 1995:236)

After reviewing submissions as well as the research evidence from the US, the Commission concluded that 'legislative controls on the acceptable ratio of costs to fundraising are not desirable' (IC 1995:237). Other research (cited in Flack 2004a) also confirms that fundraising costs vary across organisations due to:

- The age of the organisation – costs of fundraising are less for longer established organisations
- The type of activity or field that the organisation operates in – costs are higher for organisations involved in advocacy, disease and public safety
- The particular fundraising strategy used (e.g. telemarketing, face-to-face, mail etc).

Experience among FIA's members leads us to conclude that some organisations – for example religious organisations - may have different workplace standards regarding remuneration and conditions of service so that any comparison on the basis of CoFR between these and other fundraisers are not valid.

It is not surprising that the recent review of charities and charity law in the UK also argued against the adoption of mandatory cost of fundraising ratios for similar reasons. It is worth quoting at length from the report, *Private Action, Public Benefit*, prepared by the UK Strategy Unit on this issue:

...the fact that fundraising costs vary widely due to factors beyond the charity's control (such as the popularity of the cause, and the proportion of income from legacies and endowments) means that simple ratios without additional explanatory information can be misleading. Moreover, fundraising ratios have the obvious flaw of communicating nothing about the charity's wider performance or outcomes (Strategy Unit 2002:61).

b) Determining an objective or 'acceptable' CoFR

Another problem with the CoFR is the fact that what is considered to be an 'acceptable' cost of fundraising among donors and the general public varies considerably (e.g. from 10% to 60%) (Flack 2004a). This confirms the argument FIA made in its submission to the Productivity Commission that a problem with legislating fundraising cost ratios is that *there are no objective criteria for determining what the percentage limit should be* (IC 1995:237). The difficulty of relying on fundraising ratios to determine 'acceptable' costs is implicitly acknowledged in legislation some state legislation as some government departments have noted they will take into account when determining whether administrative costs are reasonable include:

- The type of fundraising appeal conducted
- The fundraiser's long term strategy
- The type of representations made to the public
- The nature of the fundraising body
- The fundraising body's financial management plans.

As a fundraising expert from the Centre of Philanthropy and Nonprofit Studies at QUT stated in a recent review of the literature on regulation and the cost of fundraising ratio in Australia:

In other words, the Director of the Department in Victoria is required to take into account the very considerations (not readily available to the public) that make the arbitrary use of cost of fundraising ratios by the public unsafe as a guide for their giving (Flack 2004a:8).

Similarly, commenting on the cost of fundraising disclosures required by the NSW *Charitable Fundraising Act 1991*, a report examining financial reporting among not-for-profits by the Chartered Accountants of Australia concluded:

Users of a NFP's reports (Annual or Financial) would be better served by measurements that are specific to the NFP's total operation (CA 2003:17).

c)

CoFR and efficiency measures

An argument often heard in favour of the CoFR is that it provides a simple means to benchmark fundraising and organisational efficiency and performance across the not-for-profit sector. Recent in-depth empirical studies have in fact shown the opposite to be the case (see Flack 2004a; Paton 2003). Regulating or setting a figure that all organisations need to meet may in fact create inequities and distortions in the not-for-profit sector because it:

- Benefits larger organisations over smaller ones as they can take advantage of economies of scale;
- Favours organisations such as religious charities that may be exempt from fundraising legislation in some States and Territories;
- Benefits organisations that have the resources to employ sufficient accounting and technology to allocate costs in ways that produces more favourable ratios;
- Works against newer organisations whose costs are much higher due to lower recognition with the public, fewer long term donor relations and bequests;
- Disadvantages those causes or charities that are less popular or appealing to the public;
- Favours larger and wealthier charities with the resources to employ their own fundraising staff and volunteers, compared to smaller organisations that often rely on professional fundraising consultants (Flack 2004a:10).

d) CoFR and accounting

Discussion of efficiency also leads to another key flaw with using the CoFR as an across the board measure, namely, that in the absence of uniform accounting standards across the NFP sector, each organisation apportions the costs of fundraising in different ways. Expenses associated with providing information and awareness about a particular program to the public for example may be recognized and recorded as fundraising costs in some organisations but costed against another function (e.g. marketing, research) in other organisations. One study of performance management in the UK not-for-profit sector, for example, found different approaches to allocating costs have significant impacts on final ratios, in one case allocating £274,000 to a particular function led to a fall from 15% to 2% in the cost ratio of one charity (Paton 2003:59). As the UK Strategy Unit report into charities argued:

It would...be desirable if there were greater consistency in the way that charities allocate costs and expenditure, enabling more meaningful financial comparisons to be made (SU 2002:62).

QUT researcher Ted Flack has also outlined several other serious accounting related problems associated with the cost of fundraising ratios (Flack 2004a:18). Perhaps even more crucial than the lack of standardization in the apportionment of costs, is the lack of a common and uniform definition of what constitutes fundraising, which varies across jurisdictions within Australia, across organisations, and across countries. Flack argues:

[T]he first task for anyone interested in developing a meaningful fundraising cost ratio is to define fundraising and to decide which costs should be attributed to fundraising (Flack 2004a:15).

In summary, a regulatory focus on CoFR is misplaced and may lead to unintended and deleterious effects on not-for-profit organisations, fundraising practitioners and the donating public. Once again, it is worth quoting at length from Flack's review:

The cost of compliance with mandatory cost of fundraising disclosure requirements will...fall disproportionately on those least able to afford the capacity to produce them, those that are least likely to be advantaged by any comparisons based on cost of

fundraising and on those that are most in need of the stability that the long term investment in costly donor acquisition programs would bring to their organisations (Flack 2004a:16).

FIA accepts that the CoFR is one of several indicators that not-for-profit organisations may wish to utilize for reasons relating to managing their internal systems and costs or for sector specific benchmarking exercises that may be conducted occasionally by fundraising practitioners (Paton 2003). It is opposed however to any specific percentage or cost of fundraising ratio being included in legislation that applies across all organisations. Instead, FIA sees a more productive way forward as ensuring that all organisations apply the cost of fundraising guidelines contained in FIA's Code of Professional Conduct and Ethics. For instance, the FIA Code states:

All fundraising organisations cannot be judged equally but all should aim for levels of cost which are generally acceptable within the profession and by informed members of the community. Due regard must be given to the nature of the cause, the stage of development of the agency and the type of fundraising program used.

In budget fundraising, a line needs to be drawn between activities designed to attract the 'commercial' dollar (high cost, low return) and those seeking the 'charitable' or 'gift' dollar (low cost, high return).

In the case of the 'commercial' dollar, where services or goods representing value for money are concerned, costs (including cost of goods, services offered, etc.) in the region of 80% would not be unusual but in the case of the 'gift' dollar, costs around 25 to 35% would be regarded as acceptable.

At the other end of the scale, in the case of a relatively 'young' agency, or in donor acquisition programs, costs of approximately 100%, and sometimes higher, would not be unusual.

In capital fundraising appeals, as distinct from ongoing budget fundraising activities, costs in the area of 15 to 20% would be regarded as 'borderline', around 10 to 15% as acceptable and 5% would be unusually low. (Section 6, Fundraising Costs, FIA Code of Professional Conduct and Ethics).

Any regulation on the cost of fundraising should be limited to requiring that a range of information that may be useful and relevant to donors and other stakeholders (e.g. mission and goals, governance structures, fundraising activities, programs and program evaluations) be available and provided by not-for-profit organisations upon request. This model has also received support from the UK Charities Commission inquiry, and expert not-for-profit scholars in Australia (e.g. Woodward and Marshall 2004; Flack 2004a).

References for research undertaken by Fundraising Institute Australia Ltd

- Berman, G and S Davidson (2003) 'Do donors care? Some Australian evidence', *Voluntas: International Journal of Voluntary and Nonprofit Organisations*, 14(4), pp.421-29.
- Charity Commission for England and Wales (2004) *Transparency and Accountability* – RS8, London:
- Chartered Accountants (2003) *Review of not-for-profit financial and annual reporting*, Institute of Chartered Accountants Australia.
- Commonwealth of Australia (2001) *Treasury Report of the Inquiry into and the Definition of Charitable and Related Organisations*
- Consumer Affairs Victoria (2004) *Review of the Fundraising Appeals Act 1998*, CAV, July.
- Department of Gaming and Racing, NSW Government (2003) *Report of the Inquiry into the Australian Red Cross Bali Appeal*, August.
- Edelman, R (2001) 'NGOs as the new super brands and the necessity of corporate social responsibility', Presentation given at Sydney, November 12.
- Edelman, R (2004) *Edelman Fifth Annual Trust Barometer - Study of Opinion Leaders*
- Fitzgerald, R (2002) 'A defining moment: the Inquiry and its outcomes', *Third Sector Review*, 8(1), pp. 261-282.
- Fitzgerald, R (2003) 'Nonprofit sector under the spotlight – critical challenges and vital choices for Nonprofit Organisations', Queensland University of Technology lecture
- Flack, T (2004a) 'The mandatory disclosure of cost of fundraising ratios: does it achieve the regulators' purposes?' Working Paper No.CPNS26, Centre of Philanthropy and Nonprofit Studies, Queensland University of Technology.
- Flack, T (2004b) Email correspondence to the FIA, 31 August, 2004.
- Flack, T (2004c) Email correspondence to the FIA, 9 September, 2004.
- Flack, T (2004d) Email correspondence to the FIA, 12 September, 2004.
- Fundraising Institute Australia Ltd *Code of Professional Conduct and Ethics* (www.fia.org.au)
- Industry Commission (1995) *Charitable Organisations in Australia*, IC Report No.45, Canberra: AGPS.
- Joseph, L.A (2004) Briefing Paper on Victorian Fundraising Appeals Act (amended)
- Lindahl, W.E and Conley, A.T (2002) 'Literature review: philanthropic fundraising', *Nonprofit Management and Leadership*, 13(1), pp.91-112.
- Lyons, M (2001) *Third Sector: The contribution of nonprofit and cooperative enterprises in Australia* (Sydney: Allen and Unwin, 2001).

Lyons, M (2003) 'The legal and regulatory environment of the Third sector', *The Asian Journal of Public Administration*, 25(1), pp.87-106.

Martens, K (2002) 'Mission impossible? Defining Nongovernmental organisations', *Voluntas*, 13(3), pp.271-85.

National Roundtable for Nonprofit Organisations, *The Nonprofit Sector in Australia: A Fact Sheet* (n.d.)

Parker, C (2002a) *The Open Corporation: Effective Self-Regulation and Democracy*, Cambridge: Cambridge University Press.

Parker, C (2002b) 'The Open Corporation: Evaluation of corporate self-regulation of responsibility', Paper delivered at the *2002 International Institute for Public Ethics Biennial Conference*, 4-7 October, Brisbane.

Paton, R (2003) *Managing and measuring social enterprises*, London: Sage.

Salamon, L.M (1997) *The International Guide to Nonprofit Law*, New York: John Wiley and Sons.

Salamon, L.M and Toepler, S (2000) 'The influence of the legal environment on the development of the nonprofit sector' Working Paper No.17, Centre for Civil Society Studies, The Johns Hopkins University Institute for Policy Studies.

Strategy Unit (2002) *Private Action, Public Benefit: A review of charities and the wider not-for-profit sector*, London: UK Strategy Unit Report.

Woodward, S and Marshall, S (2004) *A better framework – reforming not-for-profit regulation*, University of Melbourne: Centre for Corporate Law and Securities Regulation.

World Economic Forum (2003) *Trust in Leaders survey, 2003* (www.weforum.org)

World Economic Forum (2004) *Global Survey on Trust: Update 2004* (www.weforum.org)

Appendix 1

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