



FUNDRAISING
INSTITUTE-AUSTRALIA LTD

12 May 2000

The Secretary
House of Representatives Standing Committee
On Legal and Constitutional Affairs
Parliament House
CANBERRA ACT 2600

Dear Sir,

Re: Inquiry into the Privacy Amendment (Private Sector) Bill 2000

Please find attached a submission from Fundraising Institute-Australia Ltd to the above inquiry.

The Institute would be happy to elaborate on this submission, before the Committee, should that be useful.

I would be grateful if you could keep me informed of hearing dates and locations.

Yours sincerely,

Wayne M Clarke PhD CFRE
Chief Executive Officer

FIA National Secretariat PO Box 642, Chatswood, NSW 2067
Suite 410/282 Victoria Avenue Chatswood, NSW 2067
Telephone 02 9411 6644 Facsimile 02 9411 6655
Website www.fia.org.au ACN 088 146 801

FUNDRAISING INSTITUTE-AUSTRALIA LTD

ABOUT THE INSTITUTE

Fundraising Institute-Australia is a peak member organisation focused on fundraising for Not-for-Profit organisations around Australia. The members come from a broad spectrum of the not-for-profit sector and include fundraisers working in, hospitals, medical research, welfare, schools and universities, religious organisations as well as the arts and sporting organisations.

The Institute has approximately 1000 members who represent more than 750 organisations. The individual members are employed by organisations that raise more than \$5billion annually in Australia.

TRAINING

One of the Institute's primary objectives is the provision of training in fundraising. A national training program has been developed which is offered around Australia. These courses provide information for beginning fundraisers and volunteers as well as higher level skills that may be more appropriate for fundraising management. Training is specifically aimed at providing practical skills for the fundraiser to help them raise greater funds for their organisations for distribution in most cases to research organisations and to assist the less affluent in the community.

These courses also include awareness and understanding of fundraising legislation that is appropriate to the particular State as well as the requirements of Commonwealth taxation legislation relating to fundraising.

ADVOCACY

The Institute has no political affiliations and its main activities are involved in training professional fundraisers and providing support for members on Commonwealth and State Governments issues, which impact on fundraising.

The Institute has made a number of submissions to various inquiries including the Industry Commission on Charitable Organisations in Australia, the Productivity Commission inquiry into Australia's Gambling Industries and to the Senate Committee on the GST.

The Institute is a national organisation with Chapters in each state. Chapter representatives in a number of the States are involved in ministerial consultative committees providing advice to governments on a broad range of matters involving fundraising.

CONFERENCES AND SPECIAL INTEREST GROUPS

Each Year the Institute holds a National Fundraising Conference and Conferences and Special Interest Seminars are conducted in the various States. These have included practical information on such items as Australia Post Bar Coding, Direct Marketing, Cause Related Marketing and Fundraising on the Web. These programs are designed to provide members with an opportunity to learn about new technology and fundraising methods that may assist them to maximise donations and bequests.

PUBLICATIONS

The Institute publishes *Fundraising Australia*, a quarterly magazine, which provides a wide perspective on fundraising. Much of the material is sourced from around Australia with a number of international fundraisers also contributing. The Institute has recently broadened the focus of the magazine to include information so that it is more helpful for the voluntary fundraisers to assist the many thousands of organisations that are raising funds for their particular community, service or project.

PRIVACY AMENDMENT (PRIVATE SECTOR) BILL 2000

The Attorney General, the Honourable Daryl Williams AM QC MP, has asked the House of Representatives Standing Committee on Legal and Constitutional Affairs to inquire into the provisions of the above Bill. The Bill is aimed at enacting balanced privacy legislation for the private sector, which will include the not-for-profit Sector, particularly in relation to activities associated with fundraising and direct marketing.

It is noted however, that the Bill provides certain exceptions which include State and Territory public sector and Territory Government Business Enterprises that perform substantially core government functions and small businesses with a turnover of \$3 million dollars or less.

The Institute supports the introduction of this Bill, particularly the National Privacy Principles, which are incorporated in the Bill. The Institute believes that privacy and the management of personal information is a very important aspect of the fundraising industry and must be seen to be part of ethical fundraising. The Institute believes that this Bill will further enhance public confidence in fundraising and it could provide the first step towards a series of National Codes of Fundraising.

ISSUES FOR CHARITABLE AND NOT FOR PROFIT ORGANISATIONS

The Institute is concerned that the exemptions provided in the Bill will create a number of issues within the fundraising sector which may make it difficult for some organisations to determine if they are covered by the legislation. More importantly, the privacy protection, which is being proposed under the legislation, could well be diluted for many individuals.

STATE AND TERRITORY EXEMPTIONS

Many State and Territory Public Sector departments are involved in significant fundraising and those include schools, museums, and public hospitals. It should be noted that these organisations perform substantially core government functions, but many of them use fundraising to support their services. The Institute is of the view that the National Privacy Principles should also apply to the fundraising activities that are undertaken by these State and Territory public sector departments.

SMALL BUSINESS EXEMPTION

Many Not-for-Profit organisations have a turnover in excess of \$3 million, but there are also a significant number of Trusts, Foundations and small charities that do not have such a turnover and therefore would be exempt from the legislation.

Once again the Institute is concerned that the privacy protection would be diluted because of the larger charities being required to comply with the Code while the smaller charities would not be so required.

This would create some further confusion as to which charity or Not for Profit would be required to comply with the Code and a further confusion in the public perception of fundraising. It might be perceived that some charities have been approved while others have not.

A number of examples have been raised with the Institute, which has indicated the need to clarify where the compliance would be required.

There a number of organisations, which have health, related information, but may not provide a health service. These organisations may be raising funds for research or community support. The well known organisations relate to heart, cancer, diabetes, etc but there are many organisations that relate to lesser known diseases and conditions.

The outcome of this would be that some of these organisations would be required to comply because they provide a health service, while others are not required to comply because they do not provide a health service and they have a turnover of less than \$3 million.

The Institute believes that privacy protection is a very important aspect of sound, ethical fundraising but believes that this legislation should apply to organisations who are undertaking fundraising.

PROPOSAL FOR CONSIDERATION

The Board of Directors of the Fundraising Institute have begun a process of consultation with members of the Institute and with the Office of the Privacy Commissioner.

These latter discussions were held with Mr Timothy Pilgrim, Deputy Privacy Commissioner in Canberra when all members of the Board were briefed on the National Privacy Principles and a number of aspects relating to the Privacy Codes.

A Teleconference was held on Wednesday May 10, 2000 with the Board of Directors to discuss this submission to the Inquiry and it was the unanimous view of all Board Members that the Institute should seek to ensure that privacy legislation should cover fundraising activities by all organisations.

The Institute would respectfully suggest that consideration be given to amend the legislation to include the fundraising activities of State and Territory public sector departments and all Not for Profit organisations that undertake public fundraising activities. The Institute believes that the criteria for compliance could be related to the tax deductible gift status granted by the Australian Tax Office.

In making this recommendation the Institute is conscious that there may be some costs associated with compliance for smaller charities, but we believe the benefits for fundraising in the longer term will outweigh these costs.

It should also be noted that the Fundraising Institute has begun to consider the development of an industry Privacy Code and the Institute would also wish to work with the Office of the Privacy Commissioner to educate the Fundraising community in relation to the National Privacy Principles.

The Institute does not believe that there are cost ramifications in this proposed amendment for government.

RECOMMENDATION

Fundraising is an important and growing part of the Australian community and many government and semi government organisations and Not for Profit organisations have established significant fundraising programs to provide new and innovative services.

The Fundraising Institute is committed to enhancing those fundraising trends and believes that nothing should impede those developments. Similarly the Institute is committed to ethical fundraising and total transparency and accountability to the Australian Community.

The Institute supports the Privacy Legislation being introduced at this time, but we believe that the Bill should apply to all organisations who raise funds from the public. This would enable greater public accountability and transparency for all fundraising.

The Institute believes that this could be addressed by an amendment to the Bill to include all organisations that undertake fundraising using an eligible gift fund approved by the ATO.

EXECUTIVE SUMMARY

1. Fundraising Institute-Australia Ltd is a peak member association representing more than 1000 fundraisers who raise more than \$5 billion per year for the Australian Not for Profit Sector.
2. The Institute supports the introduction of the National Privacy Principles.
3. The adoption of these principles will increase public confidence in fundraising.
4. The Institute is concerned that fundraising conducted by State and Territory sector departments will be exempt from the legislation.
5. A further concern is raised about the exemption given to charities with a turnover of \$3 million or less.
6. Fundraising Institute-Australia believes that the legislation should apply to all organisations that are involved in public fundraising activities.
7. The Institute suggests that the Bill be amended to specifically include all organisations who have tax deductible gift status granted by the Australian Tax Office.
8. Some smaller charities may have some compliance costs.
9. The Fundraising Institute is considering the establishment of an approved Privacy Code for Fundraising.
10. The Institute will also consider an educative role in promoting the National Privacy Principles for the fundraising industry and the Australian community.