

6 August 2018

Charity Fundraising in the 21st Century
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

By email only: charityfundraising.sen@aph.gov.au

Dear Committee,

Charity Fundraising in the 21st Century - #fixfundraising

We welcome this inquiry into fundraising. Fundraising is a significant source of regulatory burden for our organisation, and for our members. We agree with the solution put forward by Justice Connect and #fixfundraising partners to clarify and amend the *Australian Consumer Law*; repeal fragmented State & Territory laws; and provide guidance to improve conduct.

Community Legal Centres Queensland is the peak body for Queensland's 33 community legal centres. Our members rely on investment from both levels of government, but this is nowhere near enough funding to meet the community's need for free legal help. According to a review of our members' 2016-2017 audited financial statements, almost 15% of our members' total income comes from non-government sources, and more community legal centres are attempting to diversify their funding. In 2015-16, 23 of our members estimate that they spend a total of 452 hours per week on funding-related activities.

Australia's fundraising laws are outdated: they do not effectively support fundraising across State and Territory borders or through digital platforms.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, 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 This outdated regime would not be tolerated by business.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, of providing free legal help to vulnerable and disadvantaged Queenslanders.

We agree with the solution put forward by Justice Connect and #fixfundraising partners to #fixfundraising:

- *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
- *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
- *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

This solution will deliver Stronger, Smarter, Simpler laws to support us (charities), and fundraisers and donors.

- *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

The fundraising problem – and the need for a national and fit-for-purpose fundraising regulatory regime - has been well documented

- 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

We need 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.

Yours sincerely



James Farrell OAM

Director

Community Legal Centres Queensland Inc.