

Tuesday 3 August 2021

Deregulation Taskforce: Streamlining Overlapping Regulations  
Department of the Prime Minister and Cabinet  
1 National Circuit  
Barton ACT 2600

Via email: [DeregulationOverlappingRegulation@pmc.gov.au](mailto:DeregulationOverlappingRegulation@pmc.gov.au)

Dear Deregulation Taskforce

### **Harmonisation of state and territory fundraising laws – streamlining overlapping regulations**

Thank you for the opportunity to provide a submission to the Department of the Prime Minister and Cabinet (**PM&C**) on streamlining overlapping regulations. I am writing in relation to the need for a consistent approach to fundraising laws across states and territories given that unnecessary red tape is an obstacle to fundraising for charities.

The Australian Institute of Company Directors' (**AICD**) mission is to be the independent and trusted voice of governance, building the capability of a community of leaders for the benefit of society. The AICD's membership reflects the diversity of Australia's director community, our membership of more than 46,000 is drawn from directors and leaders of not-for-profits (**NFP**), large and small businesses, and the government sector.

The NFP sector is a major focus of the AICD's work with a significant majority of our members involved in the governance or work of NFPs, many of them making contributions as directors on a voluntary basis. The AICD is committed to advocating for a fit for-purpose regulatory regime for the NFP sector that supports and promotes good governance, is streamlined, and is national.

#### **1. Executive summary**

While the AICD applauds Federal Government initiatives to reduce red-tape in the charities (and broader NFP) sector, a solution for nationally-consistent charitable fundraising regulation has not yet been agreed and implemented. Each year Australian charities and NFPs spend millions of dollars trying to comply with our complex system of fundraising regulations which differ across our eight jurisdictions.

This is a barrier to charities using funding to pursue their purpose. Urgent action is needed to create a national system that streamlines fundraising: registration, regulation, audit, and reporting.

We urge the Department of PM&C to reinvigorate efforts to harmonise state and territory fundraising laws as a high priority.

As noted by the Royal Commission into National Natural Disaster Arrangements Report:

*The Australian Charities and Not-for-profits Commission (ACNC) is the national regulator of charities, but fundraising is regulated by state and territory governments... This leads to complexity, both when attempting to raise funds nationally following a natural disaster and the distribution of funding to communities. A charity that conducts a national campaign will likely need to be registered to fundraise in each state and territory and comply with several distinct regulatory schemes... **The legal framework for***

**fundraising could be more effective if there was a single regulator and scheme governing fundraising.**

*[emphasis added]*<sup>1</sup>

## 2. Background and challenges

As you are aware, charities and NFP organisations perform a vital role in society. Many Australians were struggling before COVID-19 and the effects of the pandemic. Now, with homelessness rising and communities facing new pressures, the role of our charitable sector is more critical than ever. Australians are generous by nature and many will be wanting to extend a helping hand to those so badly affected by unemployment, broader lockdown impacts, and ongoing uncertainty caused by the pandemic.

At this time of significant hardship for many, communities and individuals are utilising charities' support more than ever. Accordingly, government and regulators should ensure that regulatory settings do not run counter to charities' efforts to assist those vulnerable people who continue to be impacted by the pandemic.

### *Fragmented regulatory response*

The AICD has worked with the #FixFundraising coalition, comprised of Justice Connect, Governance Institute of Australia, CPA Australia, Chartered Accountants Australia and New Zealand, Philanthropy Australia, Community Council for Australia and Australian Council of Social Services, on reform to fundraising laws for several years. We support a model that provides a simple single national point of registration, notification, regulation, audit and reporting for charitable fundraisers. Critically, reforms to date have been piecemeal in nature.

Reform should be regarded as an urgent economic priority by Australian Governments working together to support the sector's sustainability and growth.

We support the concept of the ACNC as a "one stop shop" where registration with the ACNC amounts to registration with all states and territories. We see it as important that this registration be on-line and simple, and, that by registering with the ACNC, a charity is deemed to have notified states and territory authorities of its intention to fundraise within their jurisdiction with no further notification necessary.

### *Regulatory burden on charities and NFPs*

A recent [report](#) by Piazza Research, the Charities Crisis Cabinet and Justice Connect outlines the following:

- Between 22% and 40% of Australian charities and NFPs across all states and territories report that current fundraising rules and requirements cause a high and unacceptable level of financial and human resource burden.
- Almost all Australian charities and NFPs (91%) believe it is very important or somewhat important for state and territory governments to create a single national regulation scheme for charitable fundraising.
- 57 – 88% of charities and NFPs report that the fundraising registration process is either very complex with a lot of excessive information required, or 'somewhat complex'.

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<sup>1</sup> The Royal Commission into National Natural Disaster Arrangements [Report](#), 2020.

- The majority of charities use online fundraising, however 39% of Australia's charities and NFPs are not aware of the need to comply with different state and territory regimes.
- Charities and NFPs rated QLD, VIC, WA and NSW as the worst performing jurisdictions imposing the highest costs, complexity and time delays for fundraising activities.

### 3. Progress has stalled

We support the efforts of the Federal Government to address the challenge of charitable fundraising, however we are concerned that initiatives commenced last year appear to have stalled.

In August 2020, the Intergovernmental Charitable Fundraising National Working Group (**Working Group**) released a discussion paper to simplify charitable fundraising laws, strongly supported by the Federal Government. In our view, simplifying charitable fundraising laws, as suggested in the discussion paper, is a straightforward and cost-neutral way that Australian governments can assist charities to improve their funding position.

Further momentum for reform emerged in December 2020 when the Federal Treasurer announced that the Council on Federal Financial Relations (**CFFR**) agreed to establish a cross-border recognition model to harmonise charitable fundraising laws. The intention is that the model will provide a single registration point for national operators, which will reduce costs and administrative burdens for charitable fundraisers that operate across multiple jurisdictions.

While the NSW, Victorian<sup>2</sup> and Western Australian<sup>3</sup> Governments have delivered on CFFR's commitment to ease the registration burden for charities, other states and territories are not demonstrating the same commitment. Registration is, however, only one part of the red tape burden – more work needs to be done to harmonise regulation, audit and reporting requirements.

In summary, progress on this matter appears to have stalled given the various jurisdictions involved, and we are now looking to the Deregulation Taskforce to champion change on this as an overlapping regulations matter.

### 4. Next steps

We stand ready to work with PM&C to find a solution that satisfies the states and territories and supports the ongoing work of NFPs.

If you would like to discuss any aspects further, please contact Amber O'Connell, Government Relations Manager at [AConnell@aicd.com.au](mailto:AConnell@aicd.com.au).

Yours sincerely,



**Christian Gergis GAICD**

Head of Policy

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<sup>2</sup> In August 2020, Victoria made changes to the Fundraising Act 1998 (Vic). These changes include the following: (i) ACNC registered charities will no longer need to go through separate steps to register as a fundraiser in Victoria. Instead, only a notification is required. (ii) Charities that are Victorian incorporated associations no longer need to duplicate reporting to both the Victorian regulator and ACNC.

<sup>3</sup> In July 2020, Western Australia addressed onerous compliance requirements under the Charitable Collections Act 1946. As a result of these changes, charity licences in WA no longer have an expiry date (previously, they had to be renewed every three years), and from the 2020 financial year, most WA charities registered with the ACNC no longer need to submit annual financial statements to both agencies.