



AUSTRALIAN CATHOLIC BISHOPS CONFERENCE

General Secretariat

7 August 2018

Committee Secretary
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

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

Dear Sir/Madam,

Select Committee on Charity Fundraising in the 21st Century

This submission is from the Australian Catholic Bishops Conference (**ACBC**). The ACBC is a permanent institution of the Catholic Church in Australia and the instrumentality used by the Australian Catholic Bishops to act nationally and address issues of national significance.

The Catholic community is the largest religious group in Australia with more than one in five Australians identifying as Catholic. Worship, pastoral and other religious activities take place in more than 1,380 Catholic parishes. The Church provides Australia's largest non-government grouping of hospitals, aged and community care services, providing approximately 10 per cent of health care services in Australia. It provides social services and support to more than 450,000 people across more than 650 sites Australia-wide each year. It has more than 1,730 schools enrolling more than 760,000 Australian students. Catholic Church agencies employ approximately 220,000 people who serve millions of Australians, both Catholic and non-Catholic.

The ACBC seeks to participate in public debate by making reasoned arguments that can be considered by all people of goodwill.

The ACBC appreciates the opportunity to make a submission to the Select Committee on Charity Fundraising in the 21st Century.

Introduction

There would be great value in sensible uniform national arrangements for the regulation of modern fundraising methods. The ACBC supports the call to bring all charity

fundraising activity under one national banner, which could be the Australian Charities and Not-for-profits Commission (ACNC).

Currently there is a fragmented approach to fundraising compliance which imposes a severe compliance burden on charities that engage in large scale mass market fundraising across state and territory borders. The current regime is resource intensive, and lacks clarity, uniformity and consistency. Particularly for smaller charities, the uncertainty about compliance proves challenging and increases their vulnerability to inadvertent non-compliance.

Church fundraising

Donations and funds for Church-based institutions come in the form of unregulated fundraising (e.g. offerings at church services, event and workplace donations, bequests and investments) and regulated fundraising (e.g. public appeals, raffles, bingo).

Parishes and diocesan administrations predominantly gather funds from Church members through unregulated fundraising activities whereas Church-based social service and human service charities employ a mix of contemporary regulated activities and traditional unregulated fundraising techniques.

Large Church institutions are likely to engage in regulated fundraising in several States and Territories. Many religious institutes are national. The existence of different regulations for each state is confusing and compliance is becoming increasingly complex with the rise of interstate online donations. These Church organisations therefore incur administrative costs in understanding and meeting the requirements in each jurisdiction.

There is a need in any agreed transition to new national arrangements to keep transition costs to a minimum for all charities, but particularly those operating in only one jurisdiction and therefore largely unaffected by the issue of harmonisation across jurisdictions. For the change to be beneficial across the board and acceptable to the charitable sector at large, the introduction of uniform fundraising laws would need to be undertaken with a focus on minimising transitional costs for local charities largely unaffected by the national arrangements.

Furthermore, consolidation of regulation into federal legislation must include the exemption of religious organisations made available under section 7 of the Charitable Fundraising Act NSW (1991). This provision was introduced deliberately in the NSW legislation in recognition of the fact that large and complex organisations such as the Churches and their connected charitable activities can effectively self-regulate. It must be understood that every dollar spent on compliance means less is available for the charitable purpose.

A Commonwealth regulator should focus on aggressive fundraising (e.g. exploiting the vulnerable in nursing homes, unauthorised solicitation on the streets and homes, digital promotions, fundraising in public spaces) and misleading advertising (involved in direct marketing and digital communications) and not broaden the scope of regulation to include

traditional forms of fundraising. The primary focus should be on reducing regulation and removing red tape.

If there is to be a national regulator of charitable fundraising this should not be the Australian Securities and Investments Commission or Australian Competition and Consumer Commission. These bodies do not play a regulatory role in relation to dioceses (generally speaking) and coming under the purview of those bodies would invariably increase bureaucracy, reporting and cost without tangible benefit. The ACNC would be a more suitable body.

A moderate approach to fundraising regulation would recognise that there is already criminal law (fraud) and consumer law (false and misleading advertising and unconscionable conduct) that can apply to prevent and deal with the more egregious breaches of public expectations.

It is also noted that there is no specific fundraising regime in the Northern Territory and there has not been any significant public detriment as a consequence. Similarly, the wide exemption in s.7 of the NSW legislation as already mentioned has not given rise to any concerns in the 27 years it has been operating.

Conclusion

The current regulatory framework with fundraising compliance required in each state and territory is out-dated, and in any event, largely unenforced. There would be great value in reform which provided sensible uniform national arrangements for the regulation of modern fundraising techniques. The ACBC supports the call for restrained, nationally consistent regulation of charity fundraising, which could be administered by the ACNC.

I would be happy to answer any questions you may have. I can be contacted via Mr Jeremy Stuparich, Public Policy Director at the ACBC on 02 6201 9863 or at policy@catholic.org.au

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stephen Hackett' with a stylized flourish at the end.

Rev Dr Stephen Hackett
General Secretary