

## Submission to ACNC Review - PFRA

### 1) Overview

The PFRA is the self-regulatory association for those charities and fundraising agencies that conduct face-to-face (F2F) fundraising in Australia. F2F includes street, door-to-door and private site fundraising. We have focussed our submission exclusively on **Question 8: Has the ACNC legislation been successful in reducing any duplicative reporting burden on charities? What opportunities exist to further reduce regulatory burden?**

The majority of our members work nationally, which requires them to adhere to a wide range of differing laws, regulations and rules. This range creates barriers to entry for new market participants, both clients and contractors. The 2016 report commissioned by the ACNC which is cited below provides an expert analysis and series of recommendations to more clearly define the purpose of fundraising regulation. The PFRA believes there is considerable scope to progressing many of the recommendations in that report.

The report clearly states that: *“Overwhelmingly, fundraising is the source of the greatest amount of regulatory burden for charitable organisations. Fundraising legislation differs significantly between jurisdictions, which very quickly escalates the administrative costs a charity incurs. Consequently, the annual regulatory burden associated with fundraising regulations is estimated at approximately \$13.3 million per year across the sector.”*<sup>1</sup>

**Table 4.1 Estimated annual regulatory costs by option – Fundraising**

Task	Base case	Option 1	Option 2	Option 3
Application process	\$2.96 m	\$2.78 m	\$2.71 m	\$0.39 m
Reporting requirements	\$4.87 m	\$0.00 m	\$0.00 m	\$0.00 m
Operating requirements*	\$7.26 m	\$7.26 m	\$3.88 m	\$3.88 m
<b>TOTAL</b>	<b>\$15.08 m</b>	<b>\$10.04 m</b>	<b>\$6.58 m</b>	<b>\$4.27 m</b>
<b>Regulatory cost saving against the base case</b>	<b>N/A</b>	<b>\$5.04 m</b>	<b>\$8.50 m</b>	<b>\$10.81 m</b>

Note: \*Operating requirements include ensuring ongoing compliance with regulations in carrying out fundraising and monitoring of compliance changes.

*“Given the importance of this sector, it is crucial that it is supported by regulations that are appropriate, fit-for-purpose, and encourage increased productivity, rather than creating barriers to participation. Further, it is crucial that regulation at both the Commonwealth and state and territory levels encourages best practice and offers effective oversight to enhance public trust and confidence.”*<sup>2</sup>

*“Despite the differences between state and territory fundraising regulations, there is no conceptual underpinning between jurisdictions on the common goal of regulation, and what the scope of the regulated activity should be.”*<sup>3</sup>

<sup>1</sup> Cutting Red Tape: Options to align state, territory and Commonwealth charity regulation; Deloitte Access Economics; Feb 2016. p.2.

<sup>2</sup> Ibid; p.7.

<sup>3</sup> Ibid; p.17.

The more money that is required to be spent on meeting regulations means less money can be provided to support charitable beneficiaries. While the PFRA clearly supports the need for proportionate regulation, a single regulatory framework would present the opportunity for significant cost savings and greater simplicity. A simpler system would also have the added benefit of lowering barrier to market entry, thereby allowing in more competitors with the aim of lowering the cost of fundraising services to charities.

The PFRA agrees with this conclusion and would be prepared to invest both time and money in developing a new, streamlined and unified regulatory framework. By creating a national framework, charities will be better able to work interstate and achieve greater economies of scale, thereby further lowering costs and improving productivity. At the moment, the current system does not allow for national transparency, for example with information held and presented inconsistently across multiple websites.

## 2) Registration

*“Overwhelmingly, the fundraising regulatory burden is caused by the requirement to be licensed in every state and territory where funds are collected... Eligibility requirements for exemptions differ considerably between each jurisdiction, creating situations where a charity may be exempt in one jurisdiction, but required to apply for a license to fundraise in other jurisdictions that it operates in.”<sup>4</sup>*

*“Some aspects of an application itself will determine the level of administrative burden imposed on organisations that are required to complete it. For example, stakeholders identified applications requiring individual signatures from Board members or individual police checks of key staff as particularly onerous. In addition, several charities highlighted the time required to complete manual processes associated with submitting documentation and suggested that online responses could improve this process.”<sup>5</sup>*

Feedback from PFRA members would highly reinforce the report’s findings in this area. The different requirements across different states present significant challenges for both charities and their fundraising agencies. In particular, an additional issue not specifically referred to in the report is the need to submit commercial agreements between charities and agencies in Queensland before a permit will be issued.

*“Each state and territory has different periods for the validity of a fundraising license, which varies from a minimum of 12 months in South Australia to an unlimited time period in Tasmania (where licences are issued in perpetuity). As state and territory departments do not send out a reminder to organisations or notify them in any other way when their license is due to expire, an organisation may need to manage up to five different deadlines for license renewal.”<sup>6</sup>*

The report highlights an important difference in the way in which some of the divergences create additional burdens on charities, with little demonstrable impact on the overall aim of regulation – namely improving public trust and confidence and the propensity to donate with informed consent. The lack of automatic renewal notifications, which would be extremely straightforward to implement, is an indication that there are notable areas for improvement that would not be considered ‘reducing’ compliance.

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<sup>4</sup> Ibid; p.19.

<sup>5</sup> Ibid; p.21.

<sup>6</sup> Ibid; p.21.

## Regulation

*“Jurisdictions typically outline a number of requirements that charitable organisations must comply with on an on-going basis to retain their fundraising license or registration. These vary in character and range from: The authority that must be provided to street collectors to act on a charity’s behalf; receipting requirements; and the requirement to have an address in the state in which the relevant organisation fundraises.”<sup>7</sup>*

As above, the PFRA would support the independent findings of the Deloitte report. Establishing a minimum baseline for ongoing compliance across the country would not in our view constitute either de-regulation or a reduction in compliance. A sensible alignment would reduce administrative burdens.

*“In some jurisdictions certain actions are prohibited, such as in Western Australia where street collections in the metropolitan area are banned. This means that organisations who are operating in more than one jurisdiction must tailor their operations to each state. Paperwork for one jurisdiction may not meet the regulatory requirements of another. Therefore, additional time and effort must be invested to ensure that the organisation can maintain compliance and retain its registration or license to fundraise.”<sup>8</sup>*

There are clearly wider issues in play here beyond sensible administrative alignments. Notably that a regulatory policy framework that attempted to reconcile such significant approaches as that contained in Western Australia as compared to the rest of the country would require significant changes for some states. The PFRA would therefore suggest this area is postponed until the administrative elements of any new alignment were achieved.

*“While there are a significant number of operational compliance requirements imposed on charities when undertaking their work, it is not necessarily clear where that information can be obtained from. As fundraising registration is typically an ancillary component of the state or territory’s responsibilities, some jurisdictions do not have this information readily available on their website to use as a quick reference guide. Consequently, time is spent searching for the different requirements in each of the jurisdictions to ensure that requirements are being maintained.”<sup>9</sup>*

The PFRA, in response to this sensible and pragmatic analysis, would be prepared to invest in a national platform that contained all relevant information across the states. This could be easily integrated with the online registration/licensing system mentioned above.

### 3) Reporting

*“In addition to the reporting requirements imposed at the federal level, charities who fundraise must also report to the relevant state and territory regulators on the fundraising amounts collected. The requirements vary between jurisdictions, as do the submission timeframes and the need for audited accounts. For example, ACT and Victoria require only basic details to be provided on fundraising activities, while NSW requests that charities report on exactly how much money is fundraised within that state.”<sup>10</sup>*

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<sup>7</sup> Ibid; p.22.

<sup>8</sup> Ibid; p.22

<sup>9</sup> Ibid; p.22/23.

<sup>10</sup> Ibid; p.23.

The PFRA is ideally placed to collect, organise and distribute all relevant reporting data not only to ACNC but also all relevant state regulators. The advantages of this system is that by using the PFRA as single portal to submit reporting requirements, we can verify the accuracy of those reports before submitting them for formal filing with either the ACNC or the state regulators as required. The nearest analogy would be 'final mile' arrangements in the postal sector, whereby private companies are permitted to provide services up to, but not including the final delivery (which continues to be carried out by the state service).