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6 August 2018

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

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

Dear Secretary,

Senate Select Inquiry into Charitable Fundraising in the 21st Century

Please find attached Philanthropy Australia's submission in response to the Senate Select Inquiry into Charitable Fundraising in the 21st Century.

Philanthropy Australia thanks the Committee for the opportunity to make a submission into the Inquiry.

Philanthropy Australia would welcome the opportunity to discuss the matters raised in this submission further. In this regard, please do not hesitate to contact Sarah Wickham, Policy and Research Manager, on

Yours sincerely,

Sarah Davies

Chief Executive Officer

Submission - Senate Select Inquiry into Charitable Fundraising in the 21st Century

1. About Philanthropy Australia

As the peak body, Philanthropy Australia's purpose is to serve the philanthropic community to achieve more and better philanthropy.

The community we serve consists of funders, grant-makers, social investors and social change agents working to achieve positive social, cultural and environmental change by leveraging their financial assets and influence.

Informed, independent and with reach and credibility, Philanthropy Australia gives its members a collective voice and ability to influence and shape the future of the sector and advance philanthropy.

We also serve the community to achieve more and better philanthropy through advocacy and leadership; networks and collaboration; professional learning and resources; and, information and data sharing.

Our membership consists of approximately 800 trusts, foundations, organisations, families, individual donors, professional advisors, intermediaries and not-for-profit organisations.

Philanthropy Australia believes that there is a clear need to reform fundraising regulatory framework in Australia. For a number of years now, stakeholders have consistently identified the existing framework as highly flawed and in need of reform. Well-developed and evidence-based reform proposals have been put forward, such as those advocated by Justice Connect and the *#fixfundraising* coalition, of which Philanthropy Australia is a member.

Philanthropy Australia welcomes the Committee Inquiry, and hopes that it will be a much needed catalyst for tangible action on this issue by governments. The problems with the existing framework have been identified, the solutions have been articulated, what is now needed is for governments to show leadership on this issue and work together effectively to deliver change.

In our submission, we wish to provide comments in relation to how the Inquiry's terms of reference relate to the work of philanthropists, and the charities they support.

We also wish to strongly endorse the submission made by Justice Connect submission and the recommendations contained within it.

2. The development of a national-consistent, contemporary and fit-for-purpose charitable fundraising regime is essential

Australia's framework for regulating charity fundraising is not fit-for-purpose. It is complex, inconsistent and has developed in an ad hoc manner. Much of it has its origins in the pre-internet era, and is therefore not suited to regulating new forms of online fundraising.

It is for this reason that Philanthropy Australia has been a member of the *#fixfundraising* coalition since its establishment in 2016. *#fixfundraising* are committed to reforming Australia's fundraising regulatory framework and Philanthropy Australia are proud to stand alongside the other prominent sector and peak professional bodies, along with hundreds of charities, to call for the streamlining and modernisation of Australia's fundraising regulatory framework.

3. The current framework for fundraising regulation in Australia is a significant source of unnecessary regulatory burden for philanthropic organisations which may also undertake fundraising

Certain philanthropic organisations also undertake fundraising in addition to grantmaking activities. Many Philanthropy Australia members manage public ancillary funds. Examples of such organisations include community foundations that use public ancillary funds as opportunities to engage with local community members and businesses to open tax exempt, perpetual sub fund accounts to grow giving within their local communities. Other organisations include trustee companies, and wealth management companies, which offer public ancillary fund structures as a vehicle for their clients to build tax exempt, perpetual sub fund accounts for public benefit.

These organisations are dedicating resources to comply with fundraising regulations in up to seven different states and territories, often operating on different reporting timeframes and with different state government bodies overseeing compliance.

By delivering a single national fundraising regulatory framework, these philanthropic organisations will be able to redirect resources away from complying with unnecessary regulatory burdens to focus on growing giving in Australia and ensuring that their philanthropy is effective and impactful in the communities it supports.

4. The current framework for fundraising regulation in Australia is a significant source of unnecessary regulatory burden for the charities philanthropists support

As outlined in the Justice Connect submission, fundraising regulation is a source of considerable regulatory burden for the charity sector and is estimated to cost more than \$15 million annually. Philanthropy Australia are confident that with less burdensome fundraising reporting requirements, the compliance costs of the charitable sector would be greatly reduced.

At the same time, as outlined in the Justice Connect submission, reforms can be introduced which not only address regulatory burden, but also enhance the regulatory framework by improving protections from improper conduct. This can be achieved through amendments to the Australian Consumer Law, the repeal of state and territory fundraising laws, and the introduction of a mandatory code under the Australian Consumer Law.

Philanthropists and philanthropic organisations fund charities because they want to see the organisations focus their resources and attention working to resolve the complex problems they are tackling. Reforming the fundraising regulatory framework will allow for more funds raised by charities to be used for the purposes for which they were intended – achieving social change in our community rather than filling out paperwork for various state and territory regulators. This will be a highly positive outcome.

5. Following extensive examination of this issue over many years, it is now time for action

Multiple independent inquiries over decades have confirmed that the current fundraising regulation is a significant source of unnecessary regulatory burden for charities. Philanthropy Australia strongly believes that there can be protections for donors and the promotion of proper conduct without this burden.

Philanthropy Australia thinks that it is in the interests of all Australian governments to work together to make fundraising laws fit for the 21st century. Governments must act now to provide donors and charities with a single national regulatory framework.

The costs involved in postponing reform yet again are significant. The current regulatory framework not only imposes significant annual expenses on the charitable sector, but it also creates barriers to growing giving in Australia by stifling fundraising innovation.

Therefore, Philanthropy Australia believes that reform should be given precedence in the policy agendas of all Australian governments, especially given there is a well-developed and evidence-based reform proposal which provides an alternative to the existing flawed regulatory framework.

6. Recommendation

Philanthropy Australia supports the recommendation made by Justice Connect in its submission in its entirety. It proposes that:

The Senate Select Committee on Charitable Fundraising in the 21st Century recommends the Federal Government actively support and assist with the development of a nationally-consistent, contemporary and fit-for-purpose charitable fundraising regime for implementation no later than mid-2019 by:

- **initiating (or at least supporting) amendments to the Australian Consumer Law to ensure its application to fundraising activities for and on behalf of charities (and other not-for-profit organisations) is clear and broad;**
- **urging the repeal of existing fragmented State and ACT fundraising laws; and**
- **working with other Australian Consumer Law regulators, the Australian Charities and Not-for-profits Commission, self-regulatory bodies and sector intermediaries to draft and consult publicly on a core mandatory code to be enforced under the Australian Consumer Law multi-regulatory framework.**