

Submission to the Senate Cttee. on Charity Fundraising in the 21st Century

Background to the PFRA

The Public Fundraising Regulatory Association (PFRA) is the self-regulatory body for face to face fundraising in Australia. Face to face fundraising is one of a number of methods used by charities across Australia to generate funding. It provides significant funding that allows charities to provide vital services for local communities and to help solve some of the greatest global issues. Established in February 2015, the role of the PFRA is to make sure that the right balance is maintained between the duty of charities to ask for donations and the right of the public to experience high standards of behaviour from our members' fundraisers.

The PFRA is a charity-led, membership-based association. Members include those charities that benefit from face to face fundraising and the professional fundraising suppliers that support charities in this work. A complete list of PFRA charity members is available as **Annex B**. The PFRA is governed by a Board of Directors elected PFRA members. The current members of the PFRA Board include senior fundraisers from Plan International, Australian Red Cross, and Peter MacCallum Cancer Foundation.

The PFRA is unique in the fundraising sector in that it is the only organisation that has been established specifically to regulate one type of fundraising and ensure compliance with a Standard. In addition to setting standards for face to face fundraisers, the PFRA rigorously checks that fundraisers comply with its Standard through a quality assurance program, as well as enforcing the Standard through a penalty, sanctions and remediation regime.

The PFRA has a role in the self-regulation of face to face fundraising only, and does not currently have a role in the self-regulation of other forms of fundraising such as cash collections, lotteries, raffles, commercial sales of charitable products or telephone fundraising. We are however, organisational members of the Fundraising Institute of Australia, and work closely with colleagues in many other organisations to promote higher standards in fundraising.

PFRA Responses to the Senate Committee's Questions

a. whether the current framework of fundraising regulation creates unnecessary problems for charities and organisations who rely on donations from Australian supporters;

The current regulatory framework for fundraising is fragmented across multiple states, each with different definitions of charitable appeals, operating conditions and varied registration and reporting requirements. Given that the majority of direct public fundraising is conducted by medium and large charities, most of which are either national or federated in structure, this presents a unique set of challenges for the country. While Australia would be considered a medium sized country in terms of population, it is regularly ranked in the top 10 globally in terms of donations as measured per capita. However, charities in Australia have to spend a disproportionate amount of time and money complying with the 8 different state and territory based regulatory systems on top of the federal requirements that come with DGR status, when compared to other countries such as the UK and New Zealand.

Recent research conducted by Deloitte, on behalf of the ACNC for example, would indicate for example that the total burden for complying with these myriad regulatory systems is over \$15m a year.¹ It should also be noted that most state regulations do not differentiate between types of charity, meaning that small and medium sized charities are likely to be disproportionately affected by the requirements and costs. In addition, the differing timescales for charitable appeals to be submitted and approved means that the ability of charities to respond quickly to emergencies (international, national or state) can be hindered by these requirements. For instance charities may be faced with a perverse situation, when attempting to raise funds to support communities affected by bush fires, that they can more easily raise funds from states than the state actually impacted.

Finally, for face-to-face fundraising there is an additional level of regulatory burden. Local councils in many states require additional permissions to use public spaces for street fundraising (approximately 80%) and in some cases also for door-to-door fundraising (around 50%). This effectively means that for an incredibly socially beneficial activity, charities are required to submit to three separate and different levels of government regulation – commonwealth, state and local. Plus, many also choose to submit to self-regulation (through the PFRA) to demonstrate their commitment to best practice and ethical fundraising.

¹ Deloitte Access Economics; Australian Charities and Not-for-Profits Commission Cutting Red Tape: Options to align state, territory and Commonwealth charity regulation Final Report 23 February 2016

b. whether current fundraising laws meet the objectives that guided the decision to regulate donations;

Table 1: Comparison of State Fundraising Laws' Statutory Objects

State/Territory	Law	Statutory Objects
ACT	Charitable Collections Act 2003	<ul style="list-style-type: none"> • To promote proper management and administration of collections; • To ensure proper record-keeping and auditing of accounts for collections; • To ensure that the public has access to information about collections.
New South Wales	Charitable Fundraising Act 1991	<ul style="list-style-type: none"> • To promote proper and efficient management and administration of fundraising appeals for charitable purposes; • To ensure proper keeping and auditing of accounts in connection with such appeals; • To prevent deception of members of the public who desire to support worthy causes.
Northern Territory	No Law	N/A
Queensland	Collections Act 1966	No Statutory Objects
South Australia	Collections for Charitable Purposes Act 1939	No Statutory Objects
Tasmania	Collections for Charities Act 2001	No Statutory Objects
Victoria	Fundraising Act 1998	<ul style="list-style-type: none"> • Transparency and public confidence in the fundraising industry and in not-for-profit organisations that conduct fundraising; • The protection of members of the public from whom money or a benefit is solicited for beneficial or benevolent purposes in the course of fundraising; • The protection of the public interest in relation to fundraising.
Western Australia	Charitable Collections Act 1946	No Statutory Objects

As can be seen from the table above, only 3 of the seven states/territories with charity fundraising laws explicitly define the statutory objects of those laws. It is nonetheless relatively straightforward to infer from the laws in the remainder of states what those objects are, and they are broadly in line with ACT, NSW and VIC. Overall, the objectives of all fundraising law can be broadly placed in three groups: proper administration, clear accountability and public protection.

The traditional argument for state governments to require charities to register and then seek special permission to conduct appeals may be argued is because they have preferential or special status in terms of tax concessions. However, the main tax benefit for charities (that of Deductible Gift Receipt status) is granted by a commonwealth body, the ATO and the ACNC administers much of the bureaucratic apparatus to facilitate this and other governance requirements. This potentially weakens the argument that the benefits charities derive from their status necessitates an additional regulatory process of registration, reporting and permissions.

Indeed, the work ACNC has done in recent years to reduce double registrations and reporting is to be welcomed and we strongly encourage all states to participate in this process of red-tape reduction. All charities that are members of the PFRA are registered with the ACNC and as such must submit their audited accounts and annual report to that body. This would seem to raise questions as to why separate reporting regimes are required in each of the states as well, or why specific reporting on individual appeals is either required by state bodies or more importantly the citizens of those states.

Charities are already accountable to their donors and beneficiaries and produce significant amounts of information on their work, spending and impact. It could well be argued that this information, which is produced freely by charities to demonstrate the impact they are having in their area of work, is far more effective and useful for the public to determine whether the charity should command their trust and confidence, and therefore deserving of their donations.

The PFRA believes the regulation of charitable appeals are most properly a function of government when it seeks to reduce or mitigate two potential matters of public harm. First, and most importantly, to ensure that only legitimate charities (and their partners) are able to freely solicit donations through properly authorised appeals. The implicit counter to this objective being to prevent criminals from abusing the trust of the public and soliciting donations meant for genuine charities.

The second matter of public harm is to ensure that legitimate charities are operating in line with a core set of standards or behaviours when interacting with the public. This is to provide a high degree of assurance to the public that information provided is accurate and not misleading. All laws, and fundraising should be no different, should be judged on a clear public interest test. This constitutes two parts. One being a clear definition and assessment of the public benefit created by the activity seeking to be regulated. The other being a clear definition and accurate assessment of the public harm caused by the activity.

Using this tool, the public benefit as measured by total donations solicited is approximately \$12.5 billion a year². If we were to factor in the overall benefit to the Australian economy, some \$140 billion a year, it is clear that the charity sector is a hugely important contributor to the social and economic well-being of the country.

Moving onto that public harm which is most easily defined and measured, that of preventing criminals diverting monies that would otherwise have gone to legitimate charities, the ACCC produces data each year on charity scams. They estimate that in 2017, there were 1146 fake charity reports lodged with them, only 10.6% of which led to a financial loss (equating to an annual of \$313,563).

Measuring the public harm caused by charities potentially not being accurate in their statements when seeking support from the public is much harder to quantify. It doesn't necessarily follow for example, that the money will be misused or used inappropriately. Indeed, the vast bulk of fundraising regulation has almost nothing to say on how charities should use donations, other than they should be applied to further their charitable purposes. The major focus of this body of law in terms of preventing public harm, is around who is fundraising and how they may fundraise. Both of which are more effectively dealt with through the ACL and self-regulatory compliance.

² Philanthropy Australia <http://www.philanthropy.org.au/tools-resources/fast-facts-and-stats/>

c. whether current fundraising compliance regimes allow charities to cultivate donor activity and make optimal use of resources donors provide;

This leads us onto the next point, which is that the majority of fundraising laws and regulations in Australia are focussed on the registration and reporting of fundraising activity. The management and control of individual fundraisers is left primarily to self-regulatory associations such as the PFRA and the internal systems and controls put in place by individual charities and their partners. As such, the registration and reporting regimes of the different states vary considerable in terms of their effectiveness and usefulness. Effectiveness in respect of how well they reinforce the policy objectives of the state bodies charged with implementing the fundraising laws and regulations. And usefulness in terms of how well they facilitate broader policy objectives such as understanding of charities and support for philanthropy.

d. the loss in productivity for the thousands of charities who try to meet the requirements of the seven different fundraising regimes;

Fundraisers are spending increasing amounts of time complying with statutory and non-statutory compliance requirements and less time on developing new and innovative ways to fundraiser. Please see **Annex A** for a full assessment of the scale of requirements. This effectively demonstrates the scope for loss of productivity caused by the current regimes.

A major issue that is often lost in the wider debate however is the significant role of local councils in issuing permits for street and door-to-door fundraising. Public fundraising of this kind is hugely important to charities - last year, almost 350,000 donors pledged their support to PFRA member charities. Over the past four years, some 1.2 million people have become charity donors after speaking to a public fundraiser. There are presently 536 local councils in Australia, the majority of whom have some form of permitting or permission based system for either street, door-to-door or both forms of fundraising. The systems across these councils vary considerably, as does the information required to be submitted and the processing and approval times.

Managing this vast system is extremely complex and many charities and fundraising agencies have staff members whose only job involves obtaining local council permissions. The PFRA has been working in recent years to establish Fundraising Management Agreements with willing councils so that we can carry out these services on councils' behalf at no cost to them or local residents. By doing so, we are able to provide a more effective and efficient service to members whilst ensuring that local councils retain the power to determine how much fundraising takes place, and where, in their local area.

The first PFRA established almost 15 years ago in the UK has over 140 agreements in place with councils and PFRA New Zealand effectively manages all public fundraising sites across the whole country. PFRA Australia, as the newest of the three major Associations, has fewer at the moment but we are engaging with local councils and the Australian Local Government Association. However, support from the Commonwealth and State governments to accelerate this process so that we can create a single, online system for local permits would massively reduce administrative costs and processing times. We hope the Committee recognises the value of the proposal we wish to expand across the country and would be keen to engage further to discuss the practical steps needed to make this happen.

e. whether the current frameworks for investigation and enforcement are the best model for the contemporary fundraising environment;

The current system is well past its use-by date, with much of the registration and reporting regimes designed for an era when online and digital trade and commerce had not even been conceived, let alone developed on the scale we now see in the world. The reporting regimes are often poorly constructed and do not allow charities to properly show how they fundraise and how the donations are received. The registration systems of many states are designed for one-off charitable appeals for cash or other physical donations. The kinds of long-term investments charities make in newer forms of fundraising, such as face-to-face fundraising are difficult to fit into the systems used by state regulators.

Nor is it even always clear why the information is being requested, how it will be used to either make policy or hold charities to account, or provided to the public in order to facilitate greater awareness of understanding. The overriding feeling of many of our members is that it a gigantic paper exercise yielding very little benefit to the public and simply costing charities significant sums of money and staff hours that could be better spent furthering their charitable objectives.

In response to this situation the PFRA has developed its own accreditation system, which assesses the key capabilities and capacities of our members across a range of different specialisms: Corporate Governance; *Fundraiser Field Compliance*; *Protection & Use of Donor Data*; *Training & Skills*; *Fundraiser Engagement & Employment*; and *Preventing Fundraiser Fraud*. This comprehensive system of checks ensures that PFRA members are operating at the highest possible standard of practice.

In terms of investigation and enforcement, the majority of the work currently being undertaken is by self-regulatory bodies such as the PFRA. We have an extensive quality assurance system that reinforces the accreditation programme outlined above. Each year, we conduct over 1000 fundraising location checks to ensure that the fundraisers working in those locations are meeting the PFRA Standard. The Standard is a simple, easy-to-use rule book for members that sets out an ethical and respectful way for charities and their agencies to conduct face-to-face fundraising.

If members of the PFRA are found to be breaking the PFRA, they can be issued with a breach notice. There are three levels of seriousness: A Level One breach incurs a 1 point penalty; a Level Two breach incurs a 2 point penalty; and a Level Three breach incurs an 8 point penalty. If a PFRA members accumulates 50 points in any given 6 month period, they are placed on Sanction Level 1. This requires them to complete a remediation plan, which details the systems they will put in place and what improvements they will make, in order to avoid future breaches.

However, if the member continues to breach the PFRA Standard and accumulates another 50 points in every next 6 month period, they will progressively make their way through the sanction levels until they hit Sanction Level 4. At this point, the member is referred to the Membership and Accreditation Committee, which will review their membership and has the ability to suspend or terminate their membership of the PFRA. This kind of activist model has proven to be the most successful, with PFRAs now established in the UK, France New Zealand and the USA and similar industry groups also practising self-regulation in Hong Kong, Austria and Germany.

In the past 6 months, the PFRA has terminated 4 members (Fresh Pathways, WAYS Fundraising, NGO Fundraising and Rise Fundraising) for their inability to maintain adherence to the conditions of membership. All 4 members have subsequently gone into administration, which is an indication that membership of the PFRA is now considered to be a pre-requisite for the vast majority of charities. By robustly enforcing our standards we are seeing a steady improvement in fundraiser behaviour, which will translate into greater public trust and confidence.

f. how Federal, State and Territory Governments could work together to provide charities with a nationally-consistent, contemporary and fit-for-purpose fundraising regime;

The PFRA believes that there is a straightforward way to create a new system that is stronger, simpler and smarter than the current one. First, the Australian Consumer Law provides a universally applicable framework to govern charitable fundraising in the country. In December 2017 the ACCC, in conjunction with all 8 state/territory consumer bodies³ produced guidance on the applicability of the ACL to charitable fundraising through the sector group CAANZ (Consumer Affairs Australia and New Zealand). This guidance provided helpful clarity to both our members and wider fundraising sector on how the ACL may be applied to charity fundraising. We provide further details on this matter at h) below.

Second, the PFRA's active compliance and enforcement model can be applied across multiple forms of fundraising beyond just face-to-face fundraising. A genuine co-regulatory system, with the self-regulatory 'part' of the system covering the bulk of the enforcement and reporting requirements, has far greater potential than the current system. Improvements in information gathering and intelligence sharing could see self-regulators referring the most serious cases to state regulators while dealing with the bulk of low-level compliance activity itself. Where criminals and fraudsters are identified, improved intelligence sharing between states (and with the ACCC) would reduce the freedom of movement of these people. It would be crucial to ensure FIA, and its Code of Conduct, was also part of any discussions in this area.

Third, creation of a new 'Australian Fundraising Standard' to cover many of the specific requirements found in the state fundraising laws, but unified and aligned to achieve a more effective and better understood framework can be achieved. The PFRA Standard has already proven itself as an extremely

³ Access Canberra, Consumer Affairs Victoria, Consumer and Business Services SA, Building & Occupational Services Tasmania, NSW Fair Trading, Queensland OFT and WA Department of Commerce & Consumer Protection.

effective compliance tool and its applicability to different types of fundraising could be explored in partnership with the ACNC, ACCC and state consumer affairs regulators. We strongly emphasise however that our support for a new Australian Fundraising Standard is contingent on repeal of state laws. Any further regulatory burden on top of existing requirements could not, we believe, be justified.

g. the appropriate donor-focused expectations and requirements that should govern fundraising regulation in the 21st century;

The PFRA believes that donors' expectations are that transparency and accountability of charities is of paramount importance. But this is rarely effectively delivered through the current 'mish-mash' of laws, regulations and requirements. A single framework and benchmark for information provided to donors and information provided to government would be a far effective vehicle for donors and the wider public to judge the effectiveness and impact of charities.

h. how the Australian consumer law should apply to not-for-profit fundraising activities;

The underlying principles and application of the ACL means it requires all fundraising be conducted in a manner that is 'open, transparent, truthful and fair'. In addition, the specific prohibition against fundraising that is misleading, deceptive or unconscionable means the main ways in which fundraising could harm the public interest are comprehensively covered in the ACL.

The ACL provides that a person must not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive (s.18). The PFRA upholds this requirement in a self-regulation capacity through its Standard, which is based upon the following principles:

- **To Serve Beneficiaries:** We fundraise in order to meet the needs of the individuals, communities and causes that our members serve. The money we raise is providing vital support for communities across Australia and the world.
- **Integrity and Honesty:** Our fundraising will be based on honesty and our actions will be consistent with our stated principles.
- **Transparency:** We will explain our fundraising clearly and openly to all those who are involved in our work.
- **Respect:** We will respect our donors, the people we converse with, the public we interact with, the environment we work in, the authorities we work with and the fundraisers who inspire our donors to give.
- **Lawfulness:** We will act in a lawful manner, ensuring that we are aware of the legal requirements that apply to our work and we will comply with all lawful instructions.

The PFRA Standard also requires that fundraisers must never mislead a member of the public or use false information in a conversation in an attempt to obtain a donation (2.4.2). Furthermore, State and Territory charitable fundraising laws impose requirements upon fundraisers prohibiting charities and third-party commercial fundraisers from making false and misleading representations in respect of their fundraising activity, so as to protect donors from being deceived. For example, in New South Wales the Authority Conditions prescribed by Fair Trading require communication connected with a fundraising appeal to be based on fact and not be false or misleading (s.14(1)(c)), and that a person conducting or participating in a fundraising appeal must use their best endeavours to answer honestly any question in relation to the purpose of the appeal or the details of the appeal (s.14(3)).

Many of the individual state-based fundraising laws have detailed provisions on micro-elements of fundraising. The ACL effectively creates a macro-structure for the regulation of fundraising, whilst not removing ultimate state control over how the ACL is enforced in their respective jurisdiction. When examining a selection of specific examples from the state laws, it becomes clear that many would fall under the broader umbrella of legal cover provided by the ACL.

Nevertheless, the PFRA submits that on the basis of the legislative intent of this general protection, the face to face fundraising sector is required to comply with not dissimilar provisions under State and Territory charitable fundraising laws. This is the case in respect of the agreements entered into between a donor and a charity, insofar as certain conditions must be upheld. For example, all jurisdictions require

that pledge forms disclose the purpose for which funds are being collected, and include clear reference to the amount an individual has committed to donate. The nature of an ongoing donation agreement with a charity is also 'low risk' to a donor, as they are able to opt out at the time of their choosing.

i. what are the best mechanisms to regulate third party fundraisers and to ensure the culture of third party fundraisers matches community perceptions of the clients they work with;

Enhanced self-regulation, such as that demonstrated by the PFRA's newly launched accreditation scheme is one of the most effective ways to ensure third-party fundraisers are operating in a way consistent with community perceptions. The time, attention and focus that can be provided by a dedicated self-regulatory body such as the PFRA will always be greater than that of state or federal regulators. This is inevitable given the many competing pressures on such public bodies. In addition, self-regulation is funded by the regulated and not the taxpayer. We are able to provide a highly effective degree of support to members' activities while not requiring any public money. Accreditation provides a thorough and robust measure of members' capabilities and assesses their ability to consistently meet the PFRA Standard.

j. whether a harmonised, contemporary fundraising regime could help in addressing concerns about the potential influence of foreign money on civil society and political debate in Australia;

PFRA does not have a view on this matter.

k. the cost to the charity and not-for-profit sector, and the communities they serve, of postponing fundraising reform; and

There are two cost related matters. One, as set out above, is that charities are spending more on regulation and compliance than they need to or than is really justified by the potential public harm they may potentially cause, which is marginal. This is money that obviously could be better spent on delivering new and better services to communities across Australia and internationally. The second, more intangible cost, is that the current system does not actually deliver a particular good level of transparency (both in terms of accurate and quality data). This means the information required of charities is not data that evidence and research suggests forms part of the public's determination when choosing which charities to donate to. Our members are committed to meaningful and positive reform that supports and facilitates ethical fundraising, while deterring and stopping illegal and illegitimate fundraising, in a way that the current system struggles to achieve. We look forward to providing further evidence and support to the Committee in its important work and we sincerely hope that after many, many years of discussion on this topic that real and lasting reform is possible.

l. any other related matters.

PFRA does not have any additional comments.

APPENDIX A: State Fundraising Laws Gap Analysis

- Context:* The current Senate Committee inquiry has raised questions for the sector about the future of fundraising regulation in Australia. Some interest groups have suggested that state and territory fundraising laws be repealed, as fundraising is already covered by the ACL. While the PFRA strongly agrees that some broad principles-based provisions of the ACL can apply to fundraising, it also notes that there are regulatory requirements within existing state and territory laws that are important to the operational practice of face to face fundraising, and should be preserved in some capacity, preferably through a new Australian Fundraising Standard that is jointly enforced by self-regulatory bodies such as the PFRA and the state based consumer regulators.
- Purpose:* The PFRA has conducted a 'gap analysis' of fundraising laws and regulations in the three states with the greatest amount of fundraising (NSW, Vic and Qld), compared against the Australian Consumer Law, set out at Schedule 2 of the [Competition and Consumer Act 2010](#) (Cth). This gap analysis is undertaken by jurisdiction and sets out which provisions should be retained, and why, within an Australian Fundraising Code. It also identifies where an existing provision is currently replicated (in principle) under the ACL or under the PFRA's self-regulatory regime.

New South Wales ([Charitable Fundraising Regulation 2015](#) under [Charitable Fundraising Act 1991](#))

Existing provisions for retention <i>Which existing provisions are operationally important to the practice of face to face fundraising?</i>	Justification for retention <i>Why is the provision significant?</i>	ACL coverage <i>Does the ACL presently address the matter?</i>	Self-regulatory coverage <i>Does the existing self-regulation regime for face to face fundraising address the matter?</i>	Comment
Charitable Fundraising Regulation 2015				
Part 2, Clause 13: Identification of face to face collectors 13(1) While participating in a fundraising appeal, a face to face collector must prominently display any identification card of badge that has been issued to the person in compliance with a condition of the authority to conduct the appeal	Identification of face to face fundraisers adds legitimacy to activity, contributing to public trust and confidence; also aids identification when making a complaint	No – there is no identification requirement for face to face fundraisers under the existing ACL	Yes – the PFRA Face to Face Fundraising Standard requires at 2.3.2 that: Fundraisers must always wear the prescribed identification badge and have this clearly visible to the public on their torso while working. Unless otherwise specified by legislation or permit conditions, this badge must contain at least: i) A recent photo of the fundraiser ii) Fundraiser name iii) Charity name and logo iv) The words “Paid Collector” v) Charity contact information vi) agency name	PFRA requirement informed by legislation and permit condition requirements pertaining to identification; Standard would require minor amendment if no such requirements under state/territory law
<i>Part 3, Clause 17: Conditions of authority (see Charitable fundraising authority conditions)</i>				
Part 1: General Conditions - 1. Internal controls Proper and effective controls must be exercised by an authorised fundraiser over the conduct of all fundraising appeals, including accountability for the gross income and all articles obtained from any appeal and expenditure incurred.	Foundation principle underpinning the management of all face to face fundraising appeals	No – there is no specific requirement regarding fundraising controls	No – the PFRA Face to Face Fundraising Standard does not contain any specific requirement however General Principles (1.1) ‘Integrity and Honesty’ and ‘Transparency’ are relevant	PFRA has limited constitutional remit to regulate financial management of face to face fundraising appeals however ACNC and FIA may have roles here
9. Record systems for items used in fundraising appeals A record system must be instituted and maintained for: (1) all identification cards or badges issued to participants in a fundraising	This requirement assists to ensure identification badges are appropriately distributed and managed, preventing loss and	No – there is no specific requirement regarding the use of record systems for	No – the PFRA Face to Face Fundraising Standard does not contain any requirement for the management of identification badges	The PFRA could incorporate such a requirement into its Standard

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<p>appeal, by which a number assigned to and shown on each card or badge is correlated with the name of the person to whom it was issued, the date of issue and the date it was returned</p>	<p>mitigating against fraudulent use</p>	<p>identification badges</p>		
<p>10. Persons conducting or participating in a fundraising appeal on behalf of an authorised fundraiser (2) The authorisation given by an authorised fundraiser to a member, employee or agent who participates in a fundraising appeal as a face-to-face collector must: (a) be in the form of an identification card or badge, and (b) be consecutively numbered, and (c) include the name of the authorised fundraiser and a contact telephone number, and (d) include the name of the face-to-face collector, and (e) if the face-to-face collector receives a wage, commission or fee for services, the identification card or badge must include the words “paid collector” and the name of the collector’s employer, and (f) indicate its issue and expiry dates, and (g) be signed and dated by the authorised fundraiser (or a delegate of</p>	<p>No fundraising activity on behalf of a charity can be undertaken without that charity’s authorisation; this is to ensure the fundraising activity is carried out lawfully (not fraudulently) and in accordance with the charity’s instructions. It is important that this authority is written and not verbal, as it can be produced upon request (ensuring transparency for donors). This commonly takes the form of an identification badge.</p>	<p>No – the ACL does not contain a requirement for fundraising activity to be authorised</p>	<p>Yes (in part) – the PFRA Face to Face Fundraising Standard requires at 2.3.2 that: Fundraisers must always wear the prescribed identification badge and have this clearly visible to the public on their torso while working. Unless otherwise specified by legislation or permit conditions, this badge must contain at least: i) A recent photo of the fundraiser ii) Fundraiser name iii) Charity name and logo iv) The words “Paid Collector” v) Charity contact information vi) agency name. Because the PFRA relies upon reference to specified legislation or permit conditions, it does not duplicate existing requirements.</p>	<p>The PFRA could incorporate additional requirements into its Standard pertaining to identification badges, including:</p> <ul style="list-style-type: none"> ☐ Consecutive numbering ☐ Where fundraiser is paid, inclusion of the words “paid collector” ☐ Issue and expiry dates ☐ Signature of charity and/or agency ☐ Return requirements

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<p>the authorised fundraiser or its governing body, and</p> <p>(h) be of sufficient size to ensure that the particulars on it may be easily read by members of the public, and</p> <p>(i) be recovered by the authorised fundraiser from the face-to-face collector as soon as the face-to-face collector's authorised involvement in the appeal is ended.</p>				
<p>14. Advertisements, notices and information</p> <p>(1) Any advertisement, notice or information provided as part of a fundraising appeal must:</p> <p>(a) clearly and prominently disclose the name of the authorised fundraiser, and</p> <p>(b) not be reasonably likely to cause offence to a person, and</p> <p>(c) be based on fact and must not be false or misleading.</p>	<p>This is intended to ensure prospective donors are not misled or deceived nor offended; it supports transparency and truthfulness when advertising</p>	<p>Yes – the ACL includes a prohibition against misleading or deceptive conduct (s.18(1))</p>	<p>Yes – the PFRA requires at 2.4.2 that: Fundraisers must never knowingly mislead a member of the public or use false information in a conversation in an attempt to obtain a donation</p>	<p>The application of 2.4.2 in the PFRA Standard could be expanded so as not to be limited to 'conversation', as it is presently</p>
<p>14. Advertisements, notices and information</p> <p>(2) A person conducting or participating in a fundraising appeal must use his or her best endeavours, at all times, to answer honestly any question directed to the person in relation to the purpose of the appeal or the details of the appeal, or to arrange to find answers to questions that he or she is unable to answer. In particular, if it is requested, information is</p>	<p>This is intended to ensure prospective donors are not misled or deceived when receiving information verbally, and that they receive access to information upon request</p>	<p>Yes (in part) – the ACL includes a prohibition against misleading or deceptive conduct (s.18(1)), however does not include any</p>	<p>Yes (in part) – the PFRA Standard requires at 2.4.2 that: Fundraisers must never knowingly mislead a member of the public or use false information in a conversation in an attempt to obtain a donation. It is requires adherence to General Principles (1.1) including 'Integrity and Honesty' and 'Transparency'. Additionally, the PFRA Standard</p>	<p>The PFRA's Standard could be amended to include explicit reference to providing information about how gross fundraising income will be distributed, upon request</p>

Existing provisions for retention <i>Which existing provisions are operationally important to the practice of face to face fundraising?</i>	Justification for retention <i>Why is the provision significant?</i>	ACL coverage <i>Does the ACL presently address the matter?</i>	Self-regulatory coverage <i>Does the existing self-regulation regime for face to face fundraising address the matter?</i>	Comment
<p>to be given as to how the gross income and any articles obtained from the appeal will be distributed and on the other matters referred to in sub-paragraphs (3)(a) and (4).</p>		<p>requirement regarding access to information</p>		
<p>(3) If a fundraising appeal is jointly conducted with a trader, the following additional requirements must be complied with:</p> <p>(a) any written or printed advertisement, notice or information must include:</p> <p>(i) the full name under which the trader or person operates for purposes of the appeal, and</p> <p>(ii) the telephone number and the website address of the trader or person, and</p> <p>(iii) the benefit to be received by the authorised fundraiser must be expressed as a percentage of the gross proceeds of the appeal or an actual dollar amount (the disclosure cannot be expressed as a percentage of the “net” income of the appeal or a percentage of the “wholesale” price of a product), and</p> <p>(iv) the benefit to be received by the trader or business from the appeal must be expressed as a percentage of the gross proceeds of the appeal or an actual dollar amount (the disclosure cannot be expressed as a percentage of the “net” income of the appeal), and</p>	<p>This is intended to ensure prospective donors understand they are being solicited by a third-party fundraiser (agency) and have visibility of the income they receive for providing their services, as this may influence their decision to donate</p>	<p>No – the ACL is silent on the engagement of third-party fundraisers when soliciting donations and as such imposes no related requirements</p>	<p>Yes – the PFRA Standard requires at 2.3.1 that: Where not otherwise prescribed by law, fundraisers must provide donors with a written disclosure that fees are paid to a named commercial fundraising organisation (this disclosure is typically made on a charity’s ‘pledge form’, which is provided to donors)</p>	<p>The PFRA’s Standard could be amended to include the following disclosure information:</p> <ul style="list-style-type: none"> ☐ Full name of trader ☐ Telephone and website address of trader ☐ Whether the appeal is of limited duration (commencement and end date) or an ongoing appeal (to include the words “this is an ongoing appeal”) <p>The PFRA also recommends the inclusion of PFRA contact information should a donor or prospective donor be unable to resolve a complaint directly with the charity.</p>

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<p>(v) the date on which the appeal commenced, or will commence, and the date on which it will end, or where no end date is known, the words “this in an ongoing appeal”.</p>				
<p>17. Agreement with trader (1) If a fundraising appeal is conducted jointly with a trader, the return to the authorised fundraiser must be governed by a written agreement between the authorised fundraiser and the trader. (2) Such an agreement must include at least the following particulars: (a) the amount of the return to be obtained by the authorised fundraiser from the appeal, or the basis or method by which this will be calculated, (the disclosure can not be expressed as a percentage of the “net” income of the appeal or a percentage of the “wholesale” price of a product) and the manner in which payment will be effected, (b) details of any commission, wage or fee payable to the trader and any other persons from the gross income obtained from the appeal, (c) details of the type, and any limitation on the amount, of expenses to be borne by the trader and the authorised fundraiser as part of the appeal,</p>	<p>Ensuring a written agreement is in place between a charity and a fundraising agency is essential to ensure clear commercial terms. It also serves as evidence of authority to fundraise. The conditions are also protective, ensuring fundraising is undertaken appropriately and adequate internal controls and safeguards in place to ensure proper accountability.</p>	<p>No – the ACL is silent on the engagement of third-party fundraisers and imposed no requirements in respect of agreements entered into by charities</p>	<p>No – the PFRA Standard does not impose any requirements in respect of the agreements entered into between charities and agencies</p>	<p>The PFRA Standard could be amended to include similar requirements in relation to charity-agency agreements.</p>

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<p>(d) the basic rights, duties and responsibilities of both parties,</p> <p>(e) insurance risks to be covered by each party (for example, public liability, workers compensation for employees, personal accident insurance for volunteers, third party property insurance),</p> <p>(f) details of any records and documentation to be maintained by the trader (including those required by or under the Act) and the requirement that the trader keep these at the registered office of the authorised fundraiser, except as provided by condition 19,</p> <p>(g) details of the specific internal controls and safeguards to be employed to ensure proper accountability for the gross income obtained from the appeal,</p> <p>(h) the process to be followed in resolving disputes between the parties to the contract or agreement, complaints from the public and grievances from employees,</p> <p>(i) the reporting requirements imposed on the trader,</p> <p>(j) an undertaking by the trader to comply with the provisions of the Act, the regulations under the Act and the conditions of the authority,</p> <p>(k) a mechanism to deal with the effect on the contract of any subsequent</p>				

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addition, variation or deletion of an existing condition of the authority, (l) the circumstances in which the contract is or may be terminated.				
22. Complaint handling mechanism The authorised fundraiser must provide a mechanism that will properly and effectively deal with complaints made by members of the public and grievances from employees in relation to its fundraising activities.	This ensures the accountability of those fundraising to effectively manage complaints when they arise. It also allows for the identification and proactive management of any complaint or incident likely to bring face to face fundraising into disrepute.	No – the ACL does not require a complaint handling mechanism (for charities, commercial third-party traders nor any other entity)	No – the PFRA Standard does not require its members to have a complaint handling mechanism in place. However, it requires notification of complaints at 2.4.18 where: Fundraisers must notify their Team Leader or Manager of any complaint or incident alleging a breach of this Standard or otherwise likely to bring face to face fundraising in disrepute. And at 2.4.19, where: Members must notify the PFRA of any complaint or incident alleging a breach of this Standard or otherwise likely to bring face to face fundraising in disrepute which has been raised by a local authority, state government, business association or other body which the PFRA has responsibility for engaging with.	The PFRA Standard could be expanded to include explicit reference to members' complaint handling processes, and outlining a process for escalation to the PFRA for management. In practice, all charities have a complaint handling process; this could also be required of fundraising agencies.
Charitable Fundraising Act 1991				
Meaning of “fundraising appeal” 5. (1) For the purposes of this Act, the soliciting or receiving by any person of any money, property or other benefit constitutes a fundraising appeal if, before or in the course of any such soliciting or receiving, the person represents:	In the context of the current ACL Review, the PFRA considers it useful if fundraising activity is clearly defined; it specifically recommends a definition that clearly differentiates between a	No - the ACL does not presently provide a definition of fundraising activity	Yes – the PFRA Standard defines face to face fundraising as “the practice of approaching a member of the public either in the street, at their residence, or at commercial premises with the primary purpose of seeking an ongoing donation through a bank or credit card direct debit.”	The PFRA recommends a definition of face to face fundraising be formally recognised under a co-regulatory regime and that the distinction between a donor and consumer be preserved under the ACL

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(a) that the purpose of that soliciting or receiving; or (b) that the purpose of an activity or enterprise of which that soliciting or receiving is a part, is or includes a charitable purpose.	donor and consumer (namely, that soliciting donations is not 'in trade or commerce', irrespective of the fundraiser			(to ensure the continued exemption for donations under the Unsolicited Consumer Agreement provisions). It is imperative that any definition is flexible enough to allow for change in a fluid, dynamic environment and believes self-regulation is well positioned to deliver this.
Conducting unlawful fundraising offence unless the person: 9. (1) A person who conducts a fundraising appeal is guilty of an offence unless the person (a) is the holder of an authority authorising the person to conduct the appeal; or (b) is a member of an organisation, or an employee or agent of a person or organisation, that holds such an authority and is authorised, by the person or organisation that holds the authority, to conduct the appeal; or (c) is authorised under subsection (3) to conduct the appeal without an authority.	The PFRA considers the concept of 'authorisation' to be significant. One must be authorised to undertake face to face fundraising to provide members of the public with confidence in the legitimacy of the activity. It also goes some way in achieving consistency in fundraiser behaviour, where a uniform standard is required under a system of authorization.	No – the ACL does not include any fundraising authority requirements	Yes (in part) – the PFRA Standard requires at 2.1.1 that member organisations and their fundraisers must comply with: i) All current fundraising legislation and regulations. Therefore, conducting unlawful fundraising is only an offence where provided for under current fundraising legislation and regulations.	The PFRA recommends that unlawful fundraising continue to be treated as an offence under any future regulatory regime; this will require the concept of 'authorisation' be retained (with the authoriser a registered charity).
False statements etc. 13. (1) A person who: (a) in an application or notice made or given under this Act; or	This is intended to ensure fundraising applicants do not make any false representations in the course of the regulatory	Yes – the ACL includes a prohibition against misleading or	No – while the PFRA requires at 2.4.2 that: Fundraisers must never knowingly mislead a member of the public or use false information in a conversation in an attempt to obtain a donation, it does not	The PFRA Standard could be expanded to include such a requirement prohibiting false statements;

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(b) in any record or document relating to a fundraising appeal, makes any statement that the person knows, or could reasonably be expected to know, is false or misleading in a material particular is guilty of an offence.	engagement/administrative management of their fundraising appeal	deceptive conduct (s.18(1))	specifically include a requirement prohibiting false or misleading disclosure in relation to the provision of membership and ongoing compliance information	it may also consider a membership vetting process
Proceeds of appeal 20. (1) Any money or benefit received in the course of a fundraising appeal conducted by the holder of an authority is to be applied according to the objects or purposes represented by or on behalf of the persons conducting the appeal as the purposes or objects of the appeal.	Members of the public have a reasonable expectation that any donation they make will be applied in a manner that is consistent with the purpose for the fundraising activity as disclosed at the time of the donor's engagement; it is therefore in support of public trust and confidence that this be an enforceable requirement	Yes (in part) – while the ACL does not include an equivalent provision, it prohibits misleading or deceptive conduct (s.18(1)) (which would prohibit a fundraiser making false representations about how funds would be applied)	No – the PFRA Standard does not currently include a requirement that money raised be applied according to the fundraiser's disclosed objects or purposes	The PFRA Standard could be expanded to include such a requirement, unless otherwise prescribed by ACNC or under FIA Code/s
Keeping of records 22. (l) A person or organisation that conducts or has conducted a fundraising appeal must keep, in accordance with this section, records of income and expenditure in relation to each such appeal.	Members of the public have a reasonable expectation that their donations are appropriately managed, including through accurate record keeping	No – the ACL does not provide that records should be kept in relation to	No – the PFRA Standard does not provide that records should be kept in relation to fundraising appeals	The PFRA Standard could be expanded to include such a requirement, unless otherwise prescribed by ACNC or under FIA Code/s

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		fundraising appeals		

Victoria ([Fundraising Regulations 2009](#) under [Fundraising Appeals Act 1998](#))

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Fundraising Appeals Act 1998				
Section 7 - false statements while seeking donations (1) In conducting or participating in a fundraising appeal, a person must not make or give any representation or oral or written statement in relation to the appeal to another person that misleads or deceives, or that is likely to mislead or deceive— (a) the other person; or (b) anyone else to whom the other person may make, repeat or give the representation or oral or written statement.	This is intended to ensure prospective donors are not misled or deceived nor likely to be misled or deceived; it supports transparency and truthfulness when fundraising	Yes – the ACL includes a prohibition against misleading or deceptive conduct (s.18(1))	Yes – the PFRA requires at 2.4.2 that: Fundraisers must never knowingly mislead a member of the public or use false information in a conversation in an attempt to obtain a donation	The application of 2.4.2 in the PFRA Standard could be expanded so as not to be limited to 'conversation', as it is presently
Section 9 - identification badges for collectors (1) If a person is in the course of conducting or participating in a fundraising appeal— (a) in a public place; or (b) on the premises of a person from whom money or a benefit is being solicited or received without the prior invitation of that latter person—	Identification of face to face fundraisers adds legitimacy to activity, contributing to public trust and confidence; also aids identification when making a complaint; identification of third-party fundraisers is also important (using the words "paid collector") to ensure members of the public understand they are not being	No – there is no identification requirement for face to face fundraisers under the existing ACL, including in relation to the engagement of third-party fundraisers	Yes – the PFRA Face to Face Fundraising Standard requires at 2.3.2 that: Fundraisers must always wear the prescribed identification badge and have this clearly visible to the public on their torso while working. Unless otherwise specified by legislation or permit conditions, this badge must contain at least: i) A recent photo of the fundraiser ii) Fundraiser name iii) Charity name and logo iv) The words "Paid Collector" v) Charity contact information vi) agency name. The PFRA Standard also requires at 2.3.1 that: Where not	PFRA requirement informed by legislation and permit condition requirements pertaining to identification; Standard would require minor amendment if no such requirements under state/territory law

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<p>she or he must wear an identifying badge in such a way that the entire face of the badge is at all times clearly visible.</p> <p>(2) A person who is conducting a fundraising appeal must issue an identifying badge to each person participating in the appeal who is required by subsection (1) to wear an identifying badge and must ensure that the badge—</p> <p>(a) prominently displays the words "Paid Collector" if the person to whom it is issued is entitled, or expects, to be paid for participating in the appeal (other than for out-of-pocket expenses)</p>	<p>solicited by a volunteer and receive income for providing their services, as they may influence their decision to donate</p>		<p>otherwise prescribed by law, fundraisers must provide donors with a written disclosure that fees are paid to a named commercial fundraising organisation (this disclosure is typically made on a charity's 'pledge form', which is provided to donors).</p>	
<p>Section 15A - Direct debit request form A person who conducts a fundraising appeal must ensure that any form used for the purposes of the appeal to enable donation using direct debit facilities by a person from whom money is solicited—</p> <p>(a) is easily legible; and</p> <p>(b) to the extent that it is printed or typed, uses a minimum 10 point font; and</p> <p>(c) is clearly expressed.</p>	<p>This is intended to ensure people enter into direct debit arrangements in a manner that is clearly communicated, i.e. in full awareness</p>	<p>No – there is no requirement under the existing ACL, in relation to direct debit request forms or fundraising appeal forms more generally</p>	<p>No – the PFRA Standard does not currently include any requirement pertaining to direct debit request forms, however refers to the principle of 'transparency' which includes a requirement to explain fundraising clearly and openly</p>	<p>The PFRA Standard could be expanded to include requirements pertaining to direct debit request forms, where not otherwise required under state or territory fundraising laws, or by members' banks and financial services legislation (if so, the duplication is unnecessary).</p>
<p>Section 17A – Fundraisers must be registered</p>	<p>No fundraising activity can be undertaken without authorisation; it is</p>	<p>No – the ACL does not contain a requirement</p>	<p>Yes (in part) – the PFRA Face to Face Fundraising Standard requires compliance with existing state and territory fundraising laws</p>	<p>The PFRA could incorporate additional requirements into its Standard pertaining to the process by which third-party fundraisers</p>

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<p>... a person must not conduct a fundraising appeal unless she or he is registered by the Director as a fundraiser.</p>	<p>important some element of 'authority' be imposed upon face to face fundraising activity, so as to legitimate the activity and to ensure members of the public can place their trust and confidence in fundraising activity when it occurs – this also mitigates against fraudulent fundraising activity</p>	<p>for fundraising activity to be authorised</p>	<p>at 2.1.1; because the PFRA relies upon reference to specified legislation or permit conditions, it does not duplicate existing requirements; further thought needs to be given to how face to face appeals are 'authorised' should state and territory laws be repealed; the PFRA suggests authorisation is granted in conjunction with charitable registration (through the ACNC); with registered charities given the right to authorise third-party fundraisers to conduct face to face fundraising appeals on their behalf (with no formal regulatory mechanism for doing so)</p>	<p>receive authorisation by charities to undertake face to face fundraising activity. The PFRA may consider accreditation and/or licensing options in the context of its member registration process to ensure mandatory, uniform registration of fundraisers in Australia under a self-regulation regime.</p>
<p>Section 26 - Proceeds may only be given to beneficiaries</p> <p>(1) A person conducting a fundraising appeal must not give, and must not authorise or permit any other person to give, any of the net proceeds of the appeal to any person, cause or thing who is not a beneficiary of the appeal, unless otherwise permitted by the Director</p>	<p>Members of the public have a reasonable expectation that any donation they make will be given to the beneficiaries, reference to whom is ordinarily made in the course of conducting an appeal for support</p>	<p>No – the ACL does not include a requirement that fundraising proceeds may only be given to beneficiaries</p>	<p>No – the PFRA Standard does not currently include a requirement that money raised may only be given to beneficiaries</p>	<p>The PFRA Standard could be expanded to include such a requirement, unless otherwise prescribed by ACNC or under FIA Code/s</p>

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under subsection (2) or ordered by the Court under section 35A				
<i>Fundraising Regulations 2009</i>				
7 Identifying badges (1) A person who issues an identifying badge under section 9(2) of the Act must ensure that the badge prominently displays— (a) the name of the person conducting the fundraising appeal; and (b) the name of the person to whom the badge is issued	Identification of face to face fundraisers adds legitimacy to activity, contributing to public trust and confidence; also aids identification when making a complaint	No – there is no identification requirement for face to face fundraisers under the existing ACL	Yes – the PFRA Face to Face Fundraising Standard requires at 2.3.2 that: Fundraisers must always wear the prescribed identification badge and have this clearly visible to the public on their torso while working. Unless otherwise specified by legislation or permit conditions, this badge must contain at least: i) A recent photo of the fundraiser ii) Fundraiser name iii) Charity name and logo iv) The words “Paid Collector” v) Charity contact information vi) agency name	PFRA requirement informed by legislation and permit condition requirements pertaining to identification; Standard would require minor amendment if no such requirements under state/territory law
7(4) If a person issues more than one identification number for the purposes of subregulation (1)(c)— (a) the identification numbers issued must be sequential; and (b) the person must— (i) make a record of each identification number issued and the person to whom it relates...	This requirement assists to ensure identification badges are appropriately distributed and managed, preventing loss and mitigating against fraudulent use	No – there is no specific requirement regarding the use of record systems for identification badges	No – the PFRA Face to Face Fundraising Standard does not contain any requirement for the management of identification badges	The PFRA could incorporate such a requirement into its Standard

Queensland ([Collections Regulation 2008](#) under [Collections Act 1966](#))

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Collections Regulation 2008				
18 Appeals for support (1) The governing body of an association proposing to make a door-to-door appeal or street collection, or a person authorised by the governing body, must issue to each collector a distinctive armlet or badge (an association armlet or badge), and an authority in the approved form. (2) The governing body of the association must keep a record of each person to whom it issues an association armlet or badge. (3) A person other than the person to whom an association issues an association armlet or badge must not use an association armlet or badge.	This requirement assists to ensure identification badges are appropriately distributed and managed, preventing loss and mitigating against fraudulent use	No – there is no specific requirement regarding the use of record systems for identification badges	No – the PFRA Face to Face Fundraising Standard does not contain any requirement for the management of identification badges however it does require fundraisers to wear the prescribed identified badge (2.3.2).	The PFRA could incorporate such a requirement into its Standard
18 (4) A collector to whom an association armlet or badge, or authority is issued must— (a) sign the written authority and produce it if a police officer, inspector or other person asks to see it during the collection; and	No fundraising activity on behalf of a charity can be undertaken without that charity's authorisation; this is to ensure the fundraising activity is carried out lawfully (not fraudulently) and in accordance with	No – the ACL does not contain a requirement for fundraising activity to be authorised	Yes (in part) – the PFRA Face to Face Fundraising Standard requires at 2.3.2 that: Fundraisers must always wear the prescribed identification badge and have this clearly visible to the public on their torso while working. Unless otherwise specified by legislation or permit conditions, this badge must contain at least: i) A recent photo of the fundraiser ii) Fundraiser name iii) Charity name and logo iv) The words "Paid Collector" v)	The PFRA could incorporate additional requirements into its Standard pertaining to identification badges, including: <ul style="list-style-type: none"> ☐ Consecutive numbering ☐ Issue and expiry dates ☐ Signature of charity and/or agency ☐ Return requirements

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<p>(b) if possible, sign the armlet or badge; and</p> <p>(c) wear the armlet or badge prominently when collecting; and</p> <p>(d) keep the authority and armlet or badge in his or her possession and return it to the promoter— (i), (ii), (iii)</p>	<p>the charity's instructions. It is important that this authority is written and not verbal, as it can be produced upon request (ensuring transparency for donors). This commonly takes the form of an identification badge.</p>		<p>Charity contact information vi) agency name. Because the PFRA relies upon reference to specified legislation or permit conditions, it does not duplicate existing requirements.</p>	

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35 Advertising A person must not distribute a leaflet or publish an advertisement about an appeal for support the subject of an agreement under section 33 unless— (a) the leaflet or advertisement contains the following— (i) the name and address of the promoter of the appeal and the charity or association; (ii) a statement showing particulars of the arrangements made under the agreement about the beneficial entitlements of the promoter and the charity or association	This is intended to ensure prospective donors receive necessary information about the party/parties conducting a fundraising appeal, particularly where they are being solicited by a third-party fundraiser (agency), as this may influence their decision to donate	No – the ACL is silent on the engagement of fundraising advertising requirements	No – the PFRA Standard does not include any requirements pertaining to disclosure in advertising generally, however 2.3.1 of the Standard requires that: Where not otherwise prescribed by law, fundraisers must provide donors with a written disclosure that fees are paid to a named commercial fundraising organisation (this disclosure is typically made on a charity’s ‘pledge form’, which is provided to donors)	The PFRA’s Standard could be amended to ensure some disclosure information was applied to all forms of advertising, even if limited to the name and address of the promoter of the appeal and the charity, and a statement summarising the arrangement in place
41 False advertising (1) A person must not falsely represent in an advertisement that the person is conducting an appeal for support on behalf of a charity or association, unless the person is	This is intended to ensure prospective donors are not misled or deceived; it supports	Yes – the ACL includes a prohibition against misleading or	Yes – the PFRA requires at 2.4.2 that: Fundraisers must never knowingly mislead a member of the public or use false information in a conversation in an attempt to obtain a donation	The application of 2.4.2 in the PFRA Standard could be expanded so as not to be limited to ‘conversation’, as it is presently

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<p>authorised in writing by the governing body of the charity or association to conduct the appeal.</p> <p>(2) A person must not, in an advertisement relating to an appeal for support on behalf of a charity or association, make a statement or representation that is false in a material particular.</p>	<p>transparency and truthfulness when advertising</p>	<p>deceptive conduct (s.18(1))</p>		
<p>Schedule 1 – additional conditions for door-to-door and street collections</p> <p>(7) A collector must not—</p> <p>(a) by words or conduct, unreasonably annoy any person approached during a collection; or</p> <p>(b) stay in, or at the door of, any place of residence or place of employment if asked to leave by any occupant of the place.</p>	<p>Members of the public reasonably expect that face to face fundraising is undertaken in a manner that is friendly, professional and respectful; ensuring appropriate protections are in place to avoid annoyance are imperative</p>	<p>No – the ACL does not include any requirements in respect of the conduct of face to face fundraisers</p>	<p>Yes – the PFRA Standard includes a requirement that door to door fundraisers must not enter a private dwelling (2.2.6), must immediately end a conversation with a member of the public as soon as they are requested to do so (2.4.10) and must not attempt to follow or comment to a member of the public once a conversation has ended (2.4.11)</p>	<p>The PFRA believes its Standard appropriately reflects the intention of this provision</p>
<p>(8) A collector must not intimidate any person so as to cause the person to make a donation or buy anything the person otherwise may not have made or bought.</p>	<p>As above, members of the public have an expectation that they will be not be intimidated, or coerced into making a donation</p>	<p>Yes - the ACL provides that a person (which includes a corporation) must not engage</p>	<p>Yes - the PFRA Standard requires fundraisers not behave in a way that might be reasonably interpreted as forcing a member of the public to enter a conversation against their will (2.4.7) and prohibits fundraisers intentionally approaching a member of the public who appears to be vulnerable (2.4.12)</p>	<p>The PFRA Standard could be amended to include express reference to “intimidation”</p>

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		in conduct that is unconscionable (s.21)		
Collections Act 1966				
10 Conducting of unlawful appeals for support (1) No person shall make or cause to be made or assist in making any appeal for support for any purpose to which this part applies unless— (a) where the appeal for support is made for the purpose of a charity only—that charity is then registered as such under this Act; (b) where the appeal for support is made for the purpose referred to in section 9(b) to (g)—that purpose is then sanctioned under this Act.	No fundraising activity can be undertaken without authorisation; it is important some element of ‘authority’ be imposed upon face to face fundraising activity, so as to legitimate the activity and to ensure members of the public can place their trust and confidence in fundraising activity when it occurs – this also mitigates against fraudulent fundraising activity	No – the ACL does not contain a requirement for fundraising activity to be authorised	Yes (in part) – the PFRA Face to Face Fundraising Standard requires compliance with existing state and territory fundraising laws at 2.1.1; because the PFRA relies upon reference to specified legislation or permit conditions, it does not duplicate existing requirements; further thought needs to be given to how face to face appeals are ‘authorised’ should state and territory laws be repealed; the PFRA suggests authorisation is granted in conjunction with charitable registration (through the ACNC); with registered charities given the right to authorise third-party fundraisers to conduct face to face fundraising appeals on their behalf (with no formal regulatory mechanism for doing so)	The PFRA could incorporate additional requirements into its Standard pertaining to the process by which third-party fundraisers receive authorisation by charities to undertake face to face fundraising activity; the PFRA however derives some enforcement credibility by being able to refer to existing state and territory laws which makes unauthorised face to face fundraising unlawful

Existing provisions for retention <i>Which existing provisions are operationally important to the practice of face to face fundraising?</i>	Justification for retention <i>Why is the provision significant?</i>	ACL coverage <i>Does the ACL presently address the matter?</i>	Self-regulatory coverage <i>Does the existing self-regulation regime for face to face fundraising address the matter?</i>	Comment
<p>24 Information etc. may be obtained on any aspect of an appeal for support</p> <p>Where by any provision of this part, power is conferred upon any person to require the answering of any question or the supplying of any information, or the production of any record, or the lodgment of any return in relation to any appeal for support, then, without limiting the generality of the foregoing, that power shall be deemed to include power to require the answering of any question or the supplying of any information, or the production of any record, or the lodgment of any return, as the case may be, in relation to the administration and management of the association (if any) making or causing to be made the appeal for support or for whose objects or purposes the appeal is made, the receipts and expenditure associated with the appeal, and the administration management, and application of moneys and property resulting from the appeal for support.</p>	<p>This is intended to ensure prospective donors are not misled or deceived, and that they receive access to information upon request; it also encourages transparency in fundraising</p>	<p>Yes (in part) – the ACL includes a prohibition against misleading or deceptive conduct (s.18(1)), however does not include any requirement regarding access to information</p>	<p>Yes (in part) – the PFRA Standard requires at 2.4.2 that: Fundraisers must never knowingly mislead a member of the public or use false information in a conversation in an attempt to obtain a donation. It is requires adherence to General Principles (1.1) including 'Integrity and Honesty' and 'Transparency'.</p>	<p>The PFRA's Standard could be amended to include explicit reference to providing access to information as reasonably requested by any regulator or member of the public</p>
<p>30 Records of appeals for support</p> <p>(1) ...the promoter of each appeal for support... shall keep and retain in the promoter's custody until such time as the promoter is directed or authorised by or under this Act to destroy, hand over, or otherwise dispose of that record, a record of</p>	<p>Foundation principle underpinning the management of all face to face fundraising appeals, ensuring internal systems and processes are in</p>	<p>No – there is no specific requirement regarding fundraising controls, including records of</p>	<p>No – the PFRA Face to Face Fundraising Standard does not contain any specific requirement however General Principles (1.1) 'Integrity and Honesty' and 'Transparency' are relevant</p>	<p>The PFRA Standard could be expanded to include record keeping requirements for charities and third-party fundraisers (as required); the ACNC and FIA may have roles here</p>

Existing provisions for retention <i>Which existing provisions are operationally important to the practice of face to face fundraising?</i>	Justification for retention <i>Why is the provision significant?</i>	ACL coverage <i>Does the ACL presently address the matter?</i>	Self-regulatory coverage <i>Does the existing self-regulation regime for face to face fundraising address the matter?</i>	Comment
<p>the appeal for support in writing consisting of or showing—</p> <p>(a) the purpose for which the appeal was made;</p> <p>(b) the full name and address of the promoter and the promoter's authority for acting as promoter;</p> <p>(c) an accurate statement showing full details, of all income and expenditure associated with the appeal (in the approved form) and of the moneys and property raised by or resulting from the appeal and of the disposal of all such moneys and property;</p> <p>(d) the audit report or a copy thereof, if such a report is received by the promoter, in relation to the appeal for support;</p> <p>(e) such other matters as may be prescribed in that behalf.</p>	<p>place (e.g. record keeping) to ensure their appropriate management</p>	<p>appeals for support</p>		

Annex B: PFRA Membership

Charity Members	Agency Members
ActionAid Australia	2Evolve
Amnesty International	Aida for Good
Assistance Dogs Australia	Advanced Promotions
Australia for UNHCR	Apex Alliance
Australian Conservation Foundation	Appco
Australian Red Cross	Broader Business Solutions
Barnardos Australia	Community Collective
Berry Street	Cornucopia Consultancy
Breast Cancer Care WA	Earth Impact Marketing
Bush Heritage Australia	Equality Marketing
Camp Quality	Focus International Marketing
Cancer Council NSW	Fundraising Results
Cancer Council SA	Fundamental Worldwide
Cancer Council Victoria	Fusion Acquisitions
Cancer Council Western Australia	Global Canvasser
CARE Australia	Global Interactive
Careflight	Group Marketing Services
Cerebral Palsy Alliance	Karma Fundraising
ChildFund Australia	Lamre Investments
Children's Cancer Institute Australia	PCA Group
Environment Victoria	Pro Fundraising Services
Foodbank NSW & ACT	Public Outreach
Foodbank Victoria	Sai Asia Pacific
FOUR PAWS Australia	Succurro Marketing
Greenpeace Australia Pacific	Surge Direct
Guide Dogs NSW and ACT	TeamWork Enterprises
House With No Steps	The Fin Agency
Make a Wish Australia	The Fundraising People
Mater Foundation	The Rainforest Project
McGrath Foundation	Xplore Services
Mission Australia	
Médecins Sans Frontières Australia	
National Breast Cancer Foundation	

Oxfam Australia	
Peter MacCallum Cancer Foundation	
Plan International Australia	
Ronald McDonald House Charities	
Royal Flying Doctor Service South East	
Royal Flying Doctor Service Victoria	
RSPCA NSW	
Starlight Children's Foundation	
Stroke Foundation	
Taronga Conservation Society Australia	
The Fred Hollows Foundation	
The Heart Research Institute	
The Nature Conservancy	
The Smith Family	
The Wilderness Society	
UN Women National Committee Australia	
UNICEF Australia	
Victor Chang Cardiac Research Institute	
Vision Australia / Seeing Eye Dogs Australia	
Water Aid Australia	
Wesley Mission	
World Animal Protection	
WWF Australia	