

1 August 2018

Ms Bonnie Allan
Secretary
Select Committee into Charity Fundraising in the 21st Century

Dear Ms Allan,

RE: Inquiry into Charity Fundraising in the 21st Century

Please find attached Australian Communities Foundation (ACF)'s submission to the Senate Select Committee's Inquiry into Charity fundraising in the 21st Century.

ACF provides a legal and tax structure for the 280 sub-funds established by generous individuals, families, groups of likeminded people, NFP organisations and companies which are all committed to giving back to the communities and issues they care about.

The Foundation and our donors welcome this review as the current fragmented fundraising regime imposes significant regulatory burden on our organisation as a whole, the individual ACF sub-funds which themselves actively fundraise across Australia and the many charitable organisations which all of our sub-funds support.

The need for a national and fit-for-purpose fundraising regulatory regime has been long recognised and documented. ACF is pleased that the Parliament, by initiating this Inquiry, has recognised that the current system is not working well and needs major review.

Yours sincerely,

Maree Sidey
Chief Executive Officer

SUBMISSION

INQUIRY INTO CHARITY FUNDRAISING IN THE 21st CENTURY

Introduction – About Australian Communities Foundation (ACF)

Australian Communities Foundation (ACF) is a public, independent, not-for-profit charitable foundation. It was established in 1997, initially as the Melbourne Community Foundation, before going national in 2010, in recognition of our growing Australia-wide donor base and the distribution of our grants across the country.

Our mission is to generate and distribute philanthropic resources in partnership with donors and others in response to social issues and community needs. The trustee is Australian Communities Foundation Ltd, a company limited by guarantee and a registered charity with the Australian Charities and Not-for-profit Commission.

There are three charitable Funds under the Trustee, designed to provide maximum flexibility for both donations and distribution. Two of these are DGR public funds and the third is a charitable trust. Grants from the DGR funds must be made to DGR 1 organisations.

ACF offers individuals, families, groups, companies and not-for-profit organisations a simple and cost-effective way of providing philanthropic resources in a structured, long-term manner. All donations are pooled and invested, and the income is used to address disadvantage and build community capacity.

The Foundation uses its significant community and grantmaking expertise to assist donors plan their philanthropic giving and make effective grants which meet their own charitable objectives and address needs in the community. Donors can establish named sub-funds or management accounts and in 2018 ACF has over 280 sub-funds, with a total corpus of \$85 million. Over 90% of the sub-funds and the corpus sit in the two DGR public sub-funds.

In 2017/18 a total of \$8.9 million was distributed in over 600 grants to a wide range of policy areas, including: education, training and employment; health and medical research; arts and culture; community services and support; environment and conservation; social justice, human rights and inequality; and overseas aid and development.

Currently, eleven of our sub-funds actively fundraise to increase the grants they can make to the cause or issues that are supported by their sub-fund. As we are a national organisation, these sub-funds are often fundraising across state borders. In addition, the vast majority of the charitable organisations to which we make grants across Australia actively fundraise to support the work they do to achieve their charitable goals.

Current situation

ACF endorses the views expressed in the submissions made by our peak body, Philanthropy Australia, and the highly respected, specialist legal organisation, Justice Connect.

As a national philanthropic organisation with sub-funds which fundraise across Australia, we are required to comply with the fundraising legislation and regulations of seven different states and territories. This is enormously time consuming for both Foundation staff who are ultimately responsible for registration and compliance for the organisation as a whole, and for the individual sub-funds which have to make sure their fundraising events and activities are compliant with the relevant state/territory legislation. If they inadvertently fail to comply with some aspect of specific legislation they potentially put the whole Foundation at risk of investigation and penalty.

ACF finance and compliance staff are currently responsible for five different state based fundraising license renewals, valid for differing periods and to be renewed at different times of the year, as well as for five separate annual fundraising financial reports/statements, again due at different times during the year.

We understand that taken as a whole, there are 480 pages of fundraising legislation and regulation across Australia – these laws are cumbersome, inconsistent and clearly outdated. It wastes our precious time and resources and those of the many charitable organisations that we support to address urgent social and environmental issues and community needs.

The need to address the current fragmented fundraising regime and establish a national fit-for purpose fundraising regime has long been recognised by previous Senate Inquiries and through reviews undertaken by the Australian Productivity Commission, ACNC and others. It is no longer good enough for state jurisdictions to adopt a territorial approach that undermines national efficiency and consistency.

Needed reform

ACF supports the solution put forward by Justice Connect and the *#fundraising* partners to repeal the fragmented state and territory laws and replace them with a national simplified fundraising regulatory regime which effectively supports fundraising across state and territory borders.

These reforms include:

1. Clarification and minor amendment to the Australian Consumer Law: Clarification and minor amendment to the Australian Consumer Law to ensure its application to fundraising activities is clear and broad
2. Repeal of fragmented State & Territory laws: Repeal state and territory laws, and State and Territory regulators instead focus on regulating conduct using the Australian Consumer Law or other general laws to take action for misconduct
3. Guidance (code) to improve conduct (regulators and self-regulatory): A short plain English, mandatory code of conduct for all fundraisers, supported by the work of self-regulatory bodies

We understand that these reforms are cost-neutral, would better protect donors, could be enforced by existing regulators and will be easier for the sector to understand and comply with. A single national fundraising regime would certainly assist ACF to more efficiently raise and distribute philanthropic funds to address pressing social and environmental issues across Australia.