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The Committee Secretary  
Dep't of the Senate  
P O Box 6100  
Parliament House  
CANBERRA ACT 2600

**SELECT COMMITTEE ON CHARITY FUND-RAISING IN THE 21<sup>ST</sup> CENTURY**

Dear Sir/ Madam

On behalf of Add-Ministry I attach our submission to the Senate Inquiry into fund-raising and commend it to the attention of the Committee.

Yours faithfully

**NOEL HARDING  
CHAIR**

## SENATE INQUIRY ON FUNDRAISING

**Add-Ministry Inc.** – is an independent not for profit incorporated association and is also a registered charity. Established in October 2002, it seeks to equip and resource charitable and religious entities within Australia by the provision of training seminars and through its web-site at [www.addministry.org.au](http://www.addministry.org.au), its newsletters and also email advice on accounting and governance matters. I am the chair of Add-Ministry Inc. and the author of this report and am an experienced accountant. I have specialised in the provision of advice to the charity sector for the past 20 years.

### Executive Summary:

Federal and State governments have been well aware, for many years, that fundraising across jurisdictions is a major problem. Action is urgently needed but due to what appears to be the political complications of negotiating a solution between the various levels of government this long overdue matter languishes. Until this is done many charities will continue to bear the unreasonable burden of multiple annual returns. This is an avoidable matter. There is a strong case for the ACNC to be given responsibility for regulatory control, working in co-operation with the various State and Territory regulatory bodies. This will require complementary legislation and it will require willing co-operation. The time for procrastination on this matter should be consigned to the past.

### Detailed Submission:

<p>a. whether the current framework of fundraising regulation creates unnecessary problems for charities and organisations that rely on donations from Australian supporters.</p>	<p>Fundraising accountability in Australia is a nightmare.</p> <p>The Productivity Commission report on Charitable Organisations in Australia in 1995 was the first serious inquiry into this problem. This was followed by the Senate Inquiry into the Disclosure Regimes for Charities on fundraising in 2010, and then by the Council of Australian Government working group in 2011-12 (which was</p>
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	<p>inconclusive) and later by the 2012 Charitable Fundraising Regulation Reform Inquiry. None of these inquiries have as yet produced any visible result that would ease the burden on the charity sector yet they have demonstrated strongly that there is a significant issue needing attention.</p> <p>The lack of a national fundraising regulator has meant charities fundraising in Australia have required registration in all States and Territories. This has meant multiple annual returns, most also requiring an audit. In Western Australia audit is an obligation on all income, no matter how small. In NSW an audit is required for an entity with revenue in excess of \$250,000. The rules vary across the Commonwealth. This requires each charity to lodge multiple annual returns, in different formats, often also requiring a special report from the auditor from his standard audit report. For the fund administrator it is a problem to know where to find the relevant information for each regulator let alone understand the variance in the regulatory requirements. The cost in time, money and stress is a major problem.</p>
<p>b. whether current fundraising laws meet the objectives that guided the decision to regulate donations.</p>	<p>We consider the answer is "No".</p> <p>There is a need for reform. The Western Australian Charitable Collections Act 1946 is antiquated, hasn't been amended since the 1940's and has a very inadequate definition of "charity".</p> <p>Across Australia there are differences in reporting requirements, differences in</p>

	<p>eligibility or exemption status, differences in definitions of the meaning of "charity". This very diversity has created confusion across our country. There is an urgent need for change.</p>
<p>c. whether current fundraising compliance regimes allow charities to cultivate donor activity and make optimal use of resources donors provide.</p>	<p>The position is actually the reverse.</p> <p>There is no control on third party collectors where contactors are engaged. Nor is there a control on the amount that can be expended in seeking charitable donations, with many charities incurring significant expense on seeking donations as against achieving their own charitable objectives.</p>
<p>d. The loss in productivity for the thousands of charities who try to meet the requirements of the seven different fundraising regimes.</p>	<p>The Productivity Commission Inquiry of 1995, at page 233, quotes from the submission of World Vision Australia that the inconsistency of fundraising legislation costs their organisation at least \$1 million per year caused by the inconsistency in fundraising laws. There is clearly a multiplier impact across the larger charities alone. Such a cost is a totally unreasonable burden for the Charity Sector to be expected to bear.</p> <p>Refer also to our comments in b. above.</p>
<p>e. whether the current frameworks for investigation and enforcement are the best model for the contemporary fundraising environment.</p>	<p>We have no experience in this area.</p>
<p>f. how Federal, State and Territory Governments could work together to provide charities with a nationally-consistent, contemporary and fit-for-</p>	<p>There is a strong case to follow the example of South Australia. In that State they have changed their laws to provide for accountability through the ACNC</p>

<p>purpose fundraising regime.</p>	<p>Annual Information Statement reporting. ACNC have been in negotiation with all the other regulators for some time and should be given strong Federal Government support to achieve this very worthwhile aim.</p>
<p>g. the appropriate donor-focused expectations and requirements that should govern fundraising regulation in the 21st century.</p>	<p>Donors expect accountability. They also expect that the cost of administration of the fund-raising to be within reasonable bounds. Donors are tired of regular contacts by charities via mail or phone seeking donations. The phone contact is by far the most annoying – and is also more often than not lacking credibility. Often the person phoning seeking a donation knows very little about the charities and is engaged on a commission basis. Often the caller seems to be from another country, and speaks with a strong accent, and seems to be speaking from a prepared script. It defies credibility. Donors are not impressed. There needs to be restrictions on phone canvassing, and also on the proportion of a charities revenue that can be applied to meet the cost of fund-raising.</p> <p>The South Australian Review of Collections for Charitable Purposes Act said “Of all the issues considered by the Working Party, telemarketing has probably been the subject of most complaints in terms of intrusiveness and the very high proportion of donated moneys which are required to sustain a telemarketing campaign where commercial agents are involved.” This speaks for itself. Telemarketing has become a public nuisance.</p>

<p>h. how the Australian consumer law should apply to not-for-profit fundraising activities;</p>	<p>Australian consumer law needs to be aligned to the ACNC Act and Charities Act to enable regulatory control to be vested in the ACNC itself. There is strong support within the Charity Sector for ACNC as a national regulator. To incorporate the fundraising aspect of charitable activity with the ACNC, in co-operation with the States, seems to be the logical way forward.</p>
<p>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.</p>	<p>The best way to regulate them is to ban them outright. To have a commercial contractor given the role of seeking donations on behalf of a charity is singularly inappropriate. There needs to be a clear connection between the mission of the charity and the people who serve it. The third party arrangements don't provide such a connection. The caller is commonly ignorant of the activities of the charity and is speaking from a prepared script. They are also often paid a commission as an incentive to get results which takes the focus of the caller away from the objectives of the charity and on to his or her personal financial circumstances. This is not how charities are intended to operate.</p>
<p>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.</p>	<p>We have no experience in this area.</p>
<p>k. the cost to the charity and not-for-profit sector, and the communities they serve, of postponing fundraising reform.</p>	<p>We do not have specific statistical information available. However there is already an identifiable cost brought about by the need to report</p>

	<p>to more than one regulator. In WA a charity with a fund-raising licence needs to lodge an annual report to ACNC, to Dep't of Mines and also to the Charitable Collections Committee. A single regulator such as ACNC to handle all three roles is very possible and would immediately reduce work load substantially. If this was to be done nationally those charities that need to be registered across the country would benefit significantly. For them in particular it is the need to be aware of the different return forms, the different rules, the different contact organisations and their addresses presents a large problem. It represents many hours, probably several days, activity to complete the tasks – particularly as there are different styles of report required.</p> <p>See also our comments in d above.</p>
1. any other related matters.	<p>We consider one national regulator is long overdue and also that the regulator should be the ACNC. We believe there is a need for the Charity Sector to be regulated in this area, the Sector and the public would welcome it, and that there is a need for a level playing field across our country. A reduction in the number of regulatory arrangements and a simplified form of reporting is long overdue.</p>

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