

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

2016 - 2017

Division/Agency: Australian Competition and Consumer Commission

Question No: 117

Topic: Australian Consumer Law Amendment

Reference: Written

Senator: Ketter, Chris

Question:

1. I note a number of prominent charities are proposing for the Australian Consumer Law to be clarified and amended to expressly cover fundraising activities. What is your position on this proposal to reduce red tape for charities?

- If you are yet to finalise your position, what is your preliminary view?

2. What if anything, is your concern with the proposal?

Answer:

1-2. The ACCC understands that Commonwealth, State and Territory officials have had ongoing discussions as to options for harmonisation and where appropriate reduced regulatory burden in relation to legislative requirements for the not for profit sector. As a general position, the ACCC supports harmonisation and deregulation where it is supported on public interest considerations with provision for protections that might be expected by the public and parliamentarians. The options for harmonisation and deregulation are primarily matters for State and Territory governments.

In the context of the Australian Consumer Law (ACL) Review, some stakeholders have sought increased clarity over the application of the ACL to fundraising, believing the protections afforded under the ACL support deregulation. In the context of the review and in discussions with stakeholders, the ACCC has cautioned against the view that the ACL provides the same protections (including in relation to governance and integrity measures) as currently provided by industry specific legislation or that ACL regulators can replicate the focus and expertise that specialist regulators deliver. Accordingly we have expressed the view that governments should consider deregulatory or harmonisation measures on their merits.

Some stakeholders also suggested that new obligations be imported into the ACL to capture fundraising activity that is not in trade or commerce. As CAANZ noted in the Interim Report, the trade or commerce threshold is a fundamental concept that underpins the ACL and its objectives and relaxation of this threshold would remove appropriate filters that exclude representations made in political or public debate.

This said, the ACCC has supported increased guidance being provided as to the current application of the ACL to this sector and where appropriate actions which demonstrate that. The ACCC is currently considering options in this regard.