



FUNDRAISING
Institute - Australia Ltd.

8 June 2006

Dr Ian Holland
Secretary
Australian Senate Environment, Communications,
Information Technology And the Arts
References Committee
Ecita.sen@aph.gov.au

Dear Dr Holland

Inquiry into the Do Not Call Bills 2006

Fundraising Institute Australia is the peak industry body for professional fundraisers.

FIA SUPPORTS

- with industry consultation the development, establishment and management of a government-endorsed National Do not Call Register which is multi-level so that individuals can opt out of particular categories of calls if they wish
- the coordination of consumer protection, privacy and telecommunication legislation for the creation of a single marketplace that recognizes through exemptions the unique situation of the charity sector
- the coordination of other legislation impacting on fundraising so that national charities are able to function within a regulatory environment that at least mutually recognises other jurisdictions and is working towards national harmonisation, supported by industry principles and standards of conduct and professional practice.

Thank you for the opportunity to provide a submission on this issue.

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CHIEF EXECUTIVE OFFICER
8 JUNE 2006



FUNDRAISING
Institute - Australia Ltd.

**Submission to Australian Senate
References Committee and legislation Committee

Into

Do Not Call Register Bills 2006**

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FIA SUBMISSION INTO THE DO NOT CALL REGISTER BILLS 2006

- 1) Fundraising Institute Australia (FIA – for background see [Attachment 1](#)) supports continued authorisation for Charitable Organisations to make designated telemarketing calls.
- 2) Telemarketing in Australia is undertaken by Charitable Organisations for a number of reasons:
 - Fundraising
 - Recruiting volunteers
 - Educating the public
 - Contacting potential beneficiaries
 - Inviting members of the community to public events
- 3) FIA has undertaken research on telemarketing ([Attachment 2](#)) which shows that:
 - 100 million charitable telemarketing calls per annum (estimate)
 - 31% of Charitable Organisations only call existing donors
 - Two thirds of charitable telemarketing is to people with existing relationships with the Charitable Organisation
 - One third of charitable telemarketing is 'cold calls' made to solicit for donations as well as to recruit volunteers, seek sponsorship and raise community awareness
- 4) The research further demonstrates that the use of telephone calls to solicit for donations is a practice that is highly valued by most Charitable Organisations, as it provides direct contact with donors and people with whom there is an existing relationship (an existing relationship is where previous contact has taken place by phone, email, mail or face to face, usually within a period of two to three years).
- 5) FIA members note there would be significant impact on their fundraising if charitable telemarketing were adversely affected by the introduction of the Do Not Call Register, as would happen if charities were not exempt from the DNC Register. For example, one Sydney Charity raises 28% of their funding (\$2 million) through charitable telemarketing.
- 6) FIA members further note that should charitable fundraising decline, there would be an impact on the employment of hundreds of workers across Australia. Some charities self-employ and train staff to work on charitable fundraising through telemarketing; others use a supplier to train and employ staff, usually working for a number of charities engaging in telemarketing.
- 7) Costs of fundraising are an important public issue in the charitable sector. FIA notes that the operation of the register will be on a cost-recovery basis. Adding to the costs of fundraising will raise further issues with regard to (state) regulation of fundraising and will impact negatively on public confidence in fundraising. (For an overview of the issues associated with costs of fundraising see [Attachment 3](#)).
- 8) FIA agrees with its international counterpart, Association of Fundraising Professionals USA, that there is a manifest difference between a charity contacting a potential donor for a contribution and for a for-profit company contacting a potential buyer of a product. In the latter case, the net revenue from the sale is kept as profit for corporate stakeholder. In the former, the contribution is used to benefit the public, and there is a strong likelihood that the contribution will benefit the very community in which the donor resides.

- 9) FIA believes that as a means to minimise the nuisance of telemarketing undertaken by Charitable Organisations the most appropriate model of fundraising regulation is one based on a framework of self-regulation. By self-regulation we mean a framework where Charitable Organisations internalize the responsibility for ensuring their fundraising practices comply with national principles and standards of fundraising practice, including complying with any requests not to call donors, people with existing relationships or to make cold calls.
- 10) FIA is currently undertaking the development of principles and standards of fundraising practice. FIA's priority is to ensure professional conduct and competence in fundraising and to promote ethical fundraising through the development of principles and standards of practice that are mandatory for members of FIA (Overview of the FIA Codes Project [Attachment 4](#))
- 11) Research undertaken by the Association of Fundraising Professional in the United States shows that the purpose of the call is just as relevant as who makes the calls. Charitable Organisations, being run not-for-profit, exist to meet the charitable needs of society. There is thus a obvious difference between a charity contacting a potential donor for a contribution that will be used for public benefit, possibly in the donors very own community, and a For-Profit company contacting a potential consumer of a product, where the revenue from the sale is kept as a profit for the company and their shareholders.
- 12) No significant impact has been seen on funds raised by US Charities, following the introduction of the Do-Not-Call Implementation Act a National Do Not Call registry (NDNCR), implemented by the United States Federal Trades Commission in 2003 which exempts Charitable Organisations and other entities similar to those exempt in the Do Not Call Register Bill 2006. (FIA research on implementation of Do-Not-Call registers in he United States of America, Canada and England [Attachment 5](#))
- 13) Charitable Organisations are seeking to be exempt under the Canadian amendment of the current legislation proposed by the Canadian Radio-television and Telecommunications Commission (CRTC).
- 14) In England Charitable Organisations held an exempt status for the first year of the Telephone Preference Service (TPS). This exemption was however revoked. In England <1% of the population are contacted by telephone for the purpose of charitable fundraising each year (cf. ~20% in US).
- 15) A problem with the TPS service in the UK is that most individuals, when opting out from telemarketing, have not realised and have not been informed that they are also opting out of receiving Charity calls. The TPS home page has been amended since, and now does make it clear that "for Charities, telemarketing is an economical way to raise awareness and much needed support".

ATTACHMENT 1 – BACKGROUND INFORMATION FUNDRAISING INSTITUTE – AUSTRALIA LTD

Fundraising Institute Australia Ltd (FIA), established in 1968, is the peak national body for fundraising in Australia. FIA is a company limited by guarantee. As a nonprofit body, FIA is recognised as a charitable fund.

Membership

FIA engages with over three thousand fundraisers, representing more than two thousand nonprofit organisations, who subscribe to FIA's information services or attend FIA's professional development programs. Full membership of FIA at April 2006 comprises over one thousand three hundred fundraisers.

National Agenda

Nationally, FIA worked in collaboration with the Australian Council of Social Service (ACOSS), the lead agency in a project *Giving Australia*¹ released in October 2005, funded by the Prime Minister's Community Business Partnership on behalf of the Australian Government Department of Family and Community Services. This project has researched philanthropy, fundraising and the development capacity of the nonprofit sector (for the report see www.fia.org.au under Resources).

Through the Chief Executive Officer, FIA is a member of the Code of Conduct Committee of the federally-funded Australian Council for International Development (ACFID), a member of the Experts Panel advising the Victorian Government of the regulatory environment for the nonprofit sector, and the lead agency for a governance/management tool kit for the fundraising sector in Queensland.

FIA regularly makes submissions to governments on issues concerning legislation and regulation, privacy and harmonization of legislation.²

¹ *Giving Australia*, led by The Australian Council of Social Services, with QUT's Centre of Philanthropy and Non-profit Studies, University of Technology, Sydney's Centre for Australian Community Organisations and Management, Fundraising Institute Australia Ltd, Roy Morgan Research PL and McNair Ingenuity Research PL, is conducting research on philanthropy in Australia.

² Since Sept 2004 submissions have included:

- Victorian Government's review of the Fundraising Appeals Act 1998
- Victorian Government's review of legislation on raffles
- Federal Privacy Commissioner's review of the private sector provisions of the Privacy Act 1988
- Australian Tax Office review of the draft taxation ruling what is a gift?
- Senate Enquiry into the Privacy Act 1988
- House of Representative Inquiry on Harmonisation of Legal Systems
- Queensland Government Office of Fair Trading Review of the Associations Incorporation Act 1981
- Victorian Government Proposed Gambling (Commercial Raffle Organisers) Regulations 2005
- Australian Taxation Office Draft Taxation Rulings TR2005/D6 and TR2005/D7
- Australian Communications & Media Authority Draft Industry Standard (Integrated Phone Number Database) (August 2005)
- Victorian parliamentarian draft bill on telemarketing regulation (October 2005)
- Ministers for Fair Trading in New South Wales and Victoria, on the option for harmonization of trading laws relating to telemarketing (October 2005)
- Department of Communications, Information Technology and the Arts, discussion paper on Introduction of a Do Not Call Register (November 2005)
- Australian Competition and Consumer Commission, Draft Determination lodged by The Australian Direct Marketing Association Ltd in relation to the Direct Marketing Code of Practice (December 2005)
- Gambling Regulation (Commercial Raffle Organisers) Regulations 2006 Victoria (February 2006)
- Fundraising Appeals Act 1998 Proposals for Reform Victoria (February 2006)
- Australian Taxation Office Proposal to pre-populate gift labels on electronic returns for individuals, Non-Profit News Service no. 0134. (March 2006)
- South Australian Government Office of Consumer and Business Affairs, on consumer protection and telemarketing in SA. Options for regulation (April 2006)

International Agenda

Internationally, FIA has Memoranda of Understanding with the two principal US fundraising organisations, Association of Fundraising Professionals (AFP) and Association for Healthcare Philanthropy (AHP), and has adopted a code of practice with the Washington-based ePhilanthropy Foundation, with whom FIA is working towards a Memorandum of Understanding. The Chief Executive Officer is an invited member and the international delegate on AFP's Ethics Committee. FIA is working with the Institute of Fundraising (UK) and Resource Alliance (UK) to formalize memoranda of understanding to promote further international cooperation between fundraising organisations. FIA is working with Resource Alliance to develop a capacity building program in the Asia Pacific region coinciding with the regional conference in 2006.

FIA is a member of the international consortium of twenty-four professional associations for fundraisers. The summit is working towards developing an International Code of Ethics for Fundraisers. FIA's work with the summit has been of significant value to the development of the project for FIA's codes of fundraising practice.

AHP Faculty head the teaching personnel in FIA's annual intensive professional development program Madison Down Under.

Professional Development

FIA has developed a comprehensive professional development pathway, from the Diploma of Fundraising Management (DFM) to the internationally-recognised Certified Fundraising Executive (CFRE), based in Washington, US. FIA has broad reach in its professional development programs, delivering approximately 10,000 hours to members and other professional fundraisers in 2005.

Professional development seminars, held monthly by each chapter over breakfast or lunch, are an important way to network with colleagues while learning. Intensive professional development opportunities are provided with FIA's annual International Conference (February) and the four-day residential program Madison Down Under (held just out of Adelaide in August). FIA partners with other organisations where appropriate to bring keynote national and international speakers to as wide an audience of members and other fundraisers. The Diploma of Fundraising Management is a distance learning program, usually completed over two and a half years, comprising eleven modules undertaken at the students' pace. Skills Training (Skills 1, 2 and 3) offers vocational sessions to fundraisers from entry level to most experienced fundraising and is delivered by chapters in each state.

The nonprofit sector

Australia's nonprofit sector consists of a wide spectrum of organisations addressing societal needs. Nonprofit organisations are the major providers of community services, sport and the representation of collective interests. They are significant providers of education and health services, arts and culture and hospitality services. They are the exclusive providers of religious services. This is a representation much broader than the traditional charitable organisations.

Research undertaken by Professor Mark Lyons (University of Technology, Sydney) has shown there are as many as 700,000 nonprofit organisations, approximately half of which are incorporated as separate legal entities.³ About 35,000 organisations employ over 600,000 paid staff and involve over 4 million volunteers. These organisations contribute about 3.3% to

³ Lyons, M (2001) Third Sector: The contribution of nonprofit and cooperative enterprises in Australia (Sydney: Allen and Unwin, 2001).

GDP (4.7% when the value of volunteer labour is included) and account for 6.8% of total employment).⁴

Fundraising is a key activity of the nonprofit sector. Australian giving as measured through the *Giving Australia* project is estimated at \$11 billion dollars per annum. The giving of money, goods and services to nonprofit organisations by individuals and business estimated by this research comprises \$7.7 billion by individuals donated by 13.4 million people, 87% of adult Australians and \$3.3 billion from 525,900 businesses, 67% of all businesses. Taken together, the financial and voluntary labour contributions of Australians to the sector – Lyons estimates that approximately 65 per cent of Australians belong to at least one nonprofit organisation and about 40 per cent describe themselves as active members – provide clear indications that the nonprofit sector impacts on Australians in every walk of life.

⁴ Woodward, S and Marshall, S (2004) *A better framework – reforming not-for-profit regulation*, University of Melbourne: Centre for Corporate Law and Securities Regulation.

ATTACHMENT 2 – SUMMARY OF STATISTICAL DATA ON CHARITABLE TELEMARKETING IN AUSTRALIA

FIA has been collecting relative information and data on telemarketing in the charitable and not-for-profit sector.

To date FIA has received data and information with regard to 15 - 30 million annual calls from 35 charities and not-for profit organisations of which Applemarketing represents 20 organisations.

SUMMARY:

- 100 million charitable telemarketing calls per annum (estimate)
- 31% of charitable organisations only call existing donors
- Two thirds of charitable telemarketing is to people with existing relationships with the charity
- One third of charitable telemarketing is cold calls made to solicit for donations as well as to recruit volunteers, seek sponsorship and raise community awareness

This overview will address each question separately and then propose an overall summary of the findings. As the size of the organisations responding to this survey varies and the results can be said to represent operating capacities in the industry and provide significant data of charitable telemarketing.

METHODOLOGY

The survey on charitable telemarketing was devised by FIA on the basis of 5 questions provided by DCITA. It was a closed answer questionnaire with a section for additional comments added at the end. The additional comments provided by the respondents are included at the end of this paper. The survey was sent to 25 charitable and not-for-profit organisations (Applemarketing counting as one in this case), with a response rate of 64%, whereof 88% provided additional comments.

RESPONSES TO SURVEY ON CHARITABLE TELEMARKETING

Question 1 – How many outbound calls are made per annum by, or on behalf of, members of the fundraising industry?

The responses show that closer to a third (31%) of the organisations made less than 100,000 calls per annum, some stating a number as low as 30,000. A quarter of the organisations made between 1 million to 2 million calls per annum with the rest of the organisations falling in the bracket of more than 100,000 calls but less than 1 million. The only exception to this data was Applemarketing, who conduct between 5 million to 10 million calls per annum and Oncology Children's Foundation who make between 2.5 million to 5 million calls per annum.

Question 2 – What percentage of these calls made is to existing donors (compared to calls to acquire new donors)?

Again almost a third (31%) of the respondents specified that between 80% to a 100% of their calls were made to existing donors. A quarter of the respondents identified that between 40% to 60% of their calls were made to existing donors, and closer to a fifth (18.75%) of the respondents made no more than 20% of their calls to existing donors.

Question 3 – Are any calls made from call centres located outside Australia? If so, how many?

In response to the third question of the use of call centres outside of Australia, the unanimous response was that it was neither used, nor desirable for use.

Question 4 – Approximately what percentage of funds is obtained from cold calls alone? (i.e. calls to individuals who are not an existing donor?)

The fourth question asks what the approximate percentage of funds obtained from cold calls alone were? That is, calls that are made to solicit for donations without any previous contact or relationship in existence with the potential donor. Half of the respondents specified that no cold calls were made at all. A quarter of the respondents obtained less than 40% of their funds from cold calls alone, whilst 12.5% received up to 60% of their funds from cold calls.

Question 5 – Are outbound calls made for purposes other than to solicit donations? (e.g. to seek volunteers). If so, approximately how many calls per annum would be made to individuals with whom there is no existing relationship?

In relation to question four, a fifth question was posed; if outbound calls are made for purposes other than to solicit donations, approximately how many calls per annum would be made for cold calls alone? Of the respondents a third made no cold calls at all, a third would only call people with whom there was an existing relationship (not necessarily meaning a current donor, but a person who has requested information or in other ways made contact with the organisation). Out of the remaining third, cold calls would be used for a variety of purposes such as to recruit volunteers, to conduct surveys, to seek sponsorship from business and corporations, including direct solicitation for funds.

CONCLUSION DRAWN FROM CHARITABLE TELEMARKETING DATA

The conclusion that can be drawn from the data collected to date is that two thirds of the respondents do not make telephone calls to people with whom there is no existing relationship (which includes current donors). Out of the respondents that do make cold calls, only one organisation specified that they conduct cold calls solely for the purpose to solicit donations. The use of telephone calls to solicit for donations is a practice that is highly valued by most organisations, as it provides a direct medium of contact with both donors, and people with whom there is an existing relationship. It raises awareness in the community and provides a valuable source of income for a sector that receives very little revenue from government sources. A number of the respondents to the survey state that the effects on their organisation would be drastic if the practice of telemarketing by charitable and non-for-profit organisations were adversely affected.

ATTACHMENT 3 – COSTS OF FUNDRAISING

Discussions about fundraising invariably seem to turn on issues of cost of fundraising ratios. The CoFR is the proportion of fundraising expenses to total fundraising revenue. In New South Wales for example, s19 of the *Charitable Fundraising Act 1991* specifies that fundraising costs should not exceed more than 40 per cent of funds raised for any particular appeal.

Regulators in Australia and overseas are increasingly looking to mandate the use of measures such as the Cost of Fundraising ratio (CoFR) by fundraising organisations. The reasons that governments have become interested in specifying limits for fundraising costs in regulation include the belief that:

- High costs of fundraising may discourage giving
- It will enhance donor decision making as it facilitates comparisons across organisations
- It will enhance accountability for donor funds
- It will increase and maintain public confidence in charities and the not-for-profit sector
- It will prevent deception of members of the public
- It is a means of benchmarking fundraising efficiency and performance in the sector
- It will assist in the proper and efficient management of fundraising appeals
- It is a simple calculation to administer compared to other performance indicators.

Several well known problems with using CoFR have been noted in the scholarly and practitioner literature on fundraising but at least four deserve particular attention:

a) Causes of CoFR variability

The issue of the suitability and merit of using CoFR was also examined by the Industry Commission report into charities in the mid 1990s (IC 1995). A key problem with CoFR that the Commission highlighted was that fundraising costs could legitimately vary across organisations due to several factors that had little to do with efficiency or accountability or transparency. These included:

- An organisation's costs associated with developing a reputation and longer-term supporters
- The start-up costs associated with particular fundraising programs
- The fact that some programs or causes are more popular with the giving public than others
- The fact that some fundraising programs also comprise educational and awareness components
- The fact that some fundraising programs also aim at attracting volunteers and/or goods in kind as well as money (IC 1995:236)

Other research also confirms that fundraising costs vary across organisations due to:

- The age of the organisation – costs of fundraising are less for longer established organisations
- The type of activity or field that the organisation operates in – costs are higher for organisations involved in advocacy, disease and public safety
- The particular fundraising strategy used (e.g. telemarketing, face-to-face, mail etc).

Experience among FIA's members leads us to conclude that some organisations – for example religious organisations - may have different workplace standards regarding

remuneration and conditions of service so that any comparison on the basis of CoFR between these and other fundraisers are not valid.

b) Determining an objective or 'acceptable' CoFR

Another problem with the CoFR is the fact that what is considered to be an 'acceptable' cost of fundraising among donors and the general public varies considerably (e.g. from 10% to 60%). This confirms the argument FIA made in its submission to the Productivity Commission that a problem with legislating fundraising cost ratios is that *there are no objective criteria for determining what the percentage limit should be* (IC 1995:237). The difficulty of relying on fundraising ratios to determine 'acceptable' costs is implicitly acknowledged in some legislation and governments have noted various matters that they may take into account when determining whether administrative costs are reasonable include:

- The type of fundraising appeal conducted
- The fundraiser's long term strategy
- The type of representations made to the public
- The nature of the fundraising body
- The fundraising body's financial management plans.

c) CoFR and efficiency measures

An argument often heard in favour of the CoFR is that it provides a simple means to benchmark fundraising and organisational efficiency and performance across the not-for-profit sector. Recent in-depth empirical studies have in fact shown the opposite to be the case. Regulating or setting a figure that all organisations need to meet may in fact create inequities and distortions in the not-for-profit sector because it:

- Benefits larger organisations over smaller ones as they can take advantage of economies of scale;
- Favours organisations such as religious charities that may be exempt from fundraising legislation in some States and Territories;
- Benefits organisations that have the resources to employ sufficient accounting and technology to allocate costs in ways that produces more favourable ratios;
- Works against newer organisations whose costs are much higher due to lower recognition with the public, fewer long term donor relations and bequests;
- Disadvantages those causes or charities that are less popular or appealing to the public;
- Favours larger and wealthier charities with the resources to employ their own fundraising staff and volunteers, compared to smaller organisations that often rely on professional fundraising consultants (Research undertaken by T Flack, Queensland University of Technology, 2004).

d) CoFR and accounting

Discussion of efficiency also leads to another key flaw with using the CoFR as an across the board measure, namely, that in the absence of uniform accounting standards across the NFP sector, each organisation apportions the costs of fundraising in different ways. Expenses associated with providing information and awareness about a particular program to the public for example may be recognized and recorded as fundraising costs in some organisations but costed against another function (e.g. marketing, research) in other organisations.

Perhaps even more crucial than the lack of standardization in the apportionment of costs, is the lack of a common and uniform definition of what constitutes fundraising, which varies across jurisdictions within Australia, across organisations, and across countries.

ATTACHMENT 4 - OVERVIEW OF THE FIA CODES PROJECT: PRINCIPLES AND STANDARDS OF FUNDRAISING PRACTICE

INTRODUCTION

Ethical practice has been a topic for public discussion and corporate interest with regard to fundraising and in particular during the recent unprecedented efforts with the tsunami appeals. Fundraising Institute Australia Ltd (FIA) has embarked on an advocacy program to government and the corporate sector to promote the importance of community confidence in fundraising through self-regulation of industry practice through codes of practice.

FIA's priority is to ensure professional conduct and competence in fundraising and to promote ethical fundraising through the development of standards of practice that are mandatory for members of FIA. FIA is benefiting from its work in the international context with the 24-member summit developing an international code of ethics and from its membership of the Codes Committee of the Australian Council for International Development (ACFID).

In January 2005 FIA commenced a further avenue of professional advocacy through briefings to state and federal governments on issues relating to fundraising regulation which is hampered by legislative inconsistencies that challenge efforts to fundraise nationally. FIA is pushing for greater clarity and consistency in regulation across Australia and seeking to encourage national harmonization of fundraising regulation. Political awareness of fundraising and the importance of public confidence in the sector has been heightened by the phenomenal responses to the recent tsunami appeals.

FIA has a code of professional practice and ethics to which individual and organisational members agree to adhere. However, FIA's standards in fundraising are no longer adequate for the contemporary environment in which fundraisers work, providing neither clear guidelines for fundraisers nor adequate protection for donors. FIA regards the development of standards as the most important task for the fundraising profession over the next two years.

PROJECT DESCRIPTION

This project is to develop comprehensive standards of fundraising practice to

- provide the Australian community with assurance of accountability for their gifts
- support the rights of donors who make gifts
- establish a code of conduct for fundraisers
- guide fundraisers in ethical and professional practice
- enhance self-regulation of the fundraising industry

CODES OF FUNDRAISING PRACTICE TASK FORCE

Development of the Codes of Fundraising Practice will lie with FIA's Codes of Fundraising Practice Task Force. FIA's Board of Directors appoint members of the Task Force to reflect the broad interests of the fundraising profession.

For more information on the Task Force please see ["The Terms of Reference of Fundraising Institute – Australia's Codes of Fundraising Practice Task Force"](#).

ELEMENTS OF THE CODES OF FUNDRAISING PRACTICE

Principles:

- Code of Ethics
- Code of Professional Conduct
- Code of Acceptance and Refusal of Donations
- The Donor's Bill of Rights
- The Enforcement Process

Standards:

- Code of Events
- Code of Personal Solicitation of Public Places (F2F)
- Code of Telephone Fundraising and Telemarketing
- Code of Payroll Giving and Matched Giving Schemes
- Code of Bequests
- Code of Raffles, Lotteries and Games of Chance
- Code of Workplace Giving Partnerships
- Code of Charity Challenge Events
- Code of Fundraising from Grant Making Trusts and Foundations
- Code of Fundraising in Schools
- Code of e-Fundraising
- Code of Reciprocal Mailings
- Code of Direct Mail
- Code of Direct Marketing

If you wish to provide feedback on an existing Code or would like to suggest a new Code please see ["Fundraising Institute - Australia's Codes of Fundraising Practice: Feedback and Suggestions"](#)

The Codes of Practice Task Force will provide direct advice on development of Codes 'Principles'. Specific Working Parties appointed by the Task Force will provide advice various Codes 'Standards'.

PROCESSES AND PROCEDURES

Each draft document will be subject to a full consultation process at the stage of its final draft. Consultation will include FIA's organisational members, representing fundraising charities and other non-profit organisations, state-based Chapter Executive Committees, chairs of special interest groups, government departments with responsibilities for fundraising legislation and regulation, appropriate peak bodies including the Not-for-profit Roundtable and other bodies with an interest in the field covered by a new Code of Fundraising Practice. Others may include public observers.

The Codes will be kept under review and periodically updated to keep pace with the changing fundraising environment. Both draft and endorsed Codes will be available on FIA's website.

The project is planned to commence early in 2006 and is expected to conclude in 2007.

To read more about processes and procedures see ["Procedures for developing Fundraising Institute – Australia's Codes of Fundraising Practice"](#) and ["Creating a Code of Fundraising Practice: Guidelines for a Working Party"](#). (Available online at www.fia.org.au)

For those interested in joining a Working Party please see the ["Membership of the Codes of Fundraising Practice Working Parties: Registering an Interest"](#). (Available online at www.fia.org.au)

COMPLIANCE

Compliance with the Codes will be mandatory for members of FIA. Failure of members of FIA to comply to the spirit or letter of a Code will leave themselves open to both concerns and complaints from regulators and members of the public as well reprimand or even expulsion from the Fundraising Institute – Australia. All complaints directed to FIA will be investigated in accordance with our disciplinary procedures through the Ethics Committee. Members of this committee will include FIA's organisational members, regulators and consumers (donors). Fundraising organisations will be encouraged to establish internal committees to address complaints in the first instance.

RESOURCES

An Executive Officer, Derek Mortimer has been employed to direct the project with the assistance of the Helen Macpherson Smith Trust. Further funds are needed to ensure that this project can develop expeditiously and engage with significant industry, government and public consultation.



**ATTACHMENT 5 –
INTRODUCTION OF DO-NOT-CALL REGISTER: SURVEY OF IMPLEMENTATION OF
REGISTERS IN UNITED STATES OF AMERICA, CANADA AND ENGLAND**

The Federal Government has announced the establishment of a do-not-call (DNC) register in Australia. Similar schemes have been introduced in the USA and England and one is proposed for Canada.

The discussion paper by the Department of Communications Information Technology and the Arts (DOCITA) suggests that the proposed legislation is likely to be structured along the same lines as the NDNCR in the United States, with charities and not-for-profit organisations being exempt (amongst other specified organisations).⁵

FIA has analysed the impact of the DNC Register in these countries and makes the following comments to assist the Australian Government in implementing a DNC Register.

EXECUTIVE SUMMARY

- In USA and Canada <20% of charities use telemarketing as a fundraising method
- In England, where there are no exemptions for charities, <1% of the population is contacted by telephone for the purpose of fundraising
- No significant impact has been seen on funds raised by US charities, following the introduction of the NDNCR which allows exemptions for charities
- There is an increasing competition for the 'charitable dollar' in the middle ground of the fundraising market in the US and England as consumers and potential donors have become more aware for their rights to limit or even cease incoming telemarketing calls
- Charities use telemarketing for:
 - Fundraising
 - Recruiting volunteers
 - Educating the public
 - Contacting potential beneficiaries
 - Inviting members of the community to public events
- There needs to be a reasonable balance between the charitable sector's need to raise funds efficiently and the public's need to be free from undue intrusiveness in the form of unwanted repeated telephone calls
- There is a manifest difference between a charity contacting a potential donor for a contribution and for a for-profit company contacting a potential buyer of a product. In the latter case, the net revenue from the sale is kept as profit for corporate stakeholder. In the former, the contribution is used to benefit the public, and there is a strong likelihood that the contribution will benefit the very community in which the donor resides

⁵ Department of Communications, Information Technology and the Arts, "Introduction of a Do Not Call Register – Possible Australian Model: Discussion Paper", October 2005, p. 38

COUNTRY ANALYSES OF DO NOT CALL REGISTERS

1.0 UNITED STATES – DO NOT CALL REGISTER

Under the Do-Not-Call Implementation Act a National Do Not Call registry (NDNCR) was implemented by the United States Federal Trades Commission in 2003.

Under the legislation most telemarketers are required to delete from their call lists any numbers that are featured on the NDNCR". However "the NDNCR has substantial exceptions for calls (or on behalf of (emphasised)) charities, political organisations, market research services and commercial entities with which the consumer has "an existing business relationship".⁶

"An existing relationship" is defined in the regulation as a relationship where contact has been made within the past 18 months. Thus, it leaves an organisation free to contact any consumer for this period of time – unless the consumer requests that the relationship be terminated. As Caslon Analytics points out this does however not "prevent consumers from independently asking organisations not to phone them – and indeed not to contact them in any way".⁷

The exemption for charitable organisations, amongst others, does not however imply that the exemptions meet the needs of the charitable organisations in order to efficiently maintain an existing relationship. As such, even though there are exemptions for charitable organisations under the NDNCR, these are restricting an "existing relationship" as defined by FIA in the submission to the Federal Department of Communications Information Technology and the Arts in November 2005.⁸

1.1 STATE OF FUNDRAISING SURVEYS – USA

Since 2001, the Association of Fundraising Professionals (AFP)⁹ has produced annual reports on the state of fundraising in North America (including their chapters in Canada and elsewhere). From 2002 the reports have been structured so that separate trends in each country could be highlighted and compared to other countries, as well as to previous years.

The information from these reports, of relevance for this paper, concern two issues:

- Challenges to the sector; and
- Funding raised through charitable telemarketing.

1.1.1 Challenges to the fundraising sector in USA

The reports focus on challenges affecting fundraising as a two dimensional issue: both retrospective and forward thinking.

	2002 report (the indication of challenges for the nonprofits is listed in % for no.1 concern)	2003 report (for the predictions for 2004, respondents simply indicated areas that were	2004 report (the indication of challenges for nonprofits changed in the 2004

⁶ Caslon Analytics, 'Note Do Not Call registries', available on: <http://www.caslo.com.au/donotcallnot1.htm> [accessed 10/3/06]

⁷ Caslon Analytics, 'Note Do Not Call registries', available on: <http://www.caslo.com.au/donotcallnot1.htm> [accessed 10/3/06]

⁸ There may be a need to demonstrate whether there is an existing relationship between a charity and supporter, which in the fundraising industry is usually regarded as a relationship within the past three years, Fundraising Institute Australia, "Submission to Department of Communication, information Technology and the Art "Introduction of a do not call register", 30 November 2005, p.5

⁹ AFP is the leading national professional association of individuals responsible for generating philanthropic support for a wide variety of non-profit and charitable organizations. Founded in 1960, AFP (formerly the National Society of Fund Raising Executives) advances philanthropy through its nearly 27,000 members in 176 chapters throughout the world. For further information see www.afpnet.org

challenge facing organisation			of concern to their organisation – without % ranking)		report –total % below indicated that it is one of the respondents three main concerns)	
	Past year (2002)	Predicted for 2003	Past year (2003)	Predicted for 2004	Past year (2004)	Predicted for 2005
The economy	40%	36%		x	38.2%	x
Reduction in foundation support	7%	4%	6.6%	x	14.6%	
Reduction of corporate support and sponsorship			5.4%	x	19.0%	
Political issues (domestic)			>1%	x	8.2%	
International issues	5%	17%	>1%		4.7%	
Increased competition for the charitable dollar			6.6%	x	39.7%	x
Cuts in federal and state/provincial budgets			4.9%		15.7%	
Decrease in public confidence in charities			>1%	x	3.5%	
Aging, changing donor pool					17.8%	
Staff issues in the development office	7%		7.2%	x	25.1%	x
Attracting, motivating and retaining donors	5%	12.7%	5.6%		16.6%	x
Problem with overall organizational leadership	7%	6%	8.2%	x	21.3%	
Brand awareness of charity and mission	4%			x	22.7%	
Developing fundraising strategies and overall strategic planning			6.1%	x	26.5%	

TABLE 1 CHALLENGES TO THE FUNDRAISING SECTOR (USA) (2002 – 2004)

Although AFP reports have changed with regard to the data collected over the period 2002 – 2004 some trends emerge:

- Increasing competition for the charitable dollar
- Increasing impact of economic issues outside the control of the charity
- Increasing weight on developing fundraising strategies and overall strategic planning
- Increasing staff issues in the development office

Charities further indicated their continuing concerns related to:

- Competition for the charitable dollar
- Economic issues outside the control of the charity
- Staff issues in the development office
- Attracting, motivating and retaining donors

1.2 TRENDS IN CHARITABLE FUNDRAISING – USA

From 2003 onwards AFP reports have included a breakdown of areas of concern and the level of change in income received through various funding strategies. As a general trend, the employment of telemarketing is not a widely used fundraising strategy. Over 80% of the respondents to the AFP survey reported that they did not use telemarketing as one of their

fundraising strategies. Apart from the use of telemarketing as a fundraising strategy, it can be used to recruit volunteers, provide information etc. (for Australian statistics see the *Giving Australia* Report¹⁰).

Amongst those organisations reporting use of telemarketing, the following trends were noted:

Past year-present years change in telefundraising	US 2001	US 2002	US 2003	US 2004
Lower than last year	25.2%	33.7%	17.7%	23.0%
About the same	31.1%	27.9%	29.0%	24.6%
Higher than past year	43.7%	34.4%	53.2%	52.5%

TABLE 2 CHANGES IN TELEFUNDRAISING USA 2001 – 2004¹¹

The Philanthropic Giving Index August 2005, produced by the Centre on Philanthropy at Indiana University, specifies that the use of the telephone as a medium of acquisition is perceived as the third most successful medium by respondents in the study, with a rating of 37.6%.¹²

As shown in table 3, 75% of organisations that employ charitable telemarketing raised 20% or less of their funding by this method. In addition the AFP report states that “respondents with annual budgets between \$10 million and \$50 million were the most likely to use telefundraising (31%), but none of those charities raised more than 40% of their revenue from telefundraising.”¹³

Percentage of overall revenue from telefundraising	Percentage of respondents
91 -100%	1.6
81-90%	0.0
71-80%	0.0
61-70%	0.0
51-60%	0.0
41-50%	3.3
31-40%	11.5
21-30%	8.2
11-20%	18.0
1- 10%	57.4

TABLE 3 PERCENTAGE OF REVENUE GENERATED BY TELEFUNDRAISING, USA¹⁴

The Philanthropic Giving Index 2005, produced by the Centre on Philanthropy at Indiana University, further states that when respondents were asked to indicate the success rates of a wide range of fundraising techniques, the use of the telephone is considered a successful means of fundraising. (See table 4)

¹⁰ The Prime Minister's Community Business Partnership, *The Giving Australia Report*, 2005, Department of family and Community Services, Australian Government

¹¹ Association of Fundraising Professionals, “Chart 17: Changes in Telefundraising, U.S., 2001-2004”, *State of Fundraising 2004 Report*, 2004, p.21

¹² The Centre on Philanthropy, “Table 2”, *Philanthropic Giving Index - AugUSt 2005*, Indiana University, 2005, p. 6

¹³ Association of Fundraising Professionals, *State of Fundraising 2004 Report*, 2004, p.22

¹⁴ Association of Fundraising Professionals, “Chart 18: Percentage of revenue generated by telefundraising, US”, *State of Fundraising 2004 Report*, 2004, p.22

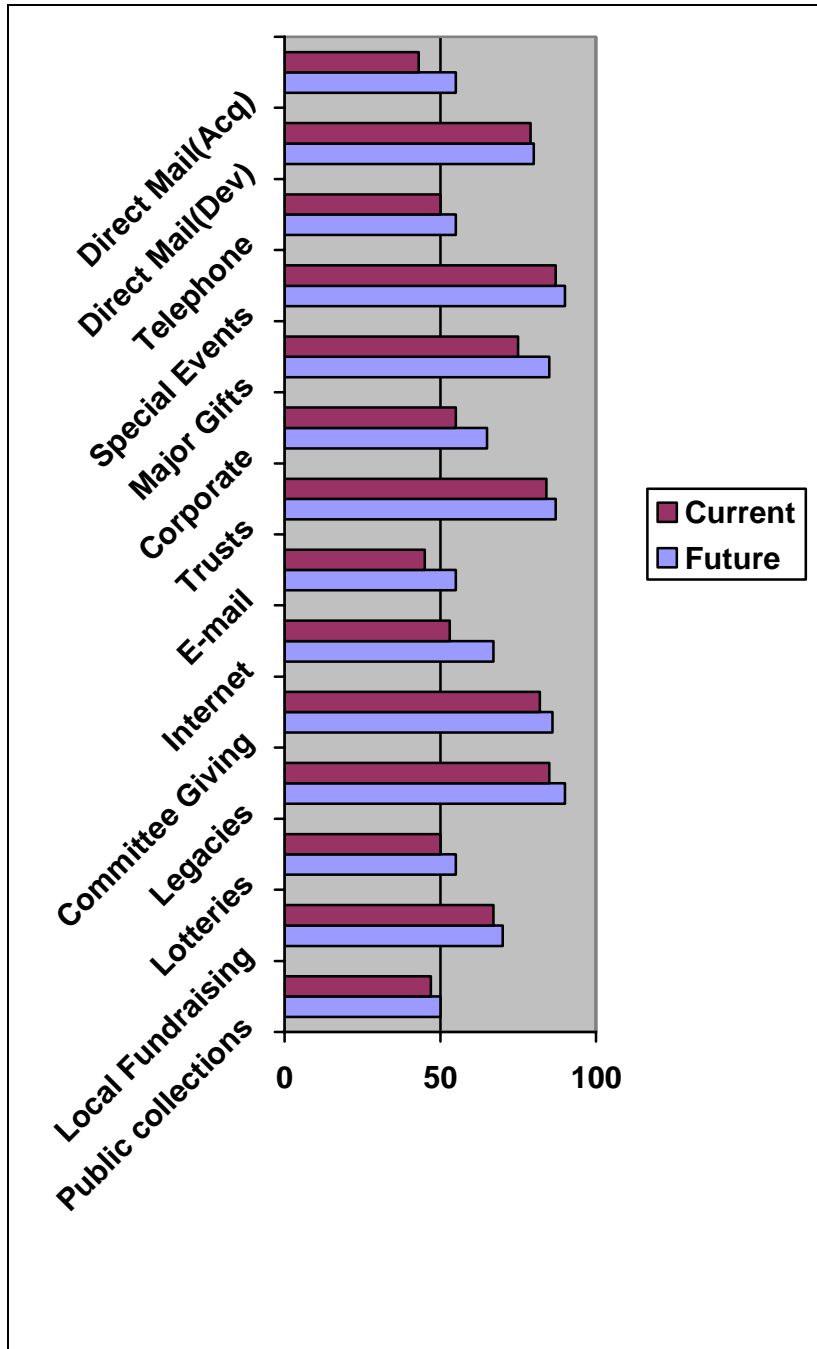


TABLE 4 PERCENTAGE OF RESPONDENTS WHO RATE TECHNIQUES AS SUCCESSFUL OR SOMEWHAT SUCCESSFUL – AUGUST 2005

The Philanthropic Giving Index 2005 further reports that “larger charities tend to express more optimism than their smaller counterparts. This undoubtedly reflects the economies of scale that accrue in many forms of fundraising, but it also suggests that competition for the ‘middle ground’ in the sector is increasingly intense.”¹⁶

¹⁵ The Centre on Philanthropy “Philanthropic Giving Index – August 2005”, The Centre on Philanthropy at Indiana University, p. 5 .figure 3

¹⁶ The Centre on Philanthropy, “Philanthropic Giving Index – August 2005”, The Centre on Philanthropy at Indiana University, p. 11

On this basis, there is an indication that there have not been any significant changes in the way telemarketing is used in the United States, nor in the revenues raised from this method of fundraising, since the introduction of the NDNCR, allowing for exemptions for charities. Charities themselves, however, are concerned this may change.

Competition for the charitable dollar is becoming more intense, in a climate where the consumer or potential donor has become more aware of the calls coming through and their rights to limit or even cease incoming telemarketing calls.

2.0 CANADA – PROPOSAL TO INTRODUCE A DO-NOT-CALL REGISTER

Legislation has been proposed to introduce a do-not-call list in Canada. This legislation is currently under consideration by the Canadian Parliament. Currently there is legislation requiring charitable and not-for-profit organisations to keep lists of people who wish not to be contacted by their organisations. The proposed legislation would as such, include a stricter provision of the current legislation by the Canadian Radio-television and Telecommunications Commission (CRTC).¹⁷

A survey undertaken by the Muttart Foundation and the Canadian Centre for Philanthropy, states that “90 % of respondent said that charities play an increasingly important role in society, and 59% felt that charities didn’t have enough funding to do their work.”

2.1 INDUSTRY PERCEPTION OF THE SECTOR AND ITS CHALLENGES - CANADA

The following information is drawn from the AFP reports on fundraising in Canada (referred to above in section 1.1).

2.1.1 Challenges to the fundraising sector in Canada

The data and information provided in the AFP reports is, as with the United States’ survey, focused on challenges affecting fundraising as a two dimensional issue: both retrospective and forward thinking.

challenge facing organisation	2002 report (the indication of challenges for the nonprofits is listed in % for no.1 concern)		2003 report (for the predictions for 2004, respondents simply indicated areas that were of concern to their organisation – without % ranking)		2004 report (the indication of challenges for nonprofits changed in the 2004 report –total % below indicated that it is one of the respondents three main concerns)	
	Past year (2002)	Predicted for 2003	Past year (2003)	Predicted for 2004	Past year (2004)	Predicted for 2005
The economy	13%	14%	16%	X	22.9%	X
Reduction in foundation support	9%	6%	3%	X	8%	
Reduction of corporate support and sponsorship			2%	X	13.8%	
Political issues (domestic)		5%			2.1%	
International issues		7%			2.1%	

¹⁷ AFP Before the Canadian Radio-Television and Telecommunications Commission, “Part VII Application of the Association of Fundraising Professionals to Review and Vary Telecom Decision CRTC 2004-35”

Increased competition for the charitable dollar	8%	9%	25%	X	45.7%	X
Cuts in federal and state/provincial budgets			2%		11.7%	X
Decrease in public confidence in charities				X	2.7%	
Staff issues in the development office	11%	5%	6%	X	35.6%	X
Aging, changing donor pool		7%	7%	X	17%	
Attracting, motivating and retaining donors			8%		25%	X
Problem with overall organizational leadership	7%	5%	11%	X	30.9%	
Brand awareness of charity and mission	10%	5%	5%		34.6%	
Developing fundraising strategies and overall strategic planning	7%			X	29.3%	

TABLE 5 CHALLENGES TO THE FUNDRAISING SECTOR (CANADA) (2002 – 2004)

The 2002 report quotes a fundraiser's opinion in regard to challenges in the fundraising industry saying:

Our biggest challenge is the continuing dramatic rise in demand for our services, which need to be funded out of dollars fundraised as compared to increased grants from government. This is taking place in the context of increased competition for charitable dollars, heightened public concern about charities and an economy that performs well for some but does little for the most vulnerable.¹⁸

This comment is in line with comments made about the increased competition for the charitable dollar in the *AFP State of Fundraising Report 2003*. One fundraiser commented that "too many campaigns in our community make it difficult to attract major donors who become tapped out" and as such the report identifies the ongoing need to cultivate and maintain the charitable donor base.¹⁹

2.2 TRENDS IN CHARITABLE FUNDRAISING – CANADA

Over 80% of the Canadian respondents to the AFP State of Fundraising Report 2004 reported that they did not use telemarketing as one of their fundraising strategies.²⁰

Among those charities that did report a use of charitable telemarketing, the following trends were noted:

Past year-present years change in telemarketing	Canada 2002	Canada 2003	Canada 2004
Lower than last year	26.3%	20%	17.6%
About the same	31.6%	20%	38.2%
Higher than past year	42.1%	60%	44.1%

TABLE 6 CHANGES IN TELEFUNDRAISING CANADA 2001 – 2004²¹

¹⁸ Association of Fundraising Professionals, *State of Fundraising 2002 Report*, 2002, p.26

¹⁹ Association of Fundraising Professionals, *State of Fundraising 2003 Report*, 2003, p.17 -

18

²⁰ The number of respondents to the survey who use telemarketing was 19%, a number that is not scientifically valid, and as such creates a difficulty of to measure any trends or changes in practice. Association of Fundraising Professionals, *State of Fundraising 2004 Report*

²¹ Association of Fundraising Professionals, *State of Fundraising 2004 Report*, p.22

The overview of Canadian responses in the *AFP State of Fundraising Report 2004* shows that 80% of organisations employing telemarketing raised 20% or less of their funding by this method. Only 6.6% of organisations raised more than 50% of their funding by telefundraising (table 7).

Percentage of overall revenue from telefundraising	Percentage of respondents
91 -100%	0.0
81-90%	0.0
71-80%	3.3
61-70%	0.0
51-60%	3.3
41-50%	6.7
31-40%	3.3
21-30%	3.3
11-20%	20.0
1- 10%	60

TABLE 7 PERCENTAGE OF REVENUE GENERATED BY TELEFUNDRAISING, CANADA²²

The statistics show that telemarketing is not a practice widely used by charitable organisations but for those that do, it is an important strategy. In a submission to the Standing House of Commons – Committee on Industry, Natural Resources, Science and technology, AFP states that “more than 50% [of charitable organisations] use the phone for purposes other than telemarketing and fundraising”²³ including, but not limited to:

- Recruiting and coordinating volunteers
- Educating the public
- Contacting potential beneficiaries
- Inviting members of the community to public events.

AFP notes that the impact of an introduction of a Do not Call List in Canada would be detrimental for charities, as “the number one reason that people give to charity is because they were asked.”²⁴ It is well known in the fundraising industry that the simple act of asking someone to give has the greatest influence on whether someone contributes or not. In addition AFP members are required annually to sign a Code of Ethical Principles and Standards of Professional Practice, thus identifying members of AFP as fundraisers who have demonstrated knowledge and skills necessary to perform their duties in an effective, conscientious, ethical and professional manner.

AFP supports fundraising regulation, as legitimacy of the fundraising practice requires a high level of accountability and transparency. However, they note there needs to be a reasonable balance between the charitable sector’s need to raise funds efficiently and the public’s need to be free from undue intrusiveness in the form of unwanted repeated telephone calls. As

²² Association of Fundraising Professionals, “Chart 20: percentage of revenue generated by telefundraising, Canada”, *State of Fundraising 2004 Report*, 2004, p.23

²³ Association of Fundraising Professionals “Comments of the Association of Fundraising Professionals regarding Bill C-37: A Proposal to Create a National ‘Do not call’ List” to the [Canadian] Standing House of Commons Committee on Industry, Natural resources, Science and technology, May 3, 2005, p. 2, Available on: www.apfnet.org

²⁴ Association of Fundraising Professionals, “Comments of the Association of Fundraising Professionals regarding Bill C-37: A Proposal to Create a National ‘Do not call’ List” to the Standing House of Commons Committee on Industry, natural resources, Science and technology, May 3, 2005, p. 3, Available at: www.apfnet.org

such, it is important to note that charities are different from for-profit business. Charities are run not-for-profit, with the aim to meet the charitable needs of society. AFP states in their *Part VII Application of the Association for Fundraising Professionals to Review and Vary Telecom Decision CRTC 2004-35 Before the Canadian Radio- Television and telecommunications Commission* that "there is a manifest difference between a charity contacting a potential donor for a contribution and for a for-profit company contacting a potential buyer of a product. In the latter case, the net revenue from the sale is kept as profit for corporate shareholders. In the former, the contribution is used to benefit the public, and there is a strong likelihood that the contribution will benefit the very community in which the donor resides."²⁵

3.0 ENGLAND - DO NOT CALL REGISTER

In England, the Telecommunications (Data Protection & Privacy) regulations – the Telephone Preference Service (TPS) - came into force in 1999, reflecting a 1997 EU privacy directive. Since its introduction the TPS has been regulating commercial marketing to private individuals, and since 2004 it has, in addition, been regulating commercial calls to companies. Charities, amongst other specified entities, were exempt from the TPS for the first year, before their exempt status was revoked.

3.1 FUNDRAISING TRENDS – ENGLAND

It is estimated that the total amount given to charities in England by individuals in 2003 was £7.1 billion, with just under two thirds of adults giving to charities in a typical month.²⁶ The National Council for Voluntary Organisations (NCVO) argues that " While the widespread engagement of donors is indicative of public trust in charities, most donors give relatively small amounts, meaning that a lot of charity activity is reliant on a small number of high value donors." ²⁷

Figure 1 demonstrates the giving trends in England between 1995 and 2003, and figure 2 demonstrates the importance of elite givers in relation to the average population.²⁸

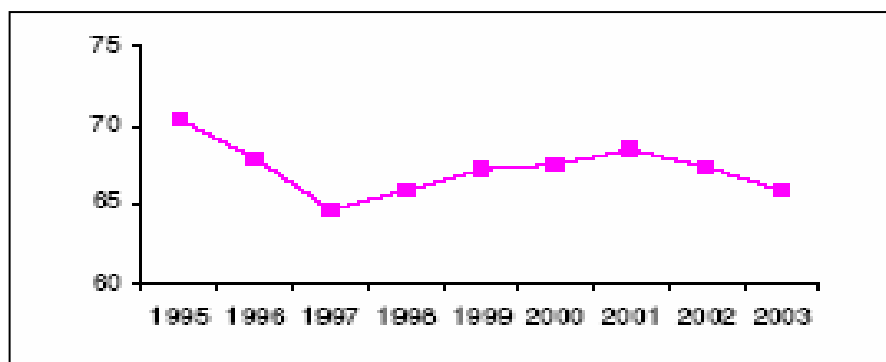


Figure 1: Proportion giving (% pop) (England)

²⁵ AFP Before the Canadian Radio-Television and Telecommunications Commission, "Part VII Application of the Association of Fundraising Professionals to Review and Vary Telecom Decision CRTC 2004-35" p. 9

²⁶ National Council for Voluntary Organisations, "Charitable Giving in 2003", *Inside Research*, October 2004, Issue 21, p. 1

²⁷ National Council for Voluntary Organisations, "Charitable Giving in 2003", *Inside Research*, October 2004, Issue 21, p. 2

²⁸ National Council for Voluntary Organisations, "Charitable Giving in 2003", *Inside Research*, October 2004, Issue 21, p. 2

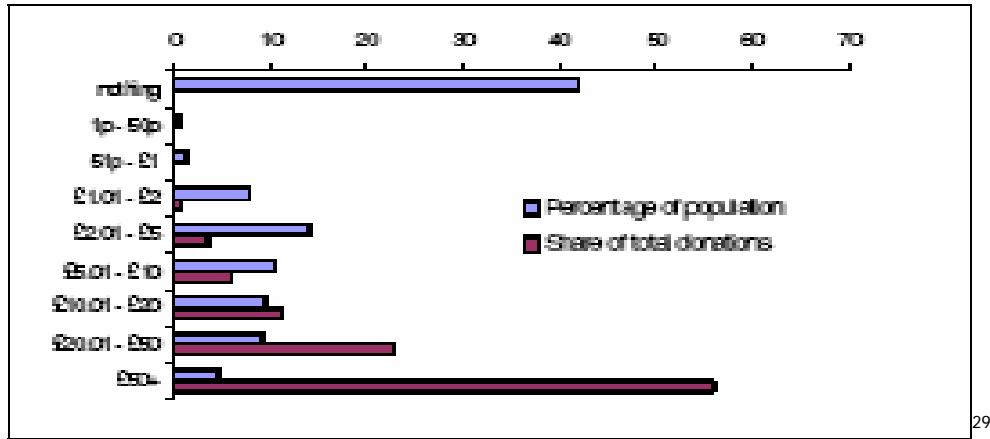


Figure 2: The importance of elite givers (England)

There is a clear indication that giving trends have experienced a slow decline over the past few years and the high net worth individual has become more important to charitable fundraising.

3.1.1 Telephone fundraising trends – England

NCVO determined that the percent population contacted by telephone for purposes of fundraising is <1% and the percent collected from charitable telemarketing 0.6%.

	Population	% Given
Street Collection	18.8	3.6
Door to door collection	15.5	4.0
Buying raffle/ lottery tickets	12.2	4.7
Buying in a charity shop	10.6	8.0
Shop counter collection	10.2	1.9
Church collection	10.0	14.4
Sponsorship	9.0	12.6
Collection at work	6.0	2.4
Buying goods for a charity	5.5	4.2
Pub collection	4.9	1.0
Appeal letter	4.2	4.9
Buying in a jumble sale	4.1	2.0
Attending a charity event	4.3	6.0
Subscription / membership fee	2.8	3.8
Covenant	2.5	8.7
Buying through a charity catalogue	1.4	2.1
TV or radio appeal	3.0	5.5
Payroll deduction	1.5	0.7
Telephone appeal	0.9	0.6
Appeal advertisement	0.8	1.7
Affinity card	0.1	0.1
Stocks and shares	0.2	0.1
Other gifts of money	4.8	7.2

TABLE 8 WAYS OF GIVING ³⁰

Although English charities are no longer exempt from the TPS, they continue to rate telephone fundraising as more successful than their US counterparts (see table 9).

Media	ENGLAND	US
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²⁹ National Council for Voluntary Organisations, “Charitable Giving in 2003”, *Inside Research*, October 2004, Issue 21, p. 2

³⁰ National Council for Voluntary Organisations, “Charitable Giving in 2003”, *Inside Research*, October 2004, Issue 21, p. 3

Direct Mail (Acquisition)	42.5	64.5*
Direct Mail (Development)	80.2	64.5*
Telephone	47.8	37.6
Special Events	88.9	63.7
Major Gifts	73.5	83.3
Planned Giving		68.4
Corporate Gifts	51.3	53.0
Trust/ Foundation	86.2	64.5
E-Mail	44.9	17.9
Internet	52.3	25.2
Committed Giving	85.5	n/a
Legacies	86.5	n/a
Lotteries and Gaming	48.2	n/a
Local/ Regional Fundraising	70.9	n/a
Public Collections	47.3	n/a

TABLE 9 PERCENTAGE OF RESPONDENTS RATING EACH ACTIVITY AS SUCCESSFUL OR SOMEWHAT SUCCESSFUL

* No distinction is drawn in the US study between direct mail for donor acquisition and donor development ³¹

However, research shows that there is concern about the continuing success of telemarketing, due to:

- Growth of the TPS service
- Issues relating to increasing costs of fundraising
- Issues relating to decreasing numbers of potential donors³²

3.2 EFFECTS OF THE TPS SERVICE TO CHARITABLE ORGANISATIONS IN ENGLAND

The *Third Sector*, a publication for charities, voluntary organisations and social enterprise in England, has been reporting on the effects of the TPS service since its introduction. In October 2004, the *Third Sector* reported that by September 2004, 5.9 million households had registered for the service – up from 3.4 million from the previous year.³³ The same article quotes the managing director of the telemarketing company NTT, whose clients include Action Aid and Save the Children, saying “All our charity clients suffer from it terribly/.../in the worst case we have come across, 50 percent of a client list was excluded because they are TPS – registered. A huge amount of income is being lost...” Further, the article notes that the telemarketing industry doesn’t possess data about whether people would be happy to receive charity calls even if they don’t want the commercial ones.

Clearly, there is a need for further data on both occurrence and perception of telemarketing/ telefundraising.

³¹ The Centre on Philanthropy, “Philanthropic Giving Index – August 2005”, The Centre on Philanthropy at Indiana University, p. 6 Table 2

³² The Centre on Philanthropy, “Philanthropic Giving Index – August 2005”, The Centre on Philanthropy at Indiana University, p. 7

³³ “News in Focus: Phone call opt-out service threatens charity income”, *Third Sector*, October 06, 2004 [accessed on 09/03/06]

CASE STUDY

The civil engineering charity Sustrans initiated a project to transfer donations from standing orders to direct debits with a gradual telephone fundraising campaign. Many of Sustrans 21,000 standing order donors could not be contacted as they were TPS- registered. The TPS regulations state that charities cannot contact such donors by telephone unless they already share a 'special relationship'. Under special conditions Sustrans was allowed to call their donors, resulting in the charity contacting nearly 25% more donors. This in turn resulted in an increased income of almost £114,000, further confirming that most people will give if asked.

Third Sector, October 2005

The problem with the TPS service in England is that when opting out from telemarketing, most individuals had not realised and/or had not been informed that they were also opting out of receiving charity calls. The TPS home page has since been amended, and now does make it clear that "for charities, telemarketing is an economical way to raise awareness and much needed support". However, it further states that:

If you are happy to receive telemarketing calls from some companies but not others, contact the companies who you do not wish to hear from and ask them to remove your details from their call lists. Registering your telephone number on TPS will stop telemarketing calls from all companies, charities and voluntary organisations not just some!³⁴

For many people, this would be too time consuming and not worth the effort, and as such, it does not provide charities much help.

In 2004, the TPS was extended from listing individuals to including companies, offering the same rights to block 'cold calls'. The *Third Sector* reported that:

The legislation is in response to small businesses' concerns that say they do not have the resources to deal with untargeted cold calls. But fundraisers say that extending the law to businesses means charities will lose opportunity to promote such events as fun-runs to 'warm' corporate donors and previous participants.³⁵

3.3 THE NEED FOR CHARITY LAW REFORM IN ENGLAND

Belinda Pratten, Policy officer for the National Council of Voluntary Organisations (NCVO), has argued that "it is now generally agreed that charity law in England and Wales needs to be reformed and modernised. There is a strong consensus for change, both from within the charitable sector and across the political spectrum".³⁶

Stating that the main problem is that there is a gap between public perception of charity and what is charitable in law. In her review of the Strategy Unit's report she observes that a key recommendation was "the creation of a self-regulatory scheme to promote good practice in charity fundraising". The report "Private Action, Public Benefit" notes that a scheme "which the sector itself helps set up and run has the best chance of success"³⁷ which ultimately leads to the question as to why charities aren't exempt in England, if they obey mandatory codes of conduct, such as those developed by the Institute of Fundraising.

³⁴ Telephone Preference Service, available at: <http://www.tpsonline.org.uk/tps/>

³⁵ "Fundraising news: cold calls may cause drop in potential givers", *Third Sector*, April 21 2004, [accessed on 09/03/06]

³⁶ Pratten, B" Charity Law reform: implementing the strategic unit proposal", *International Journal of Nonprofit and Voluntary Sector Marketing*, 2004, Vol. 9, No. 3, p. 191

³⁷ Strategy Unit, "Private Action, Public Benefit", 2002, The Cabinet Office, London, p. 66

