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# **Charitable Fundraising in Australia**

## **Discussion Paper: Proposed cross-border recognition model for charitable fundraisers**

**Charitable Fundraising National Working Group**

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### Overview of The Smith Family

The Smith Family is a national charity founded in 1922 to improve the lives of disadvantaged children in Australia. Our vision is a better future for young Australians in need. Our mission is to create opportunities for them by providing long-term support for their participation in education.

The Smith Family delivers programs in 90 communities across all states and territories in Australia. In 2018-19, The Smith Family supported over 200,000 children, young people, parents, carers and community professionals.

In Financial Year 2018-19, The Smith Family's income was just over \$144 million, of which around 60 percent was from fundraising from a range of sources such as individual Australians, philanthropic organisations and corporates. Those funds were raised from all states and territories.

Further information on The Smith Family is available at [www.thesmithfamily.com.au](http://www.thesmithfamily.com.au).

### COVID 19 makes reform even more necessary

The Smith Family welcomes the Discussion Paper's acknowledgement of the vital economic role charities play in Australia in addition to the fundamental social purpose for which they exist. While the work of the Charitable Fundraising National Working Group commenced prior to COVID 19, the pandemic has heightened the need for resolving a range of long-standing issues in the charitable sector that relate to fundraising arrangements. The complexity and duplication of effort involved in these arrangements impinge on the effectiveness and efficiency of the sector and have been the subject of numerous reviews, inquiries and associated recommendations over many years.

The role of the sector and the impact of COVID 19 on it, is reflected in the establishment by the National COVID 19 Coordination Commission, of the Charity, Philanthropy and Not-for-Profit Working Group. The Working Group's role is to provide recommendations to lessen the social and economic impacts of COVID 19 on the most vulnerable Australians and the sector that supports them. The work of the Charitable Fundraising National Working Group has therefore become even more critical given COVID 19.

The Smith Family welcomes the intent of the Working Group to reduce unnecessary burdens arising from the regulation of charitable fundraising across multiple jurisdictions and notes that some progress has been made in this regard. The lack of harmonisation across states and territories limits The Smith Family's efforts to efficiently fundraise, expand services and increase its positive impact for Australian communities. This lack of harmonisation impacts on charities of all sizes, including small to medium sized charities, and their capacity to expand.

Given the definition and role of a charity – ie that they have only charitable purposes that are for the public benefit – The Smith Family would argue that the **primary** benefits of any changes to Australia’s fundraising system should accrue to charities and contribute to them being more efficient and effective. We would argue the benefits or impact to any jurisdiction of any changes should be secondary, particularly because of the additional demand on charities which has resulted from COVID 19.

### **The role of the ACNC, Australian Consumer Law, Privacy Laws and Telecommunications Code**

As we noted in our 2018 submission to the review of the Australian Charities and Not-for-profits Commission (ACNC) legislation: “The ACNC has developed into a credible and well-functioning regulator of the charities sector” and “It is important that the ACNC continues to embed its role as the chief regulator of the sector...(it) is the suitable entity to lead national harmonisation efforts.” The Smith Family is still very much of this view and that there are significant benefits to be accrued in terms of reduced administrative burden and costs if the ACNC is supported by the states and territories to fulfil this role.

We also noted in our 2018 submission the important role of Australian Consumer Law and the obligations it requires of fundraisers. The ACL is well-understood by the community and provides donors with access to a range of protections against misbehaviour by fundraisers. The ACL can continue to contribute to the public’s already strong confidence and trust in the work of charities.

In addition to the above, Australia has well developed privacy laws and a Telecommunications Code which supports ethical practice in fundraising and protects donors.

### **The proposed cross-border recognition model**

As indicated above, The Smith Family notes that progress is being made towards greater alignment of regulatory frameworks for charitable fundraising. While this progress is welcome, it is not as significant or at the pace that would maximise the contribution that charities can make, particularly at this vital time.

The proposed registration scheme will have some benefits for The Smith Family, by reducing the number of separate registrations we must maintain. However, these benefits are likely to be very modest. We would continue to urge the key role of ACNC registration and that this should allow automatic authorisation and financial reporting requirements across all jurisdictions.

Given the intent of the model and that “deemed authorisation based on ACNC registration is the primary goal”, The Smith Family would question the need for individual jurisdictions to also “retain some flexibility to manage who is authorised to fundraise in the jurisdiction”.

Similarly, given the intent of the model, The Smith Family would urge that obtaining copies of financial information from the ACNC be adopted rather than each jurisdiction having “the option of requiring registered charities to comply with local auditing requirements”. The former is in line with one of the overriding aims of the model, namely to reduce administrative costs and red tape. It seems that the proposed model is potentially both moving in the desired direction of reducing the administrative burden on charities while simultaneously holding on to local requirements that can work against this reduction.

### **Areas not covered by the model**

The Smith Family notes that the current proposal addresses charity licensing and authorisation but does not extend to the third parties that charities authorise to fundraise on their behalf. The Smith Family has seen a growing interest for example, by some of our corporate partners, to support our work through a cause related marketing campaign. Many of these corporate partners, like The Smith Family, have national coverage and they need to ensure compliance with different jurisdictional requirements in order to undertake a national cause related marketing campaign. This can act as a disincentive to corporates who are seeking to support our mission.

We would urge that if a charity and those authorised by it to fundraise on its behalf comply with the requirements of the ACNC, then both the charity and those authorised by it, should be deemed as having complied with the requirements of all jurisdictions. It would remain the responsibility of the charity to ensure that those it authorises to fundraise on its behalf meet the requirements of the ACNC.

### **Conclusion**

Charitable fundraising arrangements have been the subject to a large number of reviews and inquiries over many years. Charities are generally held in high regard by the community and their role is even more critical, both socially and economically because of COVID 19. The ACNC is a credible and well-functioning regulator of the charities sector and is complemented by strong Australian Consumer Law, Privacy Laws and the Telecommunications Code.

Given all of this, the proposed model offers at best modest progress on reducing the administrative burden on charities. The Smith Family would urge significant acceleration to a consistent truly national approach to charitable fundraising requirements, in order that the anticipated benefits of “a significant reduction in costs and administrative burden” can be realised. This reduction matters because it will enable charities to apply these resources to achieving its charitable purpose that are for the public benefit. In the case of The Smith Family, it will enable it to better support disadvantaged young Australians to achieve educationally.