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Submission Of: Katherine Raskob

Your Details

Email address:

Phone:

Preferred means of contact: Email

What is your submission based on? I am making this submission based on my professional knowledge, qualifications or experience or on behalf of a group or organisation

What is your area of professional expertise?

If you are lodging your submission on behalf of a group or organisation, what is the name of the group or organisation? Fundraising Institute of Australia

Your Submission

In your experience, what areas of the bushfire emergency response worked well?

In your experience, what areas of the bushfire emergency response didn't work well?

In your experience, what needs to change to improve arrangements for preparation, mitigation, response and recovery coordination for national natural disaster arrangements in Australia?

Is there anything else you would like to tell the Royal Commission?

Do you agree to your submission being published? Yes I agree to my submission being published in my name

Supporting material provided:

RCNNDA (Bushfires Submission) draft final.docx

FUNDRAISING INSTITUTE AUSTRALIA

Royal Commission into National Natural Disaster Arrangements

27 APRIL 2020

Organisation: Fundraising Institute Australia (FIA) -----

Street address: 12 Help Street, Level 2 -----

Suburb/City: CHATSWOOD ----- **State & Code:** NSW 2067 -----

Postal address: PO Box 642 -----

Suburb/City: CHATSWOOD ----- **State & Postcode:** NSW 2057 -----

Principal contact: Katherine Raskob -----

Position: Chief Executive Officer -----

Phone: [REDACTED] -----

Fax: [REDACTED] -----

Email address: [REDACTED] -----



The Professional Body for Australian Fundraising

Fundraising Institute Australia (FIA) welcomes the opportunity to address a significant impediment its members experience in raising funds and providing relief and assistance to individuals and communities recovering from bushfires, floods and other calamities.

It is the nature of Australians to respond generously and quickly to those in need of help in times of trouble. Overwhelmingly that generosity takes the form of donations to FIA member organisations some of which also provide on-the-ground relief be it food, shelter or comfort.

The challenges facing humanitarian not-for-profit organisations in fulfilling their charitable purposes responding to natural disasters are central to this Royal Commission's terms of reference.

The collection and disbursement of charitable donations are governed by state and territory law but social media and crowd funding have no regard for traditional boundaries.

The charities that fundraise during times of national natural disaster would be considerably assisted in their tasks by the introduction of new Federal Government powers to shut down the fake charity web sites and crowd funding platforms that rob genuine donors and undermine community trust and divert resources from the relief effort.

There are lessons to be learnt from every natural disaster but the size, loss of life and damage caused by the 2019-20 bushfires were exceptional making this Royal Commission with its broad remit appropriate and timely.

About FIA

FIA is Australia's national body for professional fundraising. It has over 1200 members who are charities, NFPs, suppliers of fundraising services and fundraising professionals. Most major registered charities are FIA members, accounting for more than 80 per cent of the nearly \$9.9 billion¹ donated by Australians last year.

FIA recommendations that:

- 1. The Australian Communication and Media Authority (ACMA) to be given powers to 'shut down' and take civil action against fake digital fundraising sites.**
- 2. Harmonisation of charitable fundraising regulation between jurisdictions to be accelerated.**
- 3. Ill-timed and misinformed accusations against bushfire relief charities to be condemned.**

Australia's bushfires made global headlines over the summer and attracted a global giving response. Unfortunately, they also attracted the attention of online fraudsters who saw an opportunity to scoop up money intended for bushfire relief. On 16 January the ACCC

reported that some 425 scams had been picked up by its Scam-watch program since the beginning of the fire season in September².

1.ACMA enforcement powers against fake online fundraisers.

Scams took a significant toll on fundraising during the 2019-20 bushfires. Fundraisers were damaged financially by an unprecedented level of online scams taking advantage of the spike in Australian giving to ply their dishonest and illegal trade. This scamming undermines genuine charities in two ways: First donations are in effect stolen; and secondly, charity resources are diverted at the worst possible time) trying to identifying and closing down the fake websites and social media sites.

Natural disasters attract the worst of scammers. Australians, as always, gave generously last summer but how much was lost to the illegal activity cannot be known. The increase in digital fundraising and the Australian trend towards 'need giving'³ make natural disasters an increasingly attractive target for the unscrupulous operators. Technological advances are making online forms of giving easier and cheaper.

The warning⁴ issued on 6 January 2020 by Australian Competition and Consumer Commission chair, Rod Sims, revealed how pervasive and insidious the charity scammers were last summer and the extent to which they were a problem for genuine fundraisers. Sims' warning to consumer and potential donors focussed particularly on fake websites and social media sites highlighting the extent of their activities.

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FIA is recommending that ACMA be given powers to 'shut down' fake sites and take civil action against the perpetrators. The 'shut down' powers are based on those already in existence for ACMA to control and regulate illegal online gambling. In this way fundraising scammers would be prevented from creating look-alike sites to those of genuine fundraisers and from siphoning off much needed donations for natural disaster relief.

The new powers FIA is proposing would be based on those of the Interactive Gambling Amendment Act 2017 which gave ACMA new enforcement rules in which:

- . the regulator can require Internet Service Providers (ISPs) to block access to illegal online gambling websites.
- . Infringers face criminal charges⁵ and fines as well as civil penalties up to \$1,575,000 for individuals and \$7,900,000 for bodies corporate.

² <https://www.abc.net.au/news/2020-01-16/gofundme-donorbox-scams-targetting-bushfire-relief-funds/11870558>

³ 'Need giving' is the trend particularly prevalent among the millennial generation to give when there is a specific need to do so, rather than on a regular basis.

⁴ <https://www.accc.gov.au/update/bushfires-and-scams>

⁵ (Source: acma.gov.au/about-interactive-gambling-act)

The blocking power to shut down websites derives from Section 313 of the Telecommunications Act which is also utilised by other regulators such as the Australian Securities and Investment Commission (ASIC).

ACMA has demonstrated these powers can be used effectively. By the end of 2019 more than 90 illegal companies had exited the Australian market since 2017 when ACMA began enforcing the illegal online gambling rules.

Although much fundraising regulation is a matter of state and territory law, online issues are a Commonwealth responsibility. FIA submits that powers to enable the ACMA to shut down fake fundraising sites based on the precedent of the Interactive Gambling legislation could be introduced before the next bushfire season.

Such a measure would provide confidence to Australian donors that their are going to the relief of those affected by bushfires and other natural disaster events as is their intention.

2. Harmonisation of charitable fundraising regulation

“The overwhelming majority of the actions to protect Australians from bushfires are undertaken at a State level”.

Prime Minister, Scott Morrison, announcing the terms of reference for the National Natural Disasters Arrangements Royal Commission. 20 February 2020.

The Prime Minister would be equally correct if he was referring to charitable fundraising regulation. Although the major fundraising organisations are increasingly becoming national their regulation remains rooted in state and territory legislation.

This is a problem both for existing fundraisers and those which spring up in response to national natural disasters such as the bushfires of last summer. A well-intentioned crowdfunding campaign responding to the bushfires which raged up and down the eastern seaboard should have both registered as a fundraiser and sought permission for its fundraising campaign separately in NSW, Victoria and Queensland.

This is not a new issue and it is being addressed but not quickly enough both at a national level and by jurisdictions individually. For instance, South Australia and the ACT have repealed the red-tape-heavy individual appeal and campaign registration and appeal requirements. NSW has promised similar reform but on current indications that State is unlikely to have implemented the necessary legislation in time for the next bushfire season.

At the national level, the Commonwealth undertook to take a lead on harmonisation in its response the Senate Select Committee on Charitable Fundraising in the 21st Century and the ACNC Review Panel reports on 6 March 2020. The ACNC Review found:

“Inconsistencies and complexities in Commonwealth, state and territory regulation impose (the following) forms of regulatory burden on charities:

. licensing, reporting and operational restrictions under fundraising legislation, and

. advances in technology (such as online platforms) mean charities are increasingly operating across multiple jurisdictions.”

The Government’s formal response stated:

“The Government will continue to work closely with the states and territories (via the relevant cross-jurisdictional fora) to streamline and harmonise charity regulation...state and territory officials are also working with the ACNC to explore options to further reduce the regulatory burden on the sector. This includes considering possible cross-border recognition for charitable fundraisers.”

(Source: Government Response to the ACNC Legislation Review 2018. www.treasury.gov.au)

FIA submits that the Royal Commission recommend that all jurisdictions accelerate their efforts to harmonise charitable fundraising regulation so that there is consistent regulation for the collection and disbursement of funds for national natural disaster relief.

3. Attacks on bushfire relief charities

An unfortunate feature of the 2019-20 bushfires was the extraordinary attacks by senior public figures on major natural disaster relief charities at the most difficult possible time during the height of the emergency. Those charities under attack were FIA member organisations.

The accusations ranged from failing to distribute funds quickly enough to damaging allegations that donations were being deliberately withheld from immediate relief work. The charities concerned defended themselves robustly and justified their actions, but mud sticks.

At best the accusations were an untimely distraction from the relief work on hand; at worst a slur which threatened to undermine trust and confidence in all fundraisers and fundraising activity. FIA believes this Royal Commission should set the record straight. A clear statement in that vein with the authority and prestige of a Royal Commission will be the best way to redress the damage already done and discourage this type of gratuitous behaviour being repeated in future.

FIA hopes the Royal Commission will condemn in the strongest terms the ill-timed and misinformed public statements⁶ aimed at high profile charities which were providing frontline relief to those affected by the 2019-20 national bushfire emergency.

⁶ <https://www.abc.net.au/news/2020-01-16/gofundme-donorbox-scams-targeting-bushfire-relief-funds/11870558>