

**FUNDRAISING INSTITUTE AUSTRALIA**

**SUBMISSION IN RESPONSE TO**

**NSW JUSTICE LIQUOR AND GAMING NSW  
REVIEW OF THE LOTTERIES AND ART UNIONS ACT 1901**



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## **EXECUTIVE SUMMARY**

Fundraising Institute Australia supports the guiding principles under the proposed amended Lotteries and Art Unions Act 1901 ie

- persons conducting community gaming under the Act must ensure the games are conducted in the public interest and operated with fairness and integrity, regardless of whether a licence or permit is required to conduct the activity;
- only high-risk activities will be required to obtain a permit or licence.;
- individuals must not receive any personal benefit from conducting community lotteries or trade promotions;
- trade promotions with a prize value less than \$10,000 will no longer require a permit.

FIA is of the view that charitable gaming does not pose any risks to the community, particularly in relation to minor forms of gaming, and does not contribute to problem gambling. Therefore, removing restrictions on prize money and permits will not result in harm to the community while enabling charities to utilise charitable gaming for fundraising.

FIA makes the following recommendations:

1. FIA recommends that the limit of gross proceeds for Category 1 be removed as there is no policy reason to differentiate limits of gross proceeds for charitable gaming.
2. FIA supports removal of more onerous aspects of regulation from charitable gaming in order to benefit smaller charities in particular who are more likely to avail themselves of these fundraising methods.
3. FIA supports harmonisation of NSW charitable gaming with Victoria, which has removed limits on the amount of prizes for fundraising events, trade promotions and raffles. As NSW and Victoria are the two largest states and have the greatest number of charities, harmonisation of the two states gaming regimes will facilitate fundraising by charities working in both States, as many do.
4. FIA supports the creation of an educational portal to inform charities about compliance and regulation of charitable gaming.
5. FIA opposes the introduction of civil penalties for charitable gaming. The current regulatory regime ensures regulatory compliance by charities.
6. FIA supports educational measures to ensure compliance, rather than punitive measures

These recommendations and their rationales are discussed in greater detail in the body of this submission.

## **FIA RESPONSES TO DISCUSSION PAPER QUESTIONS**

FIA addresses the questions asked in the discussion paper as follows.

### **1. Do the objects of the Act as set out in section 2 remain valid?**

The current objects remain valid in relation to charitable gaming. FIA notes that they are broadly compatible with the intention of the Charities Act 2013 (Cth) to enable charities to conduct activities which have a public purpose.

### **2. Does the proposed model at page 10 represent a sensible approach, or, is there another approach that might be more suitable for regulating community gaming and lottery activities in NSW?**

FIA supports the separation of community lotteries from trade promotions, if it means that community lotteries have minimal regulation and compliance requirements commensurate with their expected returns. However, FIA is of the view that but remains unnecessarily restrictive with regard to the monetary limits which are:

- arbitrary,
- do not correlate with the revenue raised by modern fundraising practices, and
- are considerably lower than the limits imposed in Queensland and Victoria.

The proposed model is not a significant change from the current regulatory regime, except for treating all types of charitable gaming except trade promotions in the same way.

Under the proposed model, charities would have no financial benefit from operating trade promotions regardless of prize size as they are required to be free entry. In relation to all other types of games, if 20% of the estimated gross proceeds are to be spent on proceeds, then the smaller category (under \$25,000) is not financially viable as revenue raised will be insufficient. However, FIA acknowledges that this 20% requirement also is imposed in Victoria and Queensland.

#### **Recommendation:**

FIA recommends that the limit of gross proceeds for Category 1 be removed as there is no policy reason to differentiate limits of gross proceeds for charitable gaming.

### **3. Does the proposed model adequately address the risk of harm to the community arising from community lotteries and trade promotions?**

FIA is of the view that there is little or no risk of harm to the community arising from charitable gaming.

There is little research on charitable gaming for fundraising. It is highly regulated in NSW and there is no evidence to suggest that charitable gaming, in particular small scale charitable gaming, has any detrimental effect on gamers or is associated in any way with problem gambling.

Charitable gaming is largely minor gaming in contrast to machine and track gambling. Machine and track gambling generate billions of dollars in revenue, whereas most forms of charitable gaming generate very little revenue, because of the restrictions placed upon them and the nature of the games themselves. The exceptions are lotteries, art unions and promotional raffles.

The minor charitable games, if played at all, are generally played for social purposes, as their fundraising ability is severely limited. These should not be regulated as their economic impact is low and there is no evidence to suggest that they are associated with problem gambling.

The Table of Charitable Gaming in Appendix 1 to these submissions shows clearly that the charitable games regulated by the Office of Liquor Gaming and Racing (OLGR) are small scale with limited prize money, usually between \$5,000 - \$25,000, but in some cases much less. Most charitable games regulated by OLGR are now out of date and little used for charitable fundraising, as modern charitable fundraising has evolved more efficient and productive methods of fundraising. Smaller charities are more likely to avail themselves of such gaming as they do not have the resources to pursue large scale fundraising.

For these reasons, removing the more onerous aspects of regulation from charitable gaming will be of benefit in particular to smaller charities.

**Recommendation:**

FIA supports removal of more onerous aspects of regulation from charitable gaming in order to benefit smaller charities in particular who are more likely to avail themselves of these fundraising methods.

**4. What measures could be taken to reduce the regulatory burden placed on providers of community lotteries and trade promotions activities, without sacrificing the integrity and probity of those activities?**

It is clear that the States are each taking a different view of regulation of charitable gaming, so that compliance for each State is markedly different. If a charity operates in a number of States, it will need to seek permits in each State and will have different compliance regimes.

FIA supports harmonisation of fundraising regulation among the States. In relation to charitable gaming, harmonisation of regulation on prize money and distribution of proceeds would enable charities to operate meaningfully and successfully fundraise through charitable gaming.

FIA is of the view that while the limits imposed in Queensland are more generous than those proposed in NSW, that setting limits unnecessarily restricts the potential to fundraise through charitable gaming.

**Recommendation:**

FIA supports harmonisation of NSW charitable gaming with Victoria, which has removed limits on the amount of prizes for fundraising events, trade promotions and raffles. As NSW and Victoria are the two largest states and have the greatest number of charities, harmonisation of the two states gaming regimes will facilitate fundraising by charities working in both States, as many do.

**5. Are there any additional services or service improvements that Government could provide to assist organisations and businesses conducting lottery activities and trade promotion lotteries to understand and meet their regulatory obligations?**

The creation of an education and information portal similar to the one created by the ACNC would be most helpful in enabling access to such information.

**Recommendation:**

FIA supports the creation of an educational portal.

**6 . Should consideration be given to a civil penalty regime? If so, which of the current criminal offences, if any, should be addressed via civil penalties?**

FIA is not aware of any situations where civil penalties have been necessary. FIA members comply with FIA's self regulatory Principles and Standards of Fundraising Practice, which were introduced in 2009. Since their introduction, FIA has received no complaints from its members or members of the public concerning charitable gaming. This indicates that in NSW there is little risk to members of the public from the conduct of charitable gaming and therefore civil penalties would not assist with compliance.

Charities are regulated by the Australian Charities and Not for Profit Commission which has extensive powers to investigate charities' activities and enforce penalties against them if necessary. The ACNC operates nationally and takes a pro active stance. Its role in regulation ensures that charities operate professionally and in compliance with their governing legislation.

**Recommendation:**

- FIA opposes the introduction of civil penalties for charitable gaming. The current regulatory regime ensures regulatory compliance by charities.
- FIA supports educational measures to ensure compliance, rather than punitive measures.

**7. Are there any other matters that should be considered in this review of the Act and regulations?**

The discussion paper refers at page 11 on the potential impact on government revenue by removing application costs for trade promotions less than \$10,000 in any 12 month period. The table in Appendix 1 shows that such revenue would never have been large, as a number of permits had no fee and in the case of permits with fees, they were low, commensurate with the financial restriction on charitable gaming activities. Therefore, permit applications are not a viable revenue stream for government and this should not be a consideration.

## APPENDIX 1

### TABLE OF CHARITABLE GAMING IN NEW SOUTH WALES

Game	Permit Required	Prize cap/conditions	Office of Liquor, Gaming and Racing Form
Art union lottery	Yes	Minimum 30% gross proceeds must go to charity Prizes cap \$25,000	Game of Chance Application Form – Art Union
Bingo/Charity housie	No	Minimum 12.5% of gross proceeds must be paid to charity	
Card jackpot games	Yes	Lottery conditions must be available to entrants for free Minimum 40% of gross proceeds must be paid to charity	Trade Promotion Lottery Application PLUS Card Jackpot Game and other similar games Form
Chocolate wheels	Yes	Minimum 40% of gross proceeds must be paid to charity Prizes cap \$500 per prize	Application to Conduct Fundraising Games of Chance
Club bingo	No	Single prize cap \$30 Total prize cap per game \$50	
Football doubles and variations	No	Prizes cap \$5,000	
Football tipping competitions		See Tipping Competitions	
Gratuitous lotteries	No, if for NFP Yes, if for trade promotion	Prizes cap \$25,000	Trade Promotion Lottery Application
Hundred clubs		See Progressive lotteries	
Lucky envelopes	Yes	Minimum 40% of gross proceeds must be paid to charity	
Mini-numbers (lotto style games)	Yes	Prizes cap \$5,000 40% of gross proceeds must be paid to charity	
No-draw lotteries	No	Prizes cap \$5,000	

(scratch, break-open lotteries)			
Progressive lotteries (Hundreds Club, Silver Circle)	No, unless ticket sales over \$20,000	Prize cap \$5,000	Application to conduct Progressive Lottery
Promotional raffles	No	No cash prizes Prize limit \$100 with a single major prize limit of \$500	
Raffles and guessing competitions	No	40% of gross proceeds must be paid to charity	
Silver Circle		See Progressive lotteries	
Social housie	No	Prize cap \$30 Jackpot cap \$150	
Sweeps and calcuttas	No, unless ticket sales over \$20,000	Minors under 16 not allowed to participate	Application to conduct Sweep or Calcutta
Tipping competition	No, unless ticket sales over \$20,000	Trade promotions permit required if no entry fee or prizes more than \$20,000	Trade Promotion Lottery Application
Trade promotion lotteries (sweepstake, competition, contest, giveaway)	Yes	Lottery conditions must be available to entrants for free	Trade Promotion Lottery Application

## **APPENDIX 2**

### **ABOUT FUNDRAISING INSTITUTE AUSTRALIA (FIA)**

Established in 1968, FIA's purpose is to make the world a better place by advancing professional fundraising through promotion of standards, professional development pathways and measurable credentials so that our members achieve best practice.

FIA is the only professional association to exclusively serve the needs and interests of Australia's fundraising professionals. FIA continues to take a lead role in the direction and development of fundraising in Australia and has achieved significant outcomes for the sector and for fundraisers individually.

FIA has developed the Principles & Standards of Fundraising Practice as the professional fundraiser's guide to ethical, accountable and transparent fundraising. The Principles & Standards are critical to how the fundraising profession is viewed by donors, government, the community and fundraisers. They have been adopted in Korea, Poland and New Zealand.

In order to achieve its mission, FIA conducts the following activities:

- Promotes and enhances education, training and professional development of fundraisers
- Provides a resource of fundraising information.
- Advocates for fundraising practice to Government, industry and the community.
- Supports and promotes certification of fundraisers
- Develops standards and codes of practice.
- Promotes and enhances fundraising as a profession.
- Promotes and encourages research into fundraising and philanthropic giving.