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S10.02

Submission to the Commerce Committee on the Fair Trading (Soliciting on Behalf of Charities) Amendment Bill

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 50 nationally organised societies and national member bodies. NCWNZ has 26 branches throughout the country attended by representatives of those societies and some 150 other societies as well as individual members. The Council's function is to serve women, families and the community through research, study, discussion and action.

NCWNZ welcomes the opportunity to consider the Fair Trading (Soliciting on Behalf of Charities) Amendment Bill. NCWNZ has an active interest in legislation concerning donations to charities and supports the aims of the Bill. The amendments will provide increased transparency and public accountability for professional third party collectors who are collecting on behalf of registered charities. Financial-disclosure requirements need to ensure that consumers receive meaningful information about how they spend it, including details of fundraising costs.

This submission has been prepared by the Consumer Affairs Standing Committee following circulation of questions to NCW members about the amendments to the Fair Trading Act 1986. Members were asked to indicate a preference for the changes as outlined and submitted their feedback and opinion. Sixteen NCWNZ Branches responded and reflected the opinion of over 180 members throughout New Zealand. It has also been reviewed by a member of the NCWNZ Board and the Parliamentary Watch Committee of NCWNZ.

Disclosure of collector's interest – Clause 4

“26A Interpretation

“charitable entity – no change recommended

“collector – members recommended a definition of professional or paid collector be included. Collector is a general definition and does not identify a difference between volunteers and paid collectors.

“requesting funds – members' responses agreed with the description of requesting funds – meaning canvassing for subscriptions or appealing for donations. Opinions expressed by a large percentage of members considered that the description of how subscription or donations were solicited was too limited and should be expanded to include postal mail out, texting, media requests or appeals and charity fundraising events like auctions and balls.

Additional comments made by members included:

- Telephone appeals for funds were not approved of by a third of responders. General discomfort was expressed about this method of giving to a charity as those considering donating were unable to verify if the caller was 'bonafide' or who they were representing. Telemarketing was considered as potentially being a "rip-off for unsuspecting consumers".
- Some responses requested a more accurate definition of 'public place' as collectors (not volunteers) do 'cold calling' at times on behalf of a charity and enter private property.
- Collectors require a means of identification that is verifiable as many paid on the street fundraisers carrying clipboards approach shoppers and pedestrians.

26B Requiring disclosure by collectors

“(1) NCW members agreed that if a collector acting on behalf of a charitable entity is requesting funds, the collector must disclose if a portion of the fund is retained by any third party including the collector – if the proposal set-out in subsection (2) is approved.

“(2) Where a disclosure is required under subsection (1)

80 percent of members disagreed with this amendment.

“(a) and (b) Members' responses strongly recommended that the collector must disclose that a portion of the donation will be retained by the collector and disclose what that portion is (whether that portion is under or over 50 percent). 50 per cent was considered an unacceptably high percentage to recommend for disclosure.

20 per cent of members' responses opposed 50 percent as the portion for disclosure, however considered a retention proportion of 20 or 30 percent would be acceptable and require the collector to disclose that portion and also the percentage retained.

Members also considered that tighter controls should be placed on fundraising companies. They stated that consumers are entitled to know how much of their donation goes into paying the person who solicits it and the fundraising company's management costs as a percentage of income received.

This kind of information assists donors to work out how much of the donation is actually going to their chosen charity. It also provides donors with a choice whether or not to donate through fundraisers or to give directly to charities of choice.

“(b) Members opposed section 26B(2)(b) and considered this should be omitted for the reasons put forward in 26B(2)(a). The collector must disclose that a portion of the donation is withheld as well as disclosing the percentage of the donation retained by the collector to the nearest percentage.

“(3) Members agreed that disclosure (must be made before the donation is accepted by the collector on behalf of the charitable entity. This disclosure should be in the form of written documentation that a donator is able to easily read. The collector should wear a badge for identification. Declarations of disclosure should be available on the charitable entity's website if telemarketing is the method used to solicit donations.

“26C Exclusions

80 percent of members' responses opposed the amendment as proposed in 26B(2)(a) and (b) and considered these exclusions should be omitted.

20 percent of members' responses considered that collectors must disclose that a portion of the donation will be retained by the collector and should disclose what that proportion is if over 20 or 30 percent of the donation.

Any cash donations should be receipted when accepted.

Conclusion

Public accountability is an important part of the credibility that enables people to donate with confidence. If this Bill is “about informing consumers and rebuilding the public’s trust in the sector of charitable giving through enhanced transparency”, then donors have a right to know the exact percentage of their donation which will reach their charity of choice.

Accordingly if the proportion is over or under 50 percent then the percentage and amount retained needs to be revealed. Whilst it is generally accepted that charities have to spend money to raise money, some of the fundraising practices are controversial and take a large amount of money donated to a charity.

While NCWNZ members agree in principle that amendments to the Bill are necessary they have recommended that financial-disclosure requirements need to ensure that consumers receive information not only about the portion of the donation retained by any third party including the collector but also disclose what the proportion is to the donator, regardless of percentage.

NCWNZ thanks the Select Committee for the opportunity to make comments on this Member's Bill.

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