



ACCOUNTABILITY  
ROUND TABLE

**Submission to the inquiry into the Commonwealth Electoral Amendment (Donation Reform and Other Measures) Bill 2020 by the Senate Finance and Public Administration Legislation Committee.**

## Introduction

We congratulate Senator Lambie on introducing this legislation dealing with important aspects of the integrity of the Australian democratic system. Australia's federal electoral system currently has few constraints on donations and a weak disclosure regime.

Without expenditure caps and other reform provisions proposed in this submission, the Bill cannot achieve its objectives. While the measures in this bill impose tighter thresholds on donation reporting and shorter timeframes for disclosure, for the donation regime to be effective, it must be fully transparent, democratic and accountable, i.e.:

- caps of \$1,000 (or thereabouts, indexed) on donations from individuals and all organisations, disclosed in continuous real time (1-2 days),
- limits placed on election **expenditure** for candidates, political parties, associated entities and third party entities, (Australia, with expenditure of about \$29/voter at the last Federal election outspent Canada, NZ and the UK by factors of 5-10), and
- significant **penalties are** applied to breaching electoral laws.

The bill seeks to elevate the regulation of campaign finance above what is sometimes seen as self-interest in the current regime by politicians and parties.

This submission has five main sections.

First, it provides background to legislation, such as this Bill, which regulates political campaign finance.

Second, the objectives of this Bill are examined.

Third, the provisions of the Bill are reviewed having regard to the stated objectives.

Fourth, it makes recommendations for amendments that would facilitate the Bill in better meeting its objectives and for complementary recommendations.

Fifth and finally, it makes concluding comments.

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Australians have shown themselves to be very interested in election integrity with calls for reform from across the political spectrum <sup>1, 2</sup> The most recent Australian Election Study has found levels of trust in Government and satisfaction with Government at lowest levels in 40 years.<sup>3</sup>

## 1. Background

The *Commonwealth Electoral Amendment (Donation<sup>4</sup> Reform and Other Measures) Bill 2020* (the Bill) is the most recent of legislative reforms in Australian jurisdictions intended to ensure greater integrity in electoral processes in Australia and internationally. The secret ballot was a world first when introduced in 1865, in Victoria! The commitment to democratic principles by the parties represented in the Australian Parliament is demonstrated by statements on their websites. (see Appendix page 16).

Australia, under both Coalition and Labor governments, has a distinguished record of international leadership in some important areas of electoral reform. These include: introduction of the secret ballot and the polling booth; removal of property-based franchise; early adoption of women's suffrage and candidature; comprehensive electoral rolls; preferential voting; introduction of independent electoral commissioner and boundary setting.<sup>5</sup>

The lack of progress in relation to political donations since the 1970s is charted in great detail by Adjunct Professor Colleen Lewis in her September 2019 submission to the Joint Standing Committee on Electoral Matters (JSCEM). Dr Lewis alludes to numerous failed attempts to reform the federal political regime over many decades. These attempts have taken the form of parliamentary bills, Green Papers, earlier JSCMs, as well as submissions to other parliamentary committees by leading experts in political donations reform. Despite these efforts Dr Lewis finds that reform has not been achieved.<sup>6</sup> Meanwhile, a progressive reform agenda has been implemented in NSW, and is foreshadowed for Queensland in its Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019 and for the ACT in its Electoral Amendment Bill 2018.

Australia and other democracies are guided by international standards adopted by global organisations with which Australia is affiliated, including the Commonwealth Parliamentary Association, UNDP, and World Bank.<sup>7</sup> Comparable parliamentary democracies have addressed the corrupting potential of donations by legislated caps on campaign spending by candidates and political parties (see Section 3 below).

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<sup>1</sup> Evershed, N (2019) Can a politician straight-up lie to you in their ads? Pretty much. Available from <https://www.abc.net.au/triplej/programs/hack/can-a-politician-straight-up-lie-to-you-in-their-ads/10990230>

<sup>2</sup> Karp, P (2019) Vast majority of Australians support ban on misleading political advertising Available from <https://www.theguardian.com/media/2019/aug/18/vast-majority-of-australians-support-ban-on-misleading-political-advertising>

<sup>3</sup> Cameron, Sarah & Ian McAllister (2019) The 2019 Australian Federal Election Results from the Australian Election Study Available from <https://australianelectionstudy.org/wp-content/uploads/The-2019-Australian-Federal-Election-Results-from-the-Australian-Election-Study.pdf>

<sup>4</sup> Note that not-with-standing the word "donation" in the Bill's title, the text uses the word "gift" with the same apparent meaning. In this submission, donation includes gift, contribution, loan, loan guarantee, or goods or services (other than volunteer labour) provided for no consideration or for inadequate consideration. Donations from foreign donors and foreign agents of influence would be banned.

<sup>5</sup> However, as Judith Brett notes "the nation was sadly retrograde on race." *From Secret Ballot to Democracy Sausage: How Australia Got Compulsory Voting* by Judith Brett. Text Publishing House 2019

<sup>6</sup> Joint Standing Committee on Electoral Matters (JSCEM 2019): Inquiry into and report on all aspects of the conduct of the 2019 Federal Election and matters related thereto. Available from [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Electoral\\_Matters/2019FederalElection/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2019FederalElection/Submissions)

<sup>7</sup> E.g. *Recommended Benchmarks for Democratic Legislatures* (Commonwealth Parliamentary Association (CPA), World Bank Institute (World Bank Group), United Nations Development Programme (UNDP), European Parliament & National Democratic Institute for International Affairs (NDI). 2006; updated by Commonwealth Parliamentary Association (CPA) Headquarters Secretariat & Westminster Foundation for Democracy (WFD). 2018)

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Within Australian jurisdictions there have been incremental reforms extending over recent decades and proposals for further reforms that have yet to be legislated. Reforms have generally built on prior reports and legislation. However, there have been some instances of repeals and reversions to earlier standards, usually following changes of government, such as the threshold for disclosure - a matter addressed in the Bill.

These can be thought of as addressing pressure points.

**Pressure Points: “one vote one value” meets “one dollar one value.”**

In modern liberal democracies, the majority of citizens value both democracy and the market, and there is popular commitment to the belief that politics should be dominated by democratic principles and the economy should be dominated by market principles. While both democracy and the market are built on the single principle of individual choice, they involve two fundamentally different principles for evaluating choices. The principle for democracy is “one vote one value;” the principle for the market is “one dollar one value.” The eternal temptation is for those who have accumulated dollars in the market to use those dollars to influence those decisions that are supposed to be governed by democratic principles – through funding political parties and campaigns to outright bribery. The reverse concern is that those who have accumulated votes may seek to convert it into dollars for themselves or their parties (corruption) or for their constituents (the traditional concern of the wealthy against government welfare provision). Accordingly, defining and policing the boundaries between the market and democracy is a perennial problem in modern liberal societies committed to both democratic and market principles. It gives rise to some of the most difficult and controversial issues in liberal democracies – several of which have been on display in recent times

- political funding
- lobbying
- subsequent employment of MPs
- privatization<sup>8</sup> and PPPs<sup>9</sup>
- zoning decisions
- media<sup>1</sup>

Recognizing these pressure points has two consequences:

1. Unless we want to abandon either the market or democracy, these pressure points will remain and integrity systems must watch out for the interaction;
2. It will generally be better to structure the interaction in ways that reduce the pressure giving less work for the integrity system to do.

It should be emphasised that the interaction need not be toxic but can be highly beneficial (including informed policy making, efficiency and greater knowledge and debate about governmental decisions). Well designed integrity systems help ensure that interactions between market and government institutions promote good governance rather than undermine it.

New South Wales has generally led the way, with recommendations enacted in 2010 (discussed in Section 3 below) and most recently with a review reported in 2013 that left the scheme basically intact.

<sup>8</sup> Where institutions move, sometimes partially, from one sphere to the other.

<sup>9</sup> Where there is an ongoing link and often the necessity of regulatory promises – e.g. not to build or upgrade competing roads

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## 2. Objectives of Bill.

2.1 The **Bill** does not have an Objects clause. The title and several provisions refer to purposes but these purposes are procedural and do not describe a policy objective e.g.

Cl 5 (6) Each of the following is taken not to be a **gift**:

- (a) a payment under Division 3;
- (b) any visit, experience or activity provided for the purposes of a political exchange program.

2.2 The **Explanatory memorandum** describes the purpose as having eight distinct parts (see textbox).

**Purpose:** Amends the *Commonwealth Electoral Act 1918* to:

- define reporting entities as political entities, campaigners, associated entities and third parties;
- lower the disclosure threshold for gifts provided to reporting entities;
- require disclosure by reporting entities and donors when the sum of the gifts provided by the same donor to the same reporting entity is greater than the disclosure threshold;
- require disclosure by reporting entities and donors within 7 days of a reportable gift (a 'trigger gift') being made, and require disclosure within 7 days of subsequent 'post-trigger' gifts until the end of the reporting period;
- require reporting entities to lodge half-yearly returns with details of the nature and source of all reportable donations and other receipts;
- require reporting entities that engage in electoral expenditure to hold an electoral expenditure account with an ADI (authorised deposit-taking institution), from which all electoral expenditure must be paid;
- increase the monitoring and investigatory powers of the Australian Electoral Commission (AEC); and
- provide for infringement notices and civil penalty provisions for entities or persons that fail to meet their disclosure obligations.

Although the purpose makes clear that the focus of the Bill is on caps on donations & associated provisions e.g. real time transparency, it does not state any objective sought to be advanced or fulfilled by this purpose.<sup>10</sup>

However, the Explanatory memorandum's General Outline is much clearer, stating that the amendments to the principle Act are to:

- a) "strengthen transparency and accountability measures in relation to the disclosure of political donations ('gifts') at the Commonwealth level" and
- b) "increase the transparency of political donations made and received by persons and entities" and
- c) "introduce a number of compliance measures to increase accountability in relation to political donations disclosures".

The context is described as including "weak compliance measures (that) limit the incentive for donors and recipients to meet their disclosure obligations. These issues create the potential

<sup>10</sup> Available from [https://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/s1244\\_ems\\_3ea7bfd2-34aa-4d93-b5bf-f2367305417b/upload\\_word/20S01em.docx;fileType=application%2Fvnd.openxmlformats-officedocument.wordprocessingml.document](https://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/s1244_ems_3ea7bfd2-34aa-4d93-b5bf-f2367305417b/upload_word/20S01em.docx;fileType=application%2Fvnd.openxmlformats-officedocument.wordprocessingml.document)

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for corruption, and fuel public scepticism about Australia's democratic processes" according to the General Outline.

The General Outline goes on to claim that the provisions bring "Commonwealth provisions for the disclosure and monitoring of political donations in-line with best practice in the States and Territories." As discussed below, the Bill falls short of best practice within Australia and internationally, unless amended.

### 2.3 Speech introducing Bill

The bill was outlined by Senator Lambie in a speech in a **Matters of Public Importance** debate rather than the customary Second Reading Speech.<sup>11</sup> That served the purpose of a second reading speech. The objectives of the Bill are clear from Senator Lambie's comments. She expressed deep suspicions that donors are corruptly influencing the policies of the major parties.

Senator Lambie's speech to the Senate included argument that:

Big business and lobby groups are secretly donating millions to the Liberal and Labor parties and putting pressure on them to change their policies.

...

Crown casino gave to both parties, and both parties voted against investigating Crown's alleged corruption. The gaming lobby gave over a million to both parties, and both parties have the same policy on pokies—surprise, surprise!

What exactly do these donors think they're buying with all this money?<sup>12</sup>

These objectives of the Bill must necessarily lead to examination of factors leading to such corrupting behaviour.

Candidates and parties solicit donations to enable themselves to campaign for votes in elections. In Australia, it is almost unknown for politicians to seek or accept donations to fund personal costs. Even former Senator Dastyari's universally condemned solicitation of funds "for settlement of electorate staff travel budget overspend" was rare and not quite for a personal benefit.<sup>13</sup>

### Who are the fund-raisers?

Participation to lead fund-raising often falls to the busiest people in the political system: Government ministers and their Opposition counterparts.

A minister's time is one of the scarcest resources in government. Access to it must never be bought. Ministers are public officers entrusted with responsibility to put the public interest ahead of personal, donor or even party interest. Accordingly, Ministers should decide whom they want to consult and whom they should see in exercising their public office. This may well be much the same group of people whom the Minister would have seen anyway at fund raisers. However, the decision is for the minister and staff not their party as to who is invited. (Note that none of this precludes charging for the cost of the meal or the overheads of organising an event. However, it

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<sup>11</sup> Senate (2020) *Senate Briefing No.8 The Senate and Legislation*. Available from [https://www.aph.gov.au/About\\_Parliament/Senate/Powers\\_practice\\_n\\_procedures/Senate\\_Briefs/Brief08#second](https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/Senate_Briefs/Brief08#second)

<sup>12</sup> Lambie, Senator J (2020) *Matters of Public Importance*. Available from <https://www.facebook.com/jacquilambienetwork/videos/3781115365288580>

<sup>13</sup> ABC News (2019) *Sam Dastyari resignation: How we got here*. Available from <https://www.abc.net.au/news/2017-12-12/sam-dastyari-resignation-how-did-we-get-here/9249380>

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would be much better if the event were not organized by the party but by the Department or by some third party).

### **Why fund-raise?**

No explanation other than raising funds for campaigning has been identified for seeking or accepting donations. The costs of contesting elections have become something of an arms race,<sup>14</sup> with every party and candidate seeking to maximise votes cast which in turn requires maximum effort to attract votes. The efforts applied to achieve this is limited only by the resources available to be expended. Whilst the support of volunteers is important, it does not diminish the demand for funds to pay for printing, advertising and other paid costs.

It is these costs that drive almost all candidates and parties to seek and accept funds for campaign purposes. The rare exception is the self-funded candidate, most famously billionaire Clive Palmer who drew on his personal wealth to make massive donations to political parties of his own creation at the 2016 and 2019 elections.

### **Corporate donations and the Best Interests of the Company**

Of course, Clive Palmer did not make these payments out of his own pocket but from the corporate entities that he controlled – sometimes to the great annoyance of joint venturers and employees. An administrators' report made clear that as a director he should have acted in the interests of each company of which he was a director.<sup>15</sup>

This is not just about Clive Palmer. It raises a general point about corporate donations. How can a corporate donation be in the specific interests of a donor company?

Under the Corporations Act, Directors must 'exercise their powers and discharge their duties in good faith in the corporation's best interests'<sup>16</sup>

If Directors think that giving money to a political party will result in benefits to the company, it would seem to bring such donations within most definitions of corruption.<sup>17</sup> If Directors think that giving money to a political party will not further the interests of the company, they are in breach of their statutory duties. This would appear to leave no room for corporate donations<sup>18</sup> – leaving such decisions to individual shareholders who can choose to donate their dividends to the party of their preference. That is the position in some jurisdictions and it is hard to argue against it.<sup>19</sup>

We note that this section of the Corporations Act is often used to argue that corporations may not take into account the interests of employees, communities or even the future of the planet except to the extent that damage to them would damage the corporation.<sup>20</sup>

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<sup>14</sup> Faulkner, Senator J (2009) in *The Electoral Reform Green Paper – Donations, Funding and Expenditure*. Commonwealth of Australia . Available from [http://library.bsl.org.au/jspui/bitstream/1/1397/1/strengthening\\_australias\\_democracy.pdf](http://library.bsl.org.au/jspui/bitstream/1/1397/1/strengthening_australias_democracy.pdf)

<sup>15</sup> FTI Consulting (2016) Report by Administrators 11 APRIL 2016 Queensland Nickel Pty Ltd (Administrators Appointed). Available from <https://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2016/5516T578.pdf>

<sup>16</sup> Corporations Act 2001 (Cth), s 184(1)

<sup>17</sup> To the extent that our narrow definitions of corruption do not encompass this, it is a problem of our anti-corruption laws.

<sup>18</sup> Or, for that matter, to warrior think tanks.

<sup>19</sup> Sampford put this argument to the Queensland Premiers Accountability and Integrity Round Table in 2010 (of which he was a member). One of the Labor ministers present leapt on the idea, pointing out that unions were established with very specific political goals and its leaders would not be in breach. Sampford acknowledged the distinction but said that democratic politics needed a more or less level playing field. If corporations could not donate and other means were found for funding party political campaigns, then unions could devote all their revenue on collective bargaining and other benefits for their members.

<sup>20</sup> There are two responses: one is to argue that damage to suppliers, employees, customers and the communities in which they operate will be to the long term detriment of the corporation. The other is to clarify s.184. For more general discussion of these issues see "Shareholder Values Not Shareholder Value: How to Convert 'Ethical Investment' from an Oxymoron to a Tautology" (2004) *Griffith Law Review*, pp. 115-123

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Returning to the recipients' motives, it is rare if ever for parties to raise more from donations than is expended in campaign costs. That is most unlikely unless there is a surge of donations immediately prior to an election, in circumstances where the excess funds cannot be spent in the short time remaining. Within Australia, the significance of the issue has been emphasised in a report by ICAC which stated:

A situation in which citizens believe elections can be bought or that there is some quid pro quo for helping a candidate win must be seen as seriously damaging to the proper functioning of a democratic government. A corrupt member of parliament can be voted out of office if elections are free and fair. But if there is a loss of trust in the election process, then the whole system of representative government is weakened.<sup>21</sup>

Tham and Young (2006) identified that "imposing limits on campaign spending, ... would dampen the parties' appetites for ever higher donations".<sup>22</sup>

This argument that donations are driven by the "pressure for fund-raising"<sup>23</sup> or "pressure to raise money" is now widely recognised across political parties as is the argument that such pressures collapse when spending is capped.<sup>24</sup>

Interestingly, public funding of election campaigns appears to have had little if any effect to depress the pressure to raise money in the absence of expenditure caps - this despite the relatively high levels of public funding in Australian jurisdictions. Those schemes provide per vote public funding that is greater than total campaign spending from all sources in democracies like Canada.

### Open Government Partnership

Australia is a member of the Open Government Partnership<sup>25</sup> and as such is committed to making reforms to improve the integrity of its system of government. The integrity of the electoral system clearly falls within that national commitment.

## 3. Provisions of the Bill

To meet Senator Lambie's objectives with the Bill, the driver of donations must be addressed. The provisions of the Bill are examined accordingly in Section 3.

In this section, our submission examines the Bill's provisions and indicates support or suggested amendments (reflected in Recommendations— see below.)

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<sup>21</sup> NSW ICAC (2014) *NSW public officials and members of Parliament - allegations concerning soliciting, receiving and concealing payments (Operation Spicer)* Available from [https://www.icac.nsw.gov.au/ArticleDocuments/351/Investigation-into-NSW-Liberal-Party-electoral-funding-for-the-2011-state-election-campaign-and-other-matters\\_Operation-Spicer.pdf.aspx](https://www.icac.nsw.gov.au/ArticleDocuments/351/Investigation-into-NSW-Liberal-Party-electoral-funding-for-the-2011-state-election-campaign-and-other-matters_Operation-Spicer.pdf.aspx)

<sup>22</sup> Sexton, E (2006) quoting Tham & Young *Political donor rules 'promote corruption'*. Sydney Morning Herald, February. Available from <https://www.smh.com.au/national/political-donor-rules-promote-corruption-20060225-gdn1hg.html>

<sup>23</sup> Tham, J-C (2012) *Establishing A Sustainable Framework For Election Funding And Spending Laws In New South Wales. A Report Prepared for the New South Wales Electoral Commission*. p. 156

<sup>24</sup> "The Liberal Party (NSW) argued that: protection of a system of representative government requires political equality of opportunity. There must be a 'level playing field' for the principal players. Elections should be a battle of ideas, policies and principles, not a battle of war-chests... The Liberal Party of Australia (NSW Division) supports expenditure limits for candidates, parties, Legislative Council Groups and third parties at appropriate levels." NSW JSCEM 2010 election funding Final Report, p. 125. The Labor Party National Platform (2018) states that Labor will "Seek to limit the level of federal campaign expenditure, through the introduction of spending caps."

<sup>25</sup> Open Government Partnership – Australia (2020) *About*. Available from <https://ogpau.pmc.gov.au/about>

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### **3.1 Disclosure threshold.**

We submit that the disclosure threshold for political donations should be lowered but we find no justification for the proposed limit nor for its departure from the limits imposed in other Australian jurisdictions (see Table 2). Rather, there should be a uniform national standard such as \$1000 per calendar year, which applies in Australia's largest state, NSW. This would be consistent with Australia's commitments as a member of the international Open Government Partnership (OGP). We support the reform as necessary but not sufficient.

The provision does not directly address the underlying factors leading to the potentially corrupting effects of donations, disclosed or otherwise. This issue is discussed further below (see 3.11 Caps on pressures to seek and receive donations).

### **3.2 Gift re-defined**

The Bill re-defines the donations that are subject to disclosure. This is a long overdue advance, which is consistent with Australia's commitments as a member of OGP that we support so far as it goes.

However, it leaves unresolved the confusing use of "donation" in the title and "gift" elsewhere, with the same apparent meaning. Furthermore, it is uncertain whether gift includes all of

- donation, or
- contribution, or
- loan, or
- loan guarantee, or
- goods or services (other than volunteer labour) provided in-kind i.e. for no consideration or for inadequate consideration.

Donations from foreign donors and foreign agents of influence should be banned.

### **3.3 Reporting entities**

The Bill clarifies the entities required to report as including political entities, campaigners, associated entities, third parties, which is consistent with Australia's commitments as a member of OGP. We support this reform.

### **3.4 Half-yearly returns**

The frequency of reporting aims to enable the electorate to be better informed, but the periodic returns are less significant than the real-time disclosure of gifts donated to and by reporting entities. None-the-less, half-yearly seems unnecessarily infrequent given the ease with which IT enables the assembly, analysis, transmission and reporting of financial data.

We submit that returns should be submitted and published every three months (as in UK), which would be consistent with Australia's commitments as a member of OGP.

### **3.5 Seven (7) day disclosure triggers**

A disclosure trigger for gifts within 7 days after the gift is made is consistent with Australia's commitments as a member of OGP. We endorse the proposal.

### **3.6 Disclosure of gifts exceeding thresholds**

Disclosure when the sum of gifts by the same donor exceeds the threshold is consistent with Australia's commitments as a member of OGP. Analysis of the AEC 2018-2019 data shows that



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more than half of private funding of elections is not disclosed. The high disclosure threshold and no requirement to disclose aggregate donations enables large donors to hide their identity<sup>26</sup>.

We endorse the proposal.

### **3.7 Electoral expenditure accounts**

We support the requirement for electoral expenditure accounts, as they are essential to the integrity of the electoral regime – again consistent with Australia’s commitments as a member of OGP.

### **3.8 Disclosure portal**

A disclosure portal is consistent with Australia’s commitments as a member of OGP. We note and share the Scrutiny of Bills Committee’s concerns as to the appropriateness of leaving key aspects of the scope and operation of the proposed AEC Disclosure Portal to delegated legislation as well as the broad delegation of investigatory powers:

the committee’s view is that significant matters, such as the functions and purposes of the proposed AEC Disclosure Portal, should be included in the primary legislation unless a sound justification for the use of delegated legislation is provided.<sup>27</sup>

We endorse the provision for a disclosure portal modelled on those successfully created in other jurisdictions.

### **3.9 Monitoring and investigatory powers**

Increased monitoring and investigatory powers, including providing more information, is consistent with Australia’s commitments as a member of OGP. We support the proposal.

### **3.10 Enforcement and penalty provisions**

The penalties provided for breaches of this legislation are trifling and offer no significant deterrent to committing offences. The maximum penalty is 300 penalty units (currently \$63,000) with no provision for a custodial sentence. This contrasts with the penalty for Bribery (S326), Interference with political liberty (S327), which is 2 years.<sup>28</sup>

The equivalent NSW Act includes the option of two years imprisonment or both prison and a financial penalty.<sup>29</sup> Penalties should provide an effective deterrent including the option of imprisonment for the person or persons bearing ultimate responsibility for the breach and/or a financial penalty commensurate with the costs of the candidate’s and/or party’s campaign concerned.

### **3.11 Caps on pressures to seek & receive donations.**

The Bill does not address the major factor driving the donations which the provisions seek to address – the pressures to raise funds. In this respect, the Bill does not achieve Senator Lambie’s aim of matching best practice – Australian or global.

### **3.12 Human rights considerations.**

The Explanatory memorandum concludes that the Bill is compatible with human rights and freedoms. Note in respect of human rights concerns, it can be said that:

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<sup>26</sup> Dark money: How to reform Australia’s political donations system <https://grattan.edu.au/podcast/dark-money-how-to-reform-australias-political-donations-system/>

<sup>27</sup> Senate Standing Committee for the Scrutiny of Bills 2020 Scrutiny Digest Number 2, 12 February 2020. Available from [https://www.aph.gov.au/-/media/Committees/Senate/committee/scrutiny/scrutiny\\_digest/2020/PDF/d02.pdf?la=en&hash=F64E22CF99D28CE1ED5FE5C6FFD5B35A35F6A757](https://www.aph.gov.au/-/media/Committees/Senate/committee/scrutiny/scrutiny_digest/2020/PDF/d02.pdf?la=en&hash=F64E22CF99D28CE1ED5FE5C6FFD5B35A35F6A757)

<sup>28</sup> Commonwealth Electoral Act 1918 - Sect 327

<sup>29</sup> Electoral Funding Act 2018 (NSW) S.142

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- Human rights are the rights of humans;
- Corporations are not humans;
- Money is not speech;
- Money amplifies some speech and tends to drown out others.

Accordingly, corporations have no human right to spend money to advance their views.

Individual human beings do have human rights and these rights must take precedence.

We support the EM's conclusion.

As mentioned above, comparable parliamentary democracies demonstrate the best practice that is sought with this Bill. The corrupting potential of donations is addressed by legislated caps on campaign spending (also referred to as expenditure) by candidates and political parties (see Table 1). They differ in detail, but each has taken effective action.

For example, at the recent UK elections, each political party's expenditure was limited to GBP30,000 for each electorate in which it fielded a candidate.<sup>30</sup> Canada provides a limit "based on the number of names appearing on the preliminary or revised electoral lists for each electoral district. The limit is then adjusted for inflation at the rate in effect on the day the election is called."<sup>31</sup> At the 2019 Canadian elections, limits were in the range CAD 86,000 – 142,000 per electorate.<sup>32</sup>

New Zealand has a more rigorous limit: NZD 26,800.<sup>33, 34</sup>

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<sup>30</sup> BBC News (2019) *General election 2019: How much can parties spend?* 4 November. Available from <https://www.bbc.com/news/world-asia-52780289>

<sup>31</sup> International IDEA (2020) *Database. 44. If There are Limits on the Amount a Candidate Can Spend What is the Limit for Spending?* Available from <https://www.idea.int/data-tools/question-view/563>

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<sup>32</sup> Elections Canada (2019) *Final Election Expenses Limits for Candidates 43rd General Election – October 21, 2019*. Available from <https://www.elections.ca/content.aspx?section=pol&document=index&dir=limits/limitcan&lang=e>

<sup>33</sup> International IDEA (2020) *Database. 44. If There are Limits on the Amount a Candidate Can Spend What is the Limit for Spending?* Available from <https://www.idea.int/data-tools/question-view/563>

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<sup>34</sup> Muller, Damon 2018 Election funding and disclosure in Australian states and territories – Parliament of Australia.pdf

Submission from Accountability Round Table (2020).

**Table 1. Provisions compared - International**

Provision	Bill proposals	Cth of Australia	Canada (federal)	New Zealand	United Kingdom
Lower disclosure threshold to \$2500	Yes	\$13,800	\$500	\$1500 for candidates,  \$15,000 for parties	£1,500 for candidates,  £7,500 for parties
Gift to include fees re fundraisers, subscriptions, affiliations	Yes	No	Yes fundraisers  Others prohibited	Yes fundraisers	Yes subscription, affiliations,
Reporting entities to include political entities, campaigners, associated entities, third parties	Yes	Partly	Yes	Yes	Yes
Half-yearly returns of donations	Yes	Annual	Quarterly	Annual	Quarterly and 35 days after election
Seven (7) day Gift disclosure	Yes	Up to 18 months	4 months	10 days if > \$30,000	7 days when election called
Disclosure when sum of gifts by the same donor exceeds threshold	Yes	Partly	Yes	Yes	Yes
Electoral expenditure accounts	Yes	No	Yes	Yes	Yes
Electoral expenditure caps	No	No	Yes	Yes	Yes
Disclosure Portal	Yes	No			
(Increased) monitoring and investigatory powers, incl providing more information	Yes				
Infringement notices and civil penalty provisions	Increase Max to \$63,000	Max penalties \$42,000 2 years		Max penalties \$100,000 2 years	
Average cost per election per candidate	—	\$29 (2018)	\$5 (2015)	\$2.83 (2014)	85p (2015)

Submission from Accountability Round Table (2020).

Within Australia, NSW, Qld and the ACT will each have caps on campaign spending upon passage of the ACT Bill.<sup>35</sup>

Australia has 9 different political donations and expenditure regulatory schemes, with the Commonwealth scheme being among the weakest, see summary of some key features in Table 2 below.

The NSW regulatory scheme is one of the best of the schemes operating to date in Australia at national and State/Territory levels. The NSW scheme has evolved through a series of investigations, reports, recommendations and legislative amendments which have enjoyed bi-partisan support.

The essential features of the NSW scheme were laid out in the *Election Funding and Disclosures Amendment Bill 2010* introduced by the then Premier of NSW, now Senator Keneally. The measures passed with bi-partisan support. A further review in 2013 (NSW JSCEM Report) recommended consolidation, restructuring and clarification of multiple regulatory instruments but retention of the essential features. These features are now incorporated in the *Electoral Act 2017 (NSW)*. The Objects of the Act include:

3 (b) to promote and maintain an electoral system characterised by accessibility, integrity and fairness that provides for the election of members of Parliament of New South Wales in accordance with the Constitution Act 1902

NSW State election campaign expenditure is regulated by complementary legislation, the *Electoral Funding Act 2018* Division 4, Sections 27-35 and administered by the NSW Electoral Commission. The Commission's website advises that:

Electoral expenditure incurred in connection with a State or local government election is capped during the capped expenditure period for the election. Caps on electoral expenditure apply to:

- political parties and their associated entities and elected members not contesting an election
- groups of candidates
- candidates
- third-party campaigners.

An amount up to double the electoral expenditure incurred in excess of an applicable expenditure cap may be recovered by the NSW Electoral Commission and paid back to the State. A person who incurs electoral expenditure in excess of an applicable cap may have committed an offence and may be prosecuted by the NSW Electoral Commission.

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<sup>35</sup> *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019 (Qld)*. Available from <https://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2019/5619T2178.pdf>.

Submission from Accountability Round Table (2020).

**Table 2. Campaign finance Provisions compared – Australian jurisdictions**

Provision	Bill proposals <sup>36</sup>	Commonwealth <sup>37</sup>	ACT <sup>38</sup> [ACT Bill <sup>39</sup> ]	NSW <sup>40</sup>	NT <sup>41</sup>	Qld <sup>42</sup> Qld Act <sup>43 44</sup>	SA <sup>45</sup>	Tas <sup>46</sup>	Vic <sup>47</sup>	WA <sup>48</sup>
Lower disclosure threshold to \$2500	Yes	\$13,800	\$1,000	\$1,000	\$200- \$1500	\$1,000	\$5,000	\$13,800	\$1,020	\$2,500
Gift to include fees re fundraiser, subscriptions, affiliations	Yes	No	fundraiser >\$250 [all]  subscriber >\$250	Yes	Yes	fundraiser >\$200  sponsors	fundraiser >\$500	No	fundraiser	Subscriber >\$200
Reporting entities to include political entities, campaigners, associated entities, third parties	Yes	Partly	Yes	Yes	Yes	Yes	Yes	Partly	Yes	Yes

<sup>36</sup> Commonwealth Electoral Amendment (Donation Reform and Other Measures) Bill 2020 [https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bld=s1244](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=s1244)<sup>37</sup> Commonwealth Electoral Act 1918 (Cth) <https://www.legislation.gov.au/Details/C2019C00103> AEC <https://www.aec.gov.au><sup>38</sup> Electoral Act 1992 (ACT) <https://www.legislation.act.gov.au/View/a/1992-71/current/PDF/1992-71.PDF>; ACTEC [https://www.elections.act.gov.au/\\_data/assets/pdf\\_file/0003/839082/Election\\_funding\\_expenditure\\_and\\_financial\\_disclosure\\_-\\_2016\\_Election.pdf](https://www.elections.act.gov.au/_data/assets/pdf_file/0003/839082/Election_funding_expenditure_and_financial_disclosure_-_2016_Election.pdf)<sup>39</sup> The Electoral Amendment Bill 2018 (ACT) ([https://www.legislation.act.gov.au/b/db\\_59281](https://www.legislation.act.gov.au/b/db_59281))<sup>40</sup> Electoral Funding Act 2018 (NSW) <https://www.legislation.nsw.gov.au/#/view/act/2018/20> NSW EC <https://www.elections.nsw.gov.au><sup>41</sup> Electoral Act 204 (NT) <https://legislation.nt.gov.au/Legislation/ELECTORAL-ACT-2004> NTEC <https://ntec.nt.gov.au><sup>42</sup> Electoral Act 1992 (Qld) <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-1992-028> ECQ <https://www.ecq.qld.gov.au/donations-and-gift-disclosure/disclosure-of-political-donations><sup>43</sup> Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019 (Qld) <https://www.dlgrma.qld.gov.au/local-government-reform/accountability-and-integrity-bill.html><sup>44</sup> Qld reforms take effect over next 2 years, Indicative reprint <https://www.legislation.qld.gov.au/view/html/bill.first/bill-2019-052/lh><sup>45</sup> Electoral Act 1985 (SA) <https://www.legislation.sa.gov.au/LZ/C/A/ELECTORAL%20ACT%201985/CURRENT/1985.77.AUTH.PDF> SAEC <https://www.ecsa.sa.gov.au><sup>46</sup> Electoral Act (Tas) <https://www.legislation.tas.gov.au/view/html/inforce/current/act-2004-051><sup>47</sup> Electoral Act 2002 (Vic) <https://content.legislation.vic.gov.au/sites/default/files/2020-04/02-23aa062%20authorised.pdf><sup>48</sup> Electoral Act WA [https://www.legislation.wa.gov.au/legislation/statutes.nsf/law\\_a242\\_currencies.html](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a242_currencies.html) WAEC <https://www.elections.wa.gov.au/index.php/>

Submission from Accountability Round Table (2020).

Provision	Bill proposals <sup>36</sup>	Common-wealth <sup>37</sup>	ACT <sup>38</sup> [ACT Bill <sup>39</sup> ]	NSW <sup>40</sup>	NT <sup>41</sup>	Qld <sup>42</sup> Qld Act <sup>43 44</sup>	SA <sup>45</sup>	Tas <sup>46</sup>	Vic <sup>47</sup>	WA <sup>48</sup>
Half-yearly returns publication	Yes	Annual 18 months after election	Quarterly	Half yearly	Annual	Half yearly	Annual 3 months EOFY	Annual 18 months after election	Annual 6 months EOFY	Annual 6 months EOFY
7 day disclosure	Yes	6 months	7 days in EC period - quarterly	21 days in PE period - 6 months	6 dates in election year	7 days -15 weeks after polling day	7 days - in designated period	6 months	21 days	19 weeks after polling day
Disclosure when sum of gifts by the same donor exceeds threshold	Yes	Partly	Yes	Yes		Yes	Yes	Partly	Yes	Yes
Electoral expenditure accounts	Yes	No	—	Yes	Yes	Yes	Yes	No	Yes	No
Disclosure Portal	Yes	No	Yes	No	No	Yes	Yes	No	No	No
increased monitoring and investigatory powers	Yes									
Infringement notices and civil penalty provisions	Max \$63,000	Max \$42,000	Max \$8,000; [48,000]	Max \$44,000	Max \$46,500 - \$232,500	Max \$200,000	Max \$25,000	Max \$32,600	Max \$49,566	Max \$15,000
Misleading returns - circumventing scheme		2 years	6 Months	10 years	10 years	10 years		2 years	2-10 years	2 years

Submission from Accountability Round Table (2020).

Provision	Bill proposals <sup>36</sup>	Common-wealth <sup>37</sup>	ACT <sup>38</sup> [ACT Bill <sup>39</sup> ]	NSW <sup>40</sup>	NT <sup>41</sup>	Qld <sup>42</sup> Qld Act <sup>43 44</sup>	SA <sup>45</sup>	Tas <sup>46</sup>	Vic <sup>47</sup>	WA <sup>48</sup>
Electoral expenditure caps	–	No	Candidate	Candidate \$132,600 to \$198,700	Candidate \$40,000	Candidate \$58,000 to \$87,000	Candidate \$100,000	Candidate \$17,500	No	No
Donations cap	–	No	No	Yes \$6,400	No	Yes \$4,000 - \$6,000	No	No	Yes \$4000	No
Prohibited Donors	–	–	[Property developer]	Property developer tobacco liquor gambling  Foreign	–	Property developers	–	–	Foreign	–

Submission from Accountability Round Table (2020).

The current NSW election limits include:<sup>49</sup>

Category	Cap
Party with more than 10 endorsed Legislative Assembly candidates at a general election	\$132,600 multiplied by the number of electoral districts in which a candidate is endorsed by the party
Endorsed Legislative Assembly candidate at a general election	\$132,600
Independent Legislative Assembly candidate at a general election	\$198,700

The ACT scheme provides an election funding, expenditure and financial disclosure scheme, as defined in the *Electoral Act 1992 (ACT)*, which consists of four components:

- public funding of election campaign expenditure;
- limits on the amount of electoral expenditure that may be incurred;
- limits on the value of anonymous gifts that may be received; and
- disclosure of the financial transactions of registered political party groupings, MLAs, associated entities, candidates, third party campaigners, and broadcasters and publishers.

The ACT Electoral Commission advises that:

The expenditure cap for a party grouping for the 2020 election is \$42,750 per candidate, multiplied by the number of party candidates contesting the election, to a maximum of 25 candidates (5 candidates for each of the 5 electorates). For a party standing the full five candidates in all five electorates, the maximum expenditure cap for the party grouping is \$1,068,750 (\$42,750 x 25 candidates).

The same limit applies to non-party (i.e. independent) candidates.<sup>50</sup>

The Queensland Attorney General made clear the link between political finance and the public trust in the system of government in her second reading speech for the recent Queensland *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill*. She said:

The 2019 Edelman Global Trust Index, which assesses the trust communities have in NGOs, business, government and the media, places Australians' trust in their institutions below the global average. In a score out of 100, Australia sits at a 48 per cent trust score. All of us in this parliament are not only politicians but custodians of a precious democracy. We cannot take it for granted. Instead, we need to progress reforms that strengthen our democracy and nurture our ability to participate in it. Our electoral reforms will create a more level playing field, stop the electoral arms race and ensure that everyone has the ability to have their say.<sup>51</sup>

<sup>49</sup> NSW Electoral Commission (2020) *What are the expenditure caps for State elections?* Available from <https://www.elections.nsw.gov.au/Funding-and-disclosure/Electoral-expenditure/Caps-on-electoral-expenditure/What-are-the-expenditure-caps-for-State-elections>.

<sup>50</sup> Elections ACT (2020) Electoral expenditure and disclosure FAQ. Available from [https://www.elections.act.gov.au/funding\\_and\\_disclosure/funding\\_expenditure\\_and\\_disclosure\\_faq/electoral\\_expenditure\\_and\\_disclosure\\_faq](https://www.elections.act.gov.au/funding_and_disclosure/funding_expenditure_and_disclosure_faq/electoral_expenditure_and_disclosure_faq)

<sup>51</sup> D'Ath (2019) Second Reading, *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019 (Qld)* Hansard, 28 November.



Submission from Accountability Round Table (2020).

The recent Queensland Act provides for allowable expenditure substantially lower than permitted in NSW:

Endorsed candidates will be allowed to spend up to \$58,000 at election time and independent candidates up to \$87,000. Political parties will only be able to spend up to \$92,000 per endorsed candidate for every electorate contested. No more than \$92,000 can be spent in any electorate, to ensure a party does not spend its entire cap in three or four seats.<sup>52</sup>

The Bill's objectives as described by its sponsor are only indirectly touched on by its provisions.

It must be noted that federal election campaigns cost Australians exceptionally high amounts. With 15.468 million eligible voters and \$450m estimated to have been spent on election campaigns in Australia, around **\$29** was estimated to have been spent on communicating to each voter on average; very much more in marginal seats.

A breakdown of funding received by political parties in recent years is shown below.

AEC data	Labor	Liberal/National	Australian Greens	All parties
2016 public funding	\$23.2m	\$27.5m	\$6.7m	\$62.7m
Party receipts 2015-6	\$60.9m	\$95.8m	\$16.6m	\$188.8m
expenditure 2015-6	\$49m	\$78m	\$14.5m	\$156.1m
Party receipts 2016-7	\$70.7m	\$108m	\$16.2m	\$207.4m
Party receipts 2017-8	\$60m	\$71m	\$12.8m	\$154m

Canada, NZ and the UK have caps on election spending, and this results in expenditure for each eligible voter of:

- **\$5** in the 2015 Canadian election
- **\$2.83** in the 2014 NZ election
- **85 pence** in the 2015 UK election<sup>53</sup>

There is no suggestion that UK, Canadian, NZ or Australian jurisdictions with caps on campaign expenditure are less democratic as a consequence. Indeed, the relatively low NZ limit greatly levels the electoral playing field, lessening the undemocratic advantage enjoyed by major parties due to their capacity to mobilise levels of resources far higher than that required for effective communication.

There is a significant distortion of the political power of the individual voter when his or her vote is devalued by the disproportionate influence wielded, or perceived to be wielded, by major donors to political parties and candidates. This is a substantial erosion of the democratic human rights of Australian voters "... to the free expression of the will of the electors".<sup>54</sup>

<sup>52</sup> Bavas, J (2019) *Queensland electoral reforms will see public funding to candidates almost double after elections*. Available from <https://www.abc.net.au/news/2019-10-29/electoral-reforms-queensland-donations-and-public-funding/11649220>

<sup>53</sup> Select Committee into the Political Influence of Donations (2018) "Chapter 6 Safeguarding integrity" In *Political Influence of Donations*. Available from [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Political\\_Influence\\_of\\_Donations/PoliticalDonations/Report\\_1/section?id=committees%2freportsen%2f024147%2f25938](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Political_Influence_of_Donations/PoliticalDonations/Report_1/section?id=committees%2freportsen%2f024147%2f25938)

<sup>54</sup> Australia ratified the International Covenant on Civil and Political Rights in 1980. Article 25 (b) provides that every citizen has the right: "To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors".

Submission from Accountability Round Table (2020).

### Releasing the pressure to raise money

To effectively meet the objectives of the Bill, it should be amended to cap spending, as was recommended in the earlier Senate Select Committee Report. It recommended:

... that the Australian Government amend the Commonwealth Electoral

Act 1918 to introduce caps on campaign expenditure by political parties, candidates and associated entities.<sup>55</sup>

The precise level of caps should be the subject of a separate inquiry. However, the level could be guided by: the levels of per voter spending by each candidate, political party, political campaigner, associated entity and third party at the -

- 2019 Federal elections
- 2019 NSW State elections
- 2019 UK elections
- 2019 Canadian elections
- 2020 NZ elections

### NSW as a model

A scheme such as the NSW scheme could be applied to elections to the Commonwealth Parliament, subject to only minor technical adjustments such as definition of the election period – necessary because the House and Senate do not have fixed election dates as do state and territory parliaments.

The NSW scheme offers a number of advantages.

Firstly, it has been developed and applied in a jurisdiction that is large and diverse in population and geographic area and accordingly includes voters representative of almost every House of Representatives electorate (NSW Legislative Assembly average enrolment 56,685; House of Representatives approximately 110,000 [NSW electorates]).

Secondly, it has been in operation over an extended period, confirming that the model is stable. Legislative amendments have left the essential features intact not-with-standing consolidation, re-structuring and clarification.

Thirdly, the model is familiar to almost one third of MHRs (47 of 151 represent NSW seats) and bi-partisan support is on public record.

The Bill must be amended if it is to meet the objectives spelled out in Senator Lambie's speech. It must include provisions that remove the features of the current regulatory regime that generate the incentives and indeed pressures on candidates and parties to raise money.

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<sup>55</sup> Select Committee into the Political Influence of Donations (2018) "Chapter 6 Safeguarding integrity" In *Political Influence of Donations*. Paragraph 6.75. Available from [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Political\\_Influence\\_of\\_Donations/PoliticalDonations/Report\\_1/section?id=committees%2freportsen%2f024147%2f25938](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Political_Influence_of_Donations/PoliticalDonations/Report_1/section?id=committees%2freportsen%2f024147%2f25938)

Submission from Accountability Round Table (2020).

## 4. Recommendations

### Recommendation 1

Provision be made to expand the definition of a gift to include an amount paid by a person or entity as a

- donation, or
- contribution, or
- loan, or
- loan guarantee, or
- entry fee, or
- goods or services (other than volunteer labour) provided in-kind i.e. for no consideration or for inadequate consideration, or
- other payment

to entitle that or any other person or entity to participate in or otherwise obtain any benefit from a fundraising venture or function; and

an annual or other subscription paid to a registered political party or associated entity (including affiliation fees).

### Recommendation 2

Provision be made to amend the definition of disclosure threshold to substitute “\$1000” and as otherwise provided for in respect of NSW State elections.

### Recommendation 3

Provision be made to add further definitions to subsection 287(1), including defining a reporting entity as: a political entity; an associated entity; a political campaigner; or a third party. It also defines the reporting period as a period of 6 months beginning on 1 January or 1 July in each year, sets out references to other definitions.

### Recommendation 4

Provision be made for new sections 305B and 305C, which define a ‘trigger gift’ and ‘post-trigger gift’ for the purposes of this Act. A trigger gift is a gift made by a person or entity when the sum of all gifts made by that person or entity to the same recipient is greater than or equal to the disclosure threshold for the relevant reporting period.

### Recommendation 5

Provision be made requiring donors and recipients to disclose the sum of gifts made by the donor to the entity within seven (7) days after a trigger gift is made. The disclosure return must include details about the source and recipient of the gift(s).

### Recommendation 6

Provision to be made to exempt third parties registered as charities from real-time disclosure provisions and bi-annual reporting. Third parties registered as charities should still be

Submission from Accountability Round Table (2020).

required to submit Annual Returns of political donations received and electoral expenditure. This would limit the regulatory burden on small organisations, that may otherwise withdraw from commenting on or activity in the political sphere.

**Recommendation 7**

Provision be made for establishment of an AEC Disclosure Portal which would have an electoral expenditure purpose, and a disclosure purpose that would provide the sole mechanism for entities to transfer receipts to their electoral expenditure account, care of the AEC, the disclosure purpose to require disclosure of the source and nature of the receipt before the receipt is transferred.

**Recommendation 8**

Provision be made for caps on campaign expenditure by each candidate, political party, political campaigner, associated entity and third party, based on NSW provisions for State elections (by default) or as otherwise determined by Parliament.

**Recommendation 9**

Provision be made for caps on campaign donations received by each candidate, political party, political campaigner, associated entity and third party, and for caps on donations by any person or entity for campaign purposes, based on NSW provisions for State elections (by default) or as otherwise determined by Parliament.

**Recommendation 10**

Provision be made to ban donations from foreign donors and foreign agents of influence .

**Recommendation 11**

Provision be made for penalties for breaches of this legislation that are an effective deterrent, including the option of two years imprisonment for the agent or financial controller of the reporting entity and/or a financial penalty commensurate with the candidate's and/or party's costs of the campaign concerned e.g. forfeiture of receipts above the cap plus a financial penalty of an amount equal to the breach of the cap.

**Recommendation 12**

Provision be made in the proposed Commonwealth Integrity Commission (CIC) legislation for the CIC to have adequate, complementary powers and resources to investigate alleged breaches of the Commonwealth Electoral Act, including own motion powers.

**Recommendation 13.**

That following enactment of the above recommendations and their operation for one term of the House of Representatives, an inquiry be conducted by JSCEM to review the operations of the provisions including of the types of expenditure falling within caps (i.e. expenditure limits); the amounts of the expenditure caps and donation caps, and the expenditure period.

Submission from Accountability Round Table (2020).

## 5. Conclusion

The Bill provides for reforms that are necessary but not sufficient to curb distortions of the freely expressed will of voters in Federal elections. The Accountability Round Table welcomes Senator Lambie's initiative in promoting the cause of greater accountability and integrity in Australia's electoral system.

The Bill's title indicates that it addresses ***Donation Reform and Other Measures***, suggesting that it deals with more than election campaign donations. Those other factors include lobbying, misleading advertising and social media, inadequate auditing, ineffective anti-corruption regimes and disproportionate campaign resources.

The submission supports many of the Bill's provisions with some amendments. It demonstrates through examination of other electoral systems both within Australia and globally, that the Bill's reform measures do not match the comprehensive reform agenda achieved in the many jurisdictions cited. While the title of the Bill includes the words 'Donation Reform', the measures designed to achieve that objective, though needed and overdue, make only incremental advances towards the cause of the necessary democratic reforms.

The Bill nevertheless provides a platform for further necessary reforms including caps on campaign expenditure and campaign donations. Significant reforms in this direction have been achieved in NSW and Queensland Acts and proposed in the pending ACT Bill.

The Accountability Round Table argues that a comprehensive, transparent, and accountable campaign donations and expenditure regime is the best way to protect the Commonwealth electoral system and our democracy.

The Bill must be amended to remove the pressure to raise funds which is at the heart of the corrupting potential of donations to candidates and parties.

Accordingly, ART recommends that the amendments proposed above be made to Bill and that so amended, the Bill be passed.

Lyn Allison

Ann Birrell

Wendy Bradly

Ken Coghill

Charles Sampford

Peter Wilkins

Submission from Accountability Round Table (2020).

## Appendix. Political party statements on integrity of Australian democracy.

### 1. Liberal Party of Australia

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#### Constitution

The objectives of the Party are to have an Australian nation:-

(a) dedicated to political liberty and the freedom and dignity of man;

...; ...;

(d) in which an intelligent, free and liberal Australian democracy is maintained by:-

i) a Parliament controlling the Executive and the Law controlling all; ...

(Details at

<https://cdn.liberal.org.au/pdf/2019%20Liberal%20Party%20of%20Australia%20Federal%20Constitution.pdf>)

#### Federal Platform

We believe ...

- In parliamentary democracy as the best system for the expression and fulfilment of the aspirations of a free people. ...
- In the rule of law and justice, giving all citizens equal rights under the law, responsibilities to maintain it, and the freedom to change it (Details at <https://cdn.liberal.org.au/pdf/FederalPlatform.pdf>).

### 2. Australian Labor Party

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Extract from *A Fair Go For Australia* Labor's 48th ALP National Platform

#### Reforming electoral law

70. Labor supports the fair, open and transparent operation of our electoral system and to the essential democratic principle that every person should have the right to full participation in it.

71. ...

72. Labor will improve the integrity of the electoral system and, most urgently, restore transparency, openness and accountability to the funding and disclosure regime creating greater transparency and restoring faith in the democratic system.

73. Labor will implement best practice electoral and political regulation reforms, ...

(Details at [https://www.alp.org.au/media/1539/2018\\_alp\\_national\\_platform\\_constitution.pdf](https://www.alp.org.au/media/1539/2018_alp_national_platform_constitution.pdf) )

### 3. Nationals

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#### Constitution

OBJECTS ...to promote within Australia —...

(iii) the maintenance of democracy, liberty, incentive, individual enterprise and the pursuit of excellence ...

(vi) the maintenance of a democratic system of Government

Submission from Accountability Round Table (2020).

(Details at <https://nationals.org.au/wp-content/uploads/2020/05/Constitution-06.05.2020.pdf>)

(Policies at <https://nationals.org.au/policies/protecting-our-local-way-of-life-for-future-generations/>)

## 4. Greens

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### **Greens Charter – Democracy**

To increase opportunities for public participation in political, social and economic decision making. ... To break down inequalities of wealth and power which inhibit participatory democracy (Details at (<https://greens.org.au/about/charter>)).

#### **Policies - Plan to clean up politics**

... ban political donations from the mining, property development, tobacco, alcohol, and gambling ... cap all other donations ... every donation over \$1000 is disclosed publicly, in close to real time ..." (Details at <https://greens.org.au/platform/democracy#clean-up>)

## 5. Centre Alliance

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### **Government Accountability & Transparency**

*Politicians must be open and up front with the Australian people. Government's primary role is to protect their citizens, provide public infrastructure and services and to drive both national economic growth and personal growth. ...* (Details at <https://centrealliance.org.au/policies/> .)