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Senate Select Committee into the Political Influence of Donations
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senate Select Committee,

Please see below a written submission from the International Institute for Democracy and Electoral Assistance on the political influence of donations.

Introduction

International IDEA is an intergovernmental organization that supports sustainable democracy around the world. Comprised of, and governed by, its thirty member states, including Australia, the Institute's mission is to support sustainable democratic change through providing comparative knowledge, assisting in democratic reform, and influencing policies and politics.

International IDEA has been working on the issue of money in politics for over fifteen years. Our activities in this area include stimulating national debates on legal reforms, building institutional capacity and producing global comparative knowledge. We carry out this work at our headquarters in Stockholm and through our regional and country offices around the world.

We take a holistic view of money in politics and our work is accordingly not restricted to a particular geographic region or sub-topic. Our aim is to improve understanding of the ways in which money and politics interact by sharing knowledge, experiences and good practice from around the world. International IDEA works in a non-prescriptive manner and therefore does not take any particular policy stances regarding Australia. Our role in this instance is rather to present regulatory options and comparative examples from other countries for addressing challenges related to the political influence of donations.

Approaches for reducing the political influence of donations

The goal of reducing the undue political influence of donors can be approached from several different angles, the most relevant of which for Australia are perhaps: limiting the amount that an

individual donor can contribute; banning donations from certain sources; publicly disclosing details of donations in a timely manner; balancing the influence of private donations with public funding; and reducing the influence of large donations by encouraging small contributions. It is common practice to combine some, or even all, of these elements in a regulatory framework, in an effort to minimise the undue influence of donations on the political process. Each one is considered in turn below.

Limiting the amount that an individual donor can contribute

At present in Australia, there are no limits on the amount a donor can contribute to a political party or candidate. This increases the risk of undue influence from large donors and is why International IDEA advocates for donation limits around the world.¹ This is also in line with the Council of Europe's recommendations to member states on *Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns*.² In terms of current practice, 35 per cent of countries worldwide limit donations to political parties and in Europe 57 per cent of parties do so.³

It is important that any limit is defined as encompassing the total amount of contributions made by the donor within a specified time period (normally 12 months). The amount of any limit is of course the crucial element here. The aim is to remove from the equation contributions from individuals (natural or legal) that because of their size risk *quid pro quo* arrangements or other undue forms of influence. The amount that is considered potentially corrupting will vary from country to country. In Canada, for example, no individual is permitted to make contributions that exceed CAD 1,500 (AUD 1,500) in total in any calendar year to a particular registered party, while in France a natural person is allowed to donate a total of EUR 7,500 (AUD 11,200) per year to political parties. The annual limits in Ireland are EUR 2,500 (AUD 2,700) per party and EUR 1,000 (AUD 2,200) per parliamentary candidate. Other countries set the limit considerably higher, such as Finland and Croatia at EUR 30,000 (AUD 45,000), or Spain at EUR 50,000 (AUD 75,000). Another important consideration is whether the contribution limits should vary according to the type of donor, for example natural and legal.

The USA has different limits based not on the donor, but on to whom they are donating, e.g. a Political Action Committee, a party's Executive Committee, or a candidate.

Banning donations from certain sources

To protect the integrity of political decision-making, countries often ban donations from certain sources. In this respect, the most widespread ban is on donations from foreign interests. International IDEA's Political Finance Database shows that almost two thirds (63%) of countries have a ban on donations from foreign interests to political parties, while half (49%) have a ban on foreign

¹ International IDEA Money in Politics Policy Brief, January 2015, <http://www.idea.int/publications/catalogue/money-politics>

² Council of Europe, Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns, articles 3 & 9 (Adopted by the Committee of Ministers on 8 April 2003), [http://www.coe.int/t/dg1/legalcooperation/economiccrime/cybercrime/cy%20activity%20interface2006/rec%202003%20\(4\)%20pol%20parties%20EN.pdf](http://www.coe.int/t/dg1/legalcooperation/economiccrime/cybercrime/cy%20activity%20interface2006/rec%202003%20(4)%20pol%20parties%20EN.pdf)

³ International IDEA Political Finance Database, <http://www.idea.int/data-tools/question-view/542>

donations to candidates.⁴ For a more in-depth analysis of the issue of foreign donations, please see International IDEA's submission to Joint Standing Committee on Electoral Matters in February 2017.⁵

Another option is to ban donations from legal persons and only allow natural persons to make contributions. The legitimacy of corporate donations to political parties and candidates has been the source of considerable debate in many countries in recent years. One school of thought is that as corporations do not have a right to vote, neither should they have a right to contribute financially. In an effort to reduce the risk of undue influence from big business, one quarter of countries have a ban on corporate donations to political parties and approximately one fifth have a ban to candidates.⁶ As part of the broader fight against corruption, both Brazil and Chile introduced such bans in 2016, while Canada and France, to name but two others, have had bans in place for several years.

Many countries that ban corporate donations combine this with a ban on contributions from trade unions, the rationale being that to not do so would be seen to unfairly benefit parties with a tradition of collecting union-affiliated donations. Whether such bans would be appropriate for Australia depends on its particular historical and political context.

In the absence of a blanket ban on corporate donations, it is common practice to have bans on donations from corporations with partial government ownership, or from companies with government contracts. The rationale is to protect against the indirect abuse of state resources and to reduce the risk for quid-pro-quo donations. Worldwide, almost half of countries have such regulations in place and in Europe this rises to three-quarters.⁷

Public disclosure

Publicly disclosing the details of donations in a timely fashion is an effective way to expose and deter future attempts to unduly influence politics. In the absence of any limit on the amount that donors can contribute, public disclosure and the greater accountability that it provides becomes even more important. There are three main elements to consider here: which donations to disclose; what details should be published; and the timing of disclosure.

It is common practice, especially among developed democracies, that only large donations perceived as having a potentially corrupting influence must be publicly disclosed by the political finance oversight agency. Countries set this threshold at different levels depending on their context. The current threshold in Australia of AUD 12,400, however, is arguably too high and does not sufficiently protect against the risk of undue influence. By comparison, Canada and the United States set the thresholds much lower at CAD 20 (AUD 20) and USD 50 (AUD 65) respectively, while the UK has opted for the amount of GBP 500 (AUD 850) and Sweden SEK 22,250 (AUD 3,500)⁸. The local context will dictate where the right balance lies, but the goal should always be to maximise transparency and minimize the risk of undue influence on politics.

⁴ International IDEA Political Finance Database, <http://www.idea.int/data-tools/data/political-finance-database> 'Foreign interests' are defined as those entities who 'contribute directly or indirectly [and who] are governments, corporations, organizations or individuals who are not citizens; that do not reside in the country or have a large share of foreign ownership.'

⁵ International IDEA submission to JSCEM, February 2017, http://www.aph.gov.au/sitecore/content/Home/Parliamentary_Business/Committees/Joint/Electoral_Matters/2016Election/Submissions

⁶ International IDEA Political Finance Database, <http://www.idea.int/data-tools/data/political-finance-database>

⁷ International IDEA Political Finance Database, <http://www.idea.int/data-tools/question-view/534>

⁸ International IDEA Political Finance Database, <https://www.idea.int/data-tools/question-view/538>

Sufficient details should be provided, without unnecessarily compromising the privacy of the individual donor. At a bare minimum, the name of the donor, the amount and type of the donation and the date received should be published, all of which is the case in Australia. Importantly, current regulation in Australia also requires third parties to report on their donations and expenditures, an aspect that many countries' regulations overlook.

To maximise transparency and accountability, and incentivise adherence of the rules, political finance data should be publicly disclosed in as timely a manner as possible. The current rules in Australia whereby political parties submit annual reports, which are then published roughly seven months after the end of the financial year does not allow for timely disclosure. The lengthy period of time between when transactions take place and their disclosure to the public (seven and a half months after elections for candidates and third parties and seven to eighteen months for political parties and their endorsed candidates) stands out all the more considering that Australia already has the technology in place through its eReturns online reporting platform to enable real-time disclosure. Other countries with similar online reporting systems in place typically either publish data in real-time or shortly after reports have been submitted. In the United States and Estonia, for example, electronically filed reports are published almost instantaneously, while in the UK data is published on the Electoral Commission's website according to a regulatory timeline, which is typically around one month after reports are filed.

Balancing the influence of private donations with public funding

The provision of public funding to political parties and/or candidates can dilute and reduce the relative importance of private donations providing that it is combined with other regulatory measures, particularly an overall campaign spending limit. In the absence of spending limits, International IDEA has observed that the provision of public funding does not normally reduce the amount of money raised and spent by parties and candidates on election campaigns. In order to offset the influence of private donations, the amount provided from the public purse must also be sufficiently large to have an impact.

Encouraging small donations

The proportion of large and small donations received also affects how much influence wealthy donors have. The greater the proportion of donations received in small amounts, the more the influence of large donors is diluted. This is the logic behind the German matching scheme, whereby in addition to public funds based on the proportion of votes received, the state partially matches private donations by providing political parties with EUR 0.38 for each Euro donated privately, but only for donations up to EUR 3,300.⁹ New York City's matching funds programme is also designed to reduce the influence of special interests and increase that of average citizens. Candidates who volunteer for the programme receive six dollars from the City for every one dollar donated, for contributions up to USD 175 from individuals who live in New York City.¹⁰

Also in the United States, the City of Seattle has pioneered the innovative 'Democracy Voucher Program,' whereby each resident of Seattle receives USD 100 in democracy vouchers to spend on the candidate(s) of their choice in city elections.¹¹ The scheme was part of an initiative to make elections

⁹ U.S Library of Congress, Campaign Finance: Germany, <https://www.loc.gov/law/help/campaign-finance/germany.php>

¹⁰ New York City Campaign Finance Board, Matching Funds Program, <https://www.nycffb.info/program>

¹¹ City of Seattle, Democracy Voucher Program, <http://www.seattle.gov/democracvoucher>

in Seattle more honest and aims to encourage residents to donate to campaigns and run as candidates themselves.

I hope that these comments from an international comparative perspective are useful for the Committee its inquiry.

Yours faithfully,

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