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SUBMISSION TO THE JOINT STANDING  
COMMITTEE ON ELECTORAL MATTERS  
INQUIRY INTO THE 2016 FEDERAL ELECTION

## SUMMARY

The Joint Standing Committee into Electoral Matters, Inquiry into the 2016 federal election is to be welcomed.

Thank you for allowing us to make submissions.

I have proposed the following:

1. Authorisation of political communications by political parties should not be required, however fines etc. should be sort afterwards if the communications are found by an independent body to be biased, unfair or untruthful.
2. Truth in reporting laws need to be enacted to prevent media companies from using “reporting” to give one sided untruthful political communications disguised as news.
3. Media companies should have to submit as a monetary value of commentary given in support of any particular party as a political donation.
4. Associated entities should be made illegal.
5. A donations cap equal to that of the tax deductibility of donations should be applied to all corporations, unions and individuals, currently \$3000 per year.
6. Donations over \$1000 should be disclosed
7. Real time disclosure should occur, meaning that no donation over the disclosure amount should remain undisclosed for more than 7 days.
8. Only political parties should be entitled to tax deductions in relation to campaign events.

## DETAILED COMMENTS

### TERM OF REFERENCE 1A.

The application of provisions requiring authorisation of electoral material to all forms of communication to voters;

Freedom of political communication is an implied right under the Australian Federal Constitution. Subsequently there should be no requirement for electoral material to be authorised. However having said this, it is and should be a legal requirement that all advertising material and media reporting be fair, unbiased and factual. Especially in the case of political parties.

Australian trust in politicians and political parties are now in decades low figures. While political communications should not require authorisation they should have penalties in the case of registered political parties, given by an independent tribunal, which are substantial in nature. Should those communications be biased, untruthful or misleading.

### TERM OF REFERENCE 1B.

The potential applicability of ‘truth in advertising’ provisions to communication to voters including third-party carriage services;

While truth in advertising should be adhered to in reference to communication to voters, this brings up the matter of “What is the truth”.

In the case of the so called “Mediscare” campaign, was this false and misleading to voters? The answer to this is of course lies in the use of the word privatised. Some people were using this to mean, the sale of Medicare or parts thereof to private industry, while others were using it to mean an increase in the amount of cost to the consumer, away from federal government funding. So as to become more like the United States of America model, where citizens have to rely on private health cover.

Personally I do not feel that the Medicare campaign fell into the area of truth in advertising, as it is not a subject that is easily labelled as misleading a voter.

However having said that, the area of greater concern is not the advertising material that is used but the bias reporting that occurs and has occurred for the last 40 years by some newspapers, radio and television stations.

While the commercial channels, papers are private industries, they do not have to state the party for whom they are supporting with their articles, nor does this free publicity and favourable leaning have to be calculated into a dollar value and submitted to the AEC as a political donation amount.

Given that in the lead up to the past two federal elections, major parties have been given significant backing by these media outlets, the need for truth in reporting laws has become a very high priority for the protection of our democracy.

In matters of our political system, in a country where the political education available to people within our public schools is of such a low level, the media cannot be allowed to use its medium to distort our democracy.

Subsequently I would like to see laws enacted within Australia that enforce with harsh penalty, that enforce the code of practice as set down by the International Council for press and broad casting, media ethics code. The code is as follows:

1. Write the facts as you see them
2. A story without a source is a source of trouble
3. A source is not a source when the story is based on rumour
4. When in doubt, cut it out
5. Prejudge no one at all costs
6. Be objective
7. Divorce comment from news and label it as such
8. Commentators are not exempt from the duty to be accurate
9. Never incite racial or religious division
10. Enlighten, lest we fail to understand one another

Such a law would be similar to the one in Canada which prohibits the broadcasting of false or misleading news. This new law needs to go further so as to ensure no interference within the Australian democracy by media outlets and force them to be objective and accurate.

This section also touches on the term of reference 1c. “The options available to Parliament to ensure consistent application of disclosure rules to and the regulation of all entities undertaking campaign activities.”

As these media outlets are undertaking campaign activities by showing biased news articles favouring one party over another, without disclosing the value of this biased reporting to the AEC.

While these laws could be seen to hamper political communication, they do not. They protect political communication by forcing media outlets to state when they are making a comment and not allowing them to pass comments off as reporting.

The form of these laws could be set up in a manner similar to the Racial Discrimination Act, section 18C and 18D

## **RACIAL DISCRIMINATION ACT 1975 - SECT 18C**

### **Offensive behaviour because of race, colour or national or ethnic origin**

(1) It is unlawful for a person to do an act, otherwise than in private, if:

(a) the act is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people; and

(b) the act is done because of the race, colour or national or ethnic origin of the other person or of some or all of the people in the group.

**Note:** Subsection (1) makes certain acts unlawful. Section 46P of the *Australian Human Rights Commission Act 1986* allows people to make complaints to the Australian Human Rights Commission about unlawful acts. However, an unlawful act is not necessarily a criminal offence. Section 26 says that this Act does not make it an offence to do an act that is unlawful because of this Part, unless Part IV expressly says that the act is an offence.

(2) For the purposes of subsection (1), an act is taken not to be done in private if it:

(a) causes words, sounds, images or writing to be communicated to the public; or

(b) is done in a public place; or

(c) is done in the sight or hearing of people who are in a public place.

(3) In this section:

**"public place "** includes any place to which the public have access as of right or by invitation, whether express or implied and whether or not a charge is made for admission to the place.

## **RACIAL DISCRIMINATION ACT 1975 - SECT 18D**

### **Exemptions**

Section 18C does not render unlawful anything said or done reasonably and in good faith:

(a) in the performance, exhibition or distribution of an artistic work; or

(b) in the course of any statement, publication, discussion or debate made or held for any genuine academic, artistic or scientific purpose or any other genuine purpose in the public interest; or

(c) in making or publishing:

(i) a fair and accurate report of any event or matter of public interest; or

(ii) a fair comment on any event or matter of public interest if the comment is an expression of a genuine belief held by the person making the comment.

As can easily be seen the Racial Discrimination Act does not impinge on freedom of political communication or even free speech due to the clause of 18D as anything said or done reasonably and in good faith, is protected. Subsequently I propose a similar clause to protect people who report a fair and accurate report of any event or matter of public interest.

After all look at the record of the Racial Discrimination Act, this has done wonders for this country limiting false comments made on the base of race with the courts having ruled in one case that "The reasons for that conclusion have to do with the manner in which the articles were written, including that they contained erroneous facts, distortions of the truth and inflammatory and provocative language."

If this was actually extended to reporting, people could start to have faith in what they were seeing and reading was not just more erroneous facts, distortions of the truth.

The founders of our constitution did not envisage such powerful media giants as exist today; however are laws today must keep up with what is happening today.

## TERM OF REFERENCE 1C.

The options available to Parliament to ensure consistent application of disclosure rules to and the regulation of all entities undertaking campaign activities.

As stated above media outlets currently fall within this term of reference, see above for comments

In reference to this term of reference I would also like to make comment in relation to "Associated Entities", these companies are currently being used in a manner so as to hide the original benefactor of funds being provided to political parties.

These associated entities should be made illegal in the interests of our democracy. This is another way in which our democracy is being distorted and hidden from the public. At the moment if you attend a fund raiser for \$50,000 for some cold chicken for example, your donation of this money is not disclosed to the public directly but is only shown as an amount from the associated entity, making it impossible for the public to determine the actual amounts being donated.

## TERM OF REFERENCE 2.

The extent of donations and contributions from foreign sources, persons, entities and foreign-owned subsidiaries to political parties, associated entities and other third parties and entities undertaking campaign activities, and the options available to Parliament to regulate these.

Political donations by their very nature cause a disruption to our democracy and create a conflict of interest. Now if that conflict of interest is caused by the people of the electorate themselves and subsequently create a conflict of interest where a political party or an elected individual are pursuing a course of action supported by those that elected them into office. That is very much as a democracy intends.

Our democracy is a representative democracy, to the point that sections 7 and 24 of the Australian constitution note that the federal parliament is 'directly chosen by the people'. However when political donations by foreign and Australian, corporations, foreign individuals or third parties make political donations they are by the very nature of those donations distorting our democracy and meaning that while the parliament may be chosen by the people it is not acting in the interests of those people.

In Canada there is a ban on corporate and union donations, imposed caps on individual donations and limits on candidate, party and third-party expenditure.

New Zealand limits expenditure by parties and third parties as does the United Kingdom as well as a complete ban on paid electronic advertising. Out of the 114 countries that ban political donations Australia is not one of them.

Due to recent high Court rulings bans on political donations would be difficult. Subsequently I would like to see a cap on all political donations up to the maximum limit of an individual's ability to claim a tax deduction on said amount, for all individuals, corporations, unions ect. This amount currently stands at \$3000. This will ensure that no company, union or individual donates so much as to cause the ability to distort our democracy. While at the same time transparency is important, so any donation over \$1000 should be declared to the AEC.

The numbers for an example, if everyone who voted for the main parties contributed \$10 a year (1/300<sup>th</sup> of the maximum) for 3 years to each party the following funding would be available to face a federal election (based on numbers from the last election) would be:

Liberal Coalition (Liberal Party, LNP, CLP)	\$97,750,500
National Party of Australia	\$18,736,650
Australian Labor Party	\$141,068,880
Australian Greens	\$41,569,500

This then comes to tax payer funding of political parties. Now political parties are meant to represent the people and the current rates paid by the Australian tax payer are more than enough given that any political party in Australia should have a grass roots base that would be able to come up with \$30 every 3 years from those that vote for them or approximately 15,000 people, companies or unions willing to pay \$9000 every 3 years.

My personal belief is that if a political party has lost its connection to its grass roots members and is unable to fund its own campaign, and then it is not representing the people it represents and deserves to perish.



### TERM OF REFERENCE 3.

The current donations, contributions, expenditure and disclosure regime, its application and timeliness and alternative approaches available to Parliament.

The current disclosure amount of \$12,800, leaves far too many donations undisclosed. The greater the transparency, the greater the confidence in our democracy that the Australian people will have.

With the current level so high and so many donations hidden in Associated Entities, it is hardly a surprise that the Australian politician has little trust in our political system or our politicians.

The level needs to be lowered to \$1000, on top of this, it is the 21<sup>st</sup> century. We live in a world of instant access to data and yet political donations are stuck on a time table more suited to sending the information by sail to England. The technology is available and subsequently we should have real time disclosure of donations. There is no reason at all for political donations to not be registered by political parties and subsequently disclosed by the AEC within 7 days of the funds being deposited within an account.

To speed the matter further, the AEC could be removed from this loop and a website created for this purpose and then posted to by the political parties could be set up with an even lower time limit, to allow even faster disclosure. Subsequently this could then be audited quarterly by the AEC to ensure full disclosure was occurring.

### TERM OF REFERENCE 4.

The extent to which fundraising and expenditure by third parties is conducted in concert with registered political parties and the applicability and utilisation of tax deductibility by entities involved in campaign activities.

Third parties conducting fundraising and expenditure in concert with political parties should not gain any tax advantages. As stated above Associated Entities should not be permitted as they allow the hiding of the true source of political donations.

The only entities that should be able to have tax deductions in relation to campaign activities are the political parties themselves.

## COMMUNITY ATTITUDES

The faith Australian citizens currently have in our political system is at a 20+ year low, with faith in political parties at a 40+ year low. With members of parliament wearing company logos within the parliament, it is little surprise that our democracy looks like it's for sale. With our current donations laws and lack of transparency it is of no surprise that most people think it is.

Thank you for your time in this matter, important to Australians and to our democracy.