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Synod of Victoria and Tasmania, Uniting Church in Australia Submission to the Inquiry into the Commonwealth Electoral Amendment (Real Time Disclosure of Political Donations) Bill 2019

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The Synod of Victoria and Tasmania, Uniting Church in Australia, welcomes the opportunity to provide a submission to the inquiry by the Joint Standing Committee on Electoral Matters into the *Commonwealth Electoral Amendment (Real Time Disclosure of Political Donations) Bill 2019*. The Synod welcomes greater transparency in the electoral system, but such measures must be balanced and should not impose regulatory burdens that are disproportionate to the benefits obtained by the greater transparency.

Political donations pose a severe threat to the proper functioning of democracy, as they risk granting some businesses, organisations and individuals greater access to politicians and influence over government policies based on the size of the payment.

The OECD has pointed out that:¹

The increasing concentration of economic resources in the hands of fewer people presents a significant threat to political and economic systems. If the financing of political parties and election campaigns is not adequately regulated, money may also be a means for powerful special interests to exercise undue influence, and "capture" the policy process.

Further, they point out the negative consequence for the wider community:²

Over the past three decades, income inequality has risen in most OECD countries, reaching in some cases, historical highs. The increasing concentration of economic resources in the hands of fewer people presents a significant increase in the risks of policy capture. When government policy making is captured by a handful of powerful special interests, the rules may be bent in favour of the rich. The consequences of a widespread

¹ OECD, 'Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture', OECD Public Governance Reviews, OECD Publishing, Paris, 2016, p. 15.

² OECD, 'Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture', OECD Public Governance Reviews, OECD Publishing, Paris, 2016, pp. 24-25.

feeling that governments are not working in the wider public interest are grave, leading to the erosion of democratic governance, the pulling apart of social cohesion, and the undermining of crucial concepts that underlie democracy such as equal opportunities for all....

The relationship between inequality and undue influence in politics through political financing is often overlooked. Socio-economic inequality is only the tip of an iceberg of inequalities of different dimensions, including differences in influence, power and voice. Consequently, governments are expected to proactively address high-risk areas at the intersection of the public and private sectors, including lobbying, conflict of interest in public decision making, and the influence of vested interests exercised through political financing. In-depth analysis of facts and comparative evidence on political finance and its associated risks to fairness to policy making is needed to understand the risks and opportunities in different institutional settings and to move away from an ideological discussion.

The OECD points out:³

Policy capture involves varieties of actors and means, but one of the most effective remedies to avert policy capture in policy making is to adequately regulate the funding of political parties and election campaigns.

The Synod supports real-time disclosure of donations to candidates and political parties. Real-time disclosure is essential so voters know as they are deciding between political parties and candidates whom those parties and candidates are taking money from as this may be relevant to their decision making on whom to vote.

The Synod notes that the Queensland law requires disclosure of gifts and loans to political parties and candidates within seven days.⁴ The ACT *Electoral Act 1992* also requires the disclosure of donations of \$1,000 or more within seven days during the election period.⁵

We also support real-time disclosure of donations and membership fees above a disclosure threshold to associated entities and political campaigners. An exception should apply where the donation has been raised for purposes that do not involve electoral expenditure or where the donor has prohibited the donation from being used for electoral expenditure.

Donations raised or given to a charity or not-for-profit entity for purposes that do not involve electoral expenditure should not be captured by this Bill. The Bill should be amended to reflect this. There should be penalties for an entity that uses a donation for electoral expenditure where the donation was not raised or given for that purpose, to the extent that such laws do not already exist.

The Bill should be amended to capture candidates and associated entities.

³ OECD, 'Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture', OECD Public Governance Reviews, OECD Publishing, Paris, 2016, p. 24.

⁴ Damon Muller, 'Election funding and disclosure in Australian states and territories: a quick guide', Parliamentary Library, 28 November 2018, 3.

⁵ Damon Muller, 'Election funding and disclosure in Australian states and territories: a quick guide', Parliamentary Library, 28 November 2018, 5.

The Bill should be amended to capture membership and subscription fees paid above the threshold in a year to political campaigners and associated entities. At the moment the Bill disproportionately targets political campaigners that rely on donations, while not requiring political campaigners who rely on membership or subscription fees to have to disclose who is funding them. Thus the Bill has a disproportionate impact on civil society organisations that are political campaigners, while largely exempting industry associations that rely on membership or subscription fees to conduct electoral expenditure. The NSW *Electoral Funding Act 2018* applies caps to party membership subscriptions and affiliation fees⁶, showing it is possible to regulate this source of funding for electoral expenditure.

We continue to support lowering the disclosure threshold to \$1,000 for donations to parties, candidates, associated entities and third parties where the associated entity or third party is using the specific donations for electoral expenditure (but exempting disclosure of donations to third parties that are for purposes other than electoral expenditure). Lowering the disclosure threshold to \$1,000 was made by the Committee in its inquiry into the conduct of the 2011 election.⁷ In NSW reportable political donations are set at \$1,000 for political parties and associated entities. The disclosure requirement also applies to third parties only where the donation is used to incur political expenditure during the capped expenditure period.⁸ Victorian, ACT and Queensland law also sets the political donation disclosure threshold at \$1,000.⁹ The Northern Territory *Electoral Act* requires that registered political parties and associated entities must disclose donations and loans of \$1,500 or more.¹⁰ In the Northern Territory, candidates are required to disclose donations of more than \$200 and loans of more than \$1,500.¹¹

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⁶ Damon Muller, 'Election funding and disclosure in Australian states and territories: a quick guide', Parliamentary Library, 28 November 2018, 2.

⁷ Joint Standing Committee on Electoral Matters, 'Report on the funding of political parties and election campaigns', November 2011, xxvii.

⁸ Damon Muller, 'Election funding and disclosure in Australian states and territories: a quick guide', Parliamentary Library, 28 November 2018, 2.

⁹ Damon Muller, 'Election funding and disclosure in Australian states and territories: a quick guide', Parliamentary Library, 28 November 2018, 3, 5.

¹⁰ Damon Muller, 'Election funding and disclosure in Australian states and territories: a quick guide', Parliamentary Library, 28 November 2018, 6.

¹¹ Damon Muller, 'Election funding and disclosure in Australian states and territories: a quick guide', Parliamentary Library, 28 November 2018, 6.