

SECOND SUBMISSION TO THE REFERENDUM INQUIRY CONDUCTED BY THE HOUSE
OF REPRESENTATIVES STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL
AFFAIRS

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BY: LACA

In accordance with the invitation of the Deputy Chair on 5 November, I am providing a second submission to the House of Representatives Standing Committee on Legal and Constitutional Affairs.

After appearing before the Committee, I checked my recollection regarding the Swiss system of providing information to voters in citizen initiated referenda. Part of my recollection was incorrect.

Voter information is not prepared by an independent commission but rather by the government, which must include the arguments from the committee responsible for the referendum together with the opinion of the government.

However, the government is forbidden from campaigning and it's duty is to provide information to voters. Its opinion is provided in a balanced way, as the government is comprised of the four major political parties.

The provision of official government information to Swiss voters in a balanced way seems more useful and desirable for voters than the way in which information has been presented to Australians in past "Yes/No" referendum pamphlets.

Further information regarding the Swiss system is enclosed below.

My thanks to the Melbourne Law School Library Research Service for their assistance in the preparation of this submission. I hope that my submission is of use to the committee.

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Further information regarding the Swiss system of informing voters.

In Switzerland, the 'referendum booklet' (also called the "Government' Explanations") is the documentation which outlines the main arguments for and against the referendum, which is often initiated by citizens.. It is sent out to registered voters together with the voting slips, and thus is 'the only source of information which is guaranteed to reach every voter before a referendum' (Kaufmann, Büchi and Braun p.74). "The federal law requires that all voters receive the documents required ...

three and at the earliest four weeks prior to the polling day” (Beramendi et al p.2800 29).

The referendum booklet is published by the Federal Chancellery, which is the executive branch of the national government. By law, it must include the arguments of the committee responsible for the initiative or referendum (Federal Law on Political Rights of 17 December 1976, art 11), together with the opinion of the Federal Council (Beramendi et al p.28 - 9; See also Kaufmann, Büchi and Braun pp.75).

However, whilst the government makes a recommendation as to whether the initiative or referendum should be accepted or rejected, it ‘is not actually allowed to campaign’, ‘it is its duty to give information to the voters.’ and ‘[t]he fact that the four major political parties are represented in the government ensures that the information presented to the voters is balanced’ (Beramendi et al p.31).

The government can only intervene in the committee’s arguments ‘if the text is defamatory or too long’; however, the committee have no corresponding right to object to the government’s arguments (Kaufmann, Büchi and Braun p.75).

Christin, Hug and Sciarini observe that ‘political parties ... intervene extensively in campaigns. Parties, as well as interest groups, adopt endorsements which are often reprinted in the press and also appear in some *cantons* in the information booklet that each voter receives at home.’ (at p.766)

List of Sources

1. Bruno Kaufmann, Rolf Büchi and Nadja Braun, *Guidebook to Direct Democracy: In Switzerland and Beyond* (2nd ed, 2007) pages 73-77
2. Beramendi et al, *Direct Democracy: The International IDEA Handbook* (2008) http://www.umki.hr/docs/IDEA_Direct_Democracy.pdf.
3. Thomas Christin, Simon Hug and Pascal Sciarini, ‘Interests and Information in Referendum Voting: An Analysis of Swiss Voters’ (2002) 41 *European Journal of Political Research* 759.
4. Marja Sutela, ‘Comparative Aspects of Local Direct Democracy - The Municipal Referendum in Finland, Sweden, Germany and Switzerland’ (2001) 7(4) *European Public Law* 651