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Joint Standing Committee on Electoral Matters  
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Re: Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2017

The Australian Environmental Grantmakers Network (AEGN) was established in 2009, in response to a need identified within philanthropy for a range of educational and networking functions to support environmental philanthropic giving. The AEGN plays an important role in encouraging more and more effective environmental philanthropy. We currently have 130 members, including large, well established foundations, Private and Public Ancillary Funds and individual donors.

Thank you for the opportunity to provide feedback on the amended bill. Given the short time available, we have not sought external legal advice and therefore our feedback is subject to the caveat that we may be unaware of the implications of certain provisions of the Bill.

Bearing that in mind, we congratulate the Government for listening and responding to the concerns of our organisation and the wider charitable sector in the recrafting of the original Bill. We note that the vast majority of Joint Standing Committee on Electoral Matters (JSCEM) recommendations have been adopted, resulting in a significantly improved Bill.

AEGN members protect and care for Australia's environment by funding the charitable sector in a range of ways. One of the key mechanisms used in this process is to fund organisations to participate in policy advocacy. Indeed, AEGN members see this as an important part of participating in democratic and public debates on areas of public interest.

On that basis, we are very pleased to see certain amendments made to the Electoral Bill.

We note that the amended bill has replaced the definition of 'political expenditure' with 'electoral expenditure', which is more narrowly defined and attempts to target activities which are electoral in nature. The narrower definition provides greater clarity for philanthropic funders, thereby enabling donors to support important advocacy activities undertaken by the charitable sector, with less concern that their funding could trigger electoral laws.

There is still a small risk that a philanthropic funder could unknowingly trigger disclosure obligations by providing an untied donation to a charity which is then expended on activities which are electoral in nature. We encourage the government and the Australian Electoral Commission to understand that the inclusion of third parties in electoral laws gives rise to this potential.

One question we have about the new definition is whether the development of election policy assessments by charities would be regarded as electoral expenditure, if the materials did not explicitly promote a particular candidate or party. It is quite common for environmental charities to develop these materials to assist their members and the public to understand the environmental policies of candidates in an election.

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A second area of concern for us regarding the original Bill was the conflation of international philanthropic donations to Australian charities with the donations of foreign business or government interests to Australian politicians and political parties. International philanthropic institutions often have a global objective of protecting the plants, animals and environmental support systems that enable a clean and healthy functioning planet. This objective often leads them to fund environmental organisations in Australia so we are pleased that the Bill continues to encourage International donors to fund Australian environmental issues.

We note that the amended bill prohibits third parties from financing electoral activities with foreign funding, but does not prevent a charity from using international philanthropy for all other issue-based policy advocacy activities. This is a significant improvement.

Given the short amount of time available for consideration of the Bill, we encourage the Committee to take note of the feedback which will be provided by the Hands Off Our Charities alliance, as we understand that they are analysing the bill to a greater level of detail and from a wider perspective than our feedback.

We are happy to discuss any issues that we may have raised. Once again, thank you for addressing many of the concerns held by the broad charitable sector as they relate to this Bill.

Yours sincerely,

Jill Reichstein  
Chair