



26 October 2020

Senate Finance and Public Administration Committees
Inquiry into the Commonwealth Electoral Amendment (Banning Dirty Donations) Bill 2020
via email: fpa.sen@aph.gov.au

We write on behalf of the Australian Council on Smoking and Health (ACOSH).

ACOSH is an independent, non-government, not for profit coalition established in 1971, and represents a further 35 prominent Australian organisations with a shared concern about smoking and its harmful consequences. ACOSH works through advocacy and collaboration on comprehensive strategies to achieve a tobacco-free Australia by 2030.

In Australia, tobacco use remains the leading cause of preventable death, responsible for 21,000 deaths annually¹, and remains the leading cause of premature death and years lived in ill health in this country.

A report published in October 2019 by the Australian Department of Health found the total costs of smoking in Australia to be \$137 billion annually.²

The most recent national survey³ shows the prevalence of adult daily smoking at 11% in 2019. The proportion of never smokers has increased over time, in adults and particularly among youth in Australia. 96.6% of youth aged 14-17 in 2019 had never smoked, with youth never-smoking prevalence increasing five-fold between 2001 and 2016.

Tobacco products, unlike any other consumer goods, kill when used exactly as intended by their manufacturers. The tobacco industry includes manufacturers, importers and distributors of tobacco products and processors of tobacco leaf – an entire group of businesses whose only goal is to make profits, directly or indirectly, from tobacco products – without regard to the health consequences or economic burden on society.⁴

The tobacco industry has a long history of undermining public health policy through donating to major political parties in Australia⁵, with companies targeting their gifts during critical policy debates or immediately before elections.

For example, former Liberal Democrat Senator David Leyonhjelm confirmed in an interview with Fairfax Media in 2014 that a donation from Phillip Morris had influenced his stance on plain packaging 'from being strongly opposed to totally opposed' to this legislation⁶.

A recent study found, that over 10 years to June 2015, Australian political parties accepted donations totalling \$1.9million from the tobacco industry, excluding donations below the then reportable threshold of \$12,800.⁷ The study identified that the function of the donations was to: buy immediate influence (e.g. when a relevant change was to be debated), build long term relationships, exploit a flawed political system, to favour exchange, and to limit the public's right to know about corporate influence on policy-makers.⁶

Australia is not the only country influenced by tobacco industry donations. The tobacco industry contributes millions of dollars each election cycle to congressional candidates in the US, and has influenced the obstruction of many tobacco control policies. Both Democrats and Republicans accept donations from tobacco industry, and for decades members of both parties have in turn voted pro-tobacco, against sensible healthy public policy.^{8,9}

The Australian Government must act consistently with its obligations under the World Health Organization's Framework Convention on Tobacco Control (WHO FCTC) to protect health policies from the interference of the tobacco industry by prohibiting contributions from Big Tobacco to political parties, candidates or campaigns.

According to the WHO FCTC Guidelines of the Article 5.3:

*'Parties should, in addition, raise awareness about the tobacco industry's practice of using individuals, front groups¹ and affiliated organisations to act, openly or covertly, on their behalf or to take action to further the interests of the tobacco industry', with a further recommendation that governments prohibit '...**contributions by the tobacco industry or any entity working to further its interests to the coffers of political parties, candidates or campaigns...**'.*¹⁰

A front group is an organisation that purports to represent one agenda while in reality it serves some other party or interest whose sponsorship is hidden or rarely mentioned.⁹ The tobacco industry has a long history of using front groups which often have hidden links to the tobacco industry:

- The Australian Hotel Association (**AHA**) has, in the past, received funding from the tobacco industry, and has traditionally opposed restrictions on smoking. The AHA has actively supported the tobacco industry in opposing smoking restrictions and bans and challenged the scientific evidence on the health effects of second-hand smoke.
- The Alliance of Australian Retailers (**AAR**)¹¹ was a tobacco industry front group financed by Philip Morris, Imperial Tobacco and British American Tobacco. Internal tobacco industry and AAR documents that were leaked to the media revealed *'The tobacco industry not only funded the campaign being run by the AAR to stop plain packaging being introduced, it also employed the public relations firm to run the campaign, approving who did media interviews and managed the strategy for lobbying government'*.

The use of front groups needs to be considered when regulating political donations.

While many other political parties now reject donations from the tobacco industry in Australia, the National Party of Australia and the Liberal Democratic Party continue to accept them, principally from Philip Morris Limited.¹²

The previous Senate Select Committee into the Political Influence of Donations reported in 2018 and recommended:

"Recommendation 9

6.57 The committee recommends that the Australian Government amend the Commonwealth Electoral Act 1918 to introduce a ban on donations from developers, banks, mining companies and the tobacco, liquor, gambling, defence and pharmaceutical industries to political parties, candidates and associated entities."¹³

Unfortunately, no action was taken by the Federal Government to implement this recommendation.

Effective legislation banning tobacco industry donations

New South Wales has taken a positive stance by prohibiting political donations from the tobacco industry (amongst others) or a person who is a close associate, as outlined in the *Electoral Funding Act 2018* (NSW). This legislation replaced the previous *Election Funding, Expenditure and Disclosures Act 1981*, and is a valuable example of the government's commitment to protecting the interests of public health.

The definition of a 'close associate' includes:

- A director or officer of the corporation or the spouse of a director or officer
- A related body corporate of the corporation
- A person (or the spouse of such a person) whose voting power in the corporation or related body corporate of the corporation is greater than 20%
- If the corporation or a related body corporate of the corporation is a stapled entity in relation to a stapled security – the other stapled entity in relation to that stapled security
- If the corporation is a trustee, manager or responsible entity in relation to a unit trust: a person who holds more than 20% of the units in the trust, or
- A person who is a beneficiary of a discretionary trust.

Recommendation

A legislative ban on political parties accepting donations from tobacco companies (including a close associate) is an effective way of protecting democratic processes and preventing avoidable deaths caused by tobacco smoking.

We recommend that the Commonwealth Electoral Amendment Bill include a prohibition on donations from the tobacco industry, either directly or indirectly from front groups acting on behalf of the tobacco industry.

There is no place for the tobacco industry in Australian politics and Australia's commitment to Article 5.3 should be further demonstrated by prohibiting political donations from the tobacco industry.

Please do not hesitate to contact ACOSH if you require any further information.

Thank you for your consideration of this submission.

Professor Kingsley Faulkner AM
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