

6 March 2020

Committee Secretary  
Joint Standing Committee on Electoral Matters  
PO Box 6021  
Parliament House  
Canberra ACT 2600

Dear Committee Secretary,

On behalf of The Nationals, we welcome the opportunity to provide a Submission to the Joint Standing Committee on Electoral Matters' inquiry into the conduct of the *Commonwealth Electoral Amendment (Lowering the Donation Disclosure Threshold) Bill 2019*.

The Nationals have consistently contributed to numerous Inquiries into aspects of Australia's democratic system including proposed reforms to donation disclosure.

It is our belief that any reform to Australia's political donation legislation must consider the following principles:

- promote further public confidence and integrity in our electoral system
- encompass "third party" participants in the electoral process, such as trade unions and GetUp!
- be fair and equitable to all political parties and not restrict a candidate or party's ability to communicate with voters relative to another candidate or party
- provide an efficient, low-cost administration by participants in the electoral process, and
- be enforceable.

Disclosure law should recognise the fine balance that exists between the public interest and an individual's right to privacy. Disclosure provisions should not be so onerous as to discourage individual participation in the political process.

The concept of the disclosure threshold was introduced into the Commonwealth Act in 1984, when it was set at \$1,000. That was increased to \$1,500 in 1991, and it remained at that level until the *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006* increased it to \$10,000 and added the provision for indexation.

The changes introduced in 2006 arose from the report of the Joint Standing Committee on Electoral Matters in relation to the 2004 Federal election<sup>1</sup>.

In its report, the Committee noted the need for transparency in relation to donations to political parties to reduce the potential for undue influence and corruption in the political system<sup>2</sup>, and noted the evidence received by it as to the proportion of donations to the major political parties exceeding \$10,000<sup>3</sup>, and it expressed the view that the necessary transparency would still occur under higher disclosure thresholds<sup>4</sup>.

The Committee expressed its conclusion<sup>5</sup> in the following terms –

*... the Committee believes that raising the threshold levels would encourage more individuals and small businesses to make donations in that higher thresholds would:*

- *alleviate the administrative burden of filing a disclosure for relatively small donations; and*
- *ensure privacy for those who want to support the party of their choice but who may be deterred from doing so because they fear repercussions if their support were made public.*

*The Committee is concerned that the current low threshold for disclosure exposes donors to potential of feared political intimidation or pressure from opponents of the party to whom an individual or organisation is donating to either cease donating or make a corresponding donation to an opposing party. It agrees with those who argue that the problem of disclosure and intimidation is “very real” ...*

*The Committee believes that a higher threshold for disclosure would have a positive impact on the democratic process in that it would encourage more people – both individuals and small-business owners – to take an active part in that process. Such an outcome could increase the proportion of candidate and party income that comes from smaller donations, thereby reducing the dominance of corporate donations that prompts many of the concerns about alleged undue influence in politics.*

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<sup>1</sup> *The 2004 Federal Election: Report of the Enquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto*, tabled in the House of Representatives on 10 October 2005.

<sup>2</sup> at paragraph 13.70

<sup>3</sup> at paragraph 13.71

<sup>4</sup> at paragraphs 13.70 and 13.73

<sup>5</sup> at paragraphs 13.78, 13.79 and 13.80

The relevant Committee recommendations were in the following terms –

*The Committee recommends that the disclosure threshold for political donations to candidates, political parties and associated entities be raised to amounts over \$10,000 for donors, candidates, political parties, and associated entities.<sup>6</sup>*

and

*The Committee recommends that the threshold at which donors, candidates, Senate groups, political parties, and associated entities must disclose political donations should be indexed to the Consumer Price Index.<sup>7</sup>*

As a consequence of the indexation provision, the threshold now rests at \$13,800, reflecting the present value of the level at which it was set in 2006.

The purpose of disclosure is to combat the risk that gifts to participants in the electoral process might give rise to inappropriate influence by donors over the participants who benefit from their contributions. That purpose has to be balanced with the legitimate right of donors to privacy in respect of their chosen form of contribution to the process, and that balance is achieved by fixing a disclosure threshold at or about a level below which it could not realistically be said that there would be a significant risk of influence.

It could not realistically be contended that maintaining the present level of the threshold admits of corruption which would be stamped out by reducing the threshold to \$1,000.

Disclosure of gifts and public funding are corollaries, one of the other. They are “two sides to the same coin”<sup>8</sup>. A substantial change in one would dictate a corresponding substantial change in the other.

The Bill proposes a reduction of the disclosure threshold by 93% and that inevitably would result in a reduction in the number of donors, and in the amounts which the donors presently giving up to \$13,800 would be prepared to give. Because of the relationship between the disclosure provisions and the provision of public funding, that necessarily must have an impact on the extent of the public funding to be made available to political parties.

Reducing the number of political donors would have serious consequences for the ongoing operation of the smaller political parties such as The Nationals. Such a reduction would need to be countered by a serious consideration of the need to supplement this financial loss through increased public funding.

The Nationals have supported the current indexed disclosure threshold as providing an appropriate balance between protecting the privacy of those making donations of modest scale and the public interest in the disclosure of large donations.

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<sup>6</sup> recommendation 49, at paragraph 13.81

<sup>7</sup> recommendation 50, at paragraph 13.82

<sup>8</sup> Hon K Beasley, Special Minister of State, HR Hansard, 2 November 1983, pp 2213 and 2215

The current scheme requires all federal political parties, their candidates, associated entities and donors to lodge annual disclosure returns with the Australian Electoral Commission (AEC) that are then made public.

The current scheme gets the balance right in that all political parties are required to detail their revenue and expenditure and include the value of any liabilities and assets to the AEC along with information about any discretionary benefits the political party receives from the Commonwealth state or territory governments.

The Nationals do not support any changes to the donation disclosure scheme that adds any further administrative or legislative requirements. The Nationals are a small political party with limited resources and any further increase in bureaucratic requirements would hinder its ability to communicate and campaign on behalf of regional Australia.

Yours sincerely,

Jonathan Hawkes

Federal Director

The Nationals