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Committee Secretary  
Joint Standing Committee on Electoral Matters

6 March 2020

Dear Committee

***Commonwealth Electoral Amendment (Lowering the Donation Disclosure Threshold) Bill 2019***

Thank you for the opportunity to make a submission on Ms Rebekha Sharkie MP's private member's bill, the *Commonwealth Electoral Amendment (Lowering the Donation Disclosure Threshold) Bill 2019* (Cth) (**Bill**).

The Bill would lower the current disclosure threshold for donations to candidates, political parties, associated entities, political campaigners and third parties, from \$13,800 indexed (currently \$14,000) to \$1,000, not indexed.

We support the intent of the Bill - there is an urgent need for greater transparency around money in politics in Australia and lowering the disclosure thresholds for donations to politicians and political parties would definitely be a step in the right direction.

However, as explained below, the Bill as drafted risks impeding the participation of small community groups and charities in election debates and fails to require any meaningful transparency of third party industry groups and corporations.

Some relatively minor amendments would cure the Bill of these defects and see it achieve its purpose of improving the integrity of our democracy.

**1. The Bill will impose onerous compliance obligations on community groups and charities, impeding their participation in political debate**

Section 287 of the *Commonwealth Electoral Act 1918* (Cth) (**Act**) defines "third party" as an entity which has incurred electoral expenditure in excess of the disclosure threshold (but is not a political campaigner). In lowering the disclosure threshold to \$1,000, this Bill would lower the threshold at which community groups and charities become third parties and subject to the disclosure and reporting regime under the Act.

Compliance with these disclosure and reporting obligations is difficult, particularly given the complex definition of “electoral matter” under s. 4AA. Even inadvertent non-compliance attracts a significant penalty of up to \$12,600 (s. 314AEB). The combination of onerous administrative requirements and strict penalties for inadvertent errors is likely to discourage local, volunteer groups and charities from incurring even small spends on issues-based advocacy in the lead up to elections.

***Recommendation 1***

**The Bill be amended to:**

- (i) decouple the disclosure threshold from the spending threshold at which a person or entity becomes a third party; and**
- (ii) maintain a spending threshold for becoming a third party of not less than \$14,000 (indexed). A higher threshold may be warranted, taking account of the experience of community groups and charities complying with the Act, together with analysis indicating the level of spending that may influence the outcome of an election in a single electorate.**

**2. The Bill will impose a greater administrative burden on third party community groups and charities that rely on donations – while serving no public interest purpose**

This Bill will significantly increase the administrative burden for many third party community groups and charities by requiring them to track all small donations throughout the year, determine precisely which donations have been used on electoral expenditure, and disclose the address and name of donors giving as little as \$20 per week. This does not reflect the reality of how community groups and charities work, which is typically to draw from pooled funds. This amount will decrease in real terms if indexation is removed.

This burdensome disclosure requirement serves no public interest purpose: donations to community groups and charities cannot be used to buy access to political power and influence in the same way that donations to political parties may.

***Recommendation 2***

**The Bill be amended to retain a disclosure threshold of \$14,000 for third parties.**

**3. The Bill will not require greater transparency of corporate third parties**

Industry groups and corporations can be third parties, but unlike community groups and charities, they do not have to disclose the source of income used to incur electoral expenditure. This is because they rely on membership fees, levies and other forms of income not captured by the definition of “gift” in s. 287 of the Act.

There is no principled reason for imposing a higher compliance burden on community groups, charities and other not-for-profits than on profit-motivated industry groups and corporations. This unequal treatment is particularly troubling given that charities are bound by law to advocate for the public benefit and in accordance with their charitable purpose, and unlike profit motivated third parties, are prohibited from operating for the dominant purpose of supporting or opposing a political party or candidate.

**Recommendation 3**

**The Bill be amended to expand the definition of “gift” in the Act to capture membership fees, levies and other forms of corporate income.**

**4. Concerns regarding the disclosure threshold**

Our democracy is strong when people engage and make small contributions to causes they believe in. Our system should encourage people to make small donations to candidates, political parties, political campaigners and third parties, not create barriers for them.

While acknowledging that the current donation disclosure threshold of \$14,000 is too high for candidates and political parties, we are concerned that reducing the donation disclosure threshold to \$1,000 will impose such a barrier. A donor is highly unlikely to be able to exert influence over a candidate or political party with a donation of \$1,000, and yet many small donors may be dissuaded from donating by the requirement to have their name and address publicly disclosed.

We believe a donation disclosure threshold of between \$2,000 and \$5,000 per year would be more reasonable.

**Recommendation 4**

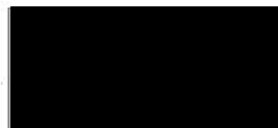
**The Bill be amended to modestly increase the disclosure threshold and retain indexation.**

We would be pleased to provide further information should it assist the Committee.

Yours sincerely



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