

Committee Secretary
Senate Finance and Public Administration Committee
PO Box 6100
Parliament House
Canberra ACT 2600

6 November 2020

Dear Committee,

ACF Submission on Commonwealth Electoral Amendment (Banning Dirty Donations) Bill 2020

The Australian Conservation Foundation (ACF) would like to thank you for the opportunity to make a submission to the Senate Finance and Public Administration Committee on Senator Larissa Water's Commonwealth Electoral Amendment (Banning Dirty Donations) Bill 2020 (**the Bill**).

This Bill introduces reforms to strengthen the integrity of our political system. Specifically, this Bill would:

- Create a new definition of 'gift' which expands the definition to include fundraising dinners and membership fees,
- Cap donations to political parties, candidates, associated entities, and political campaigners at \$3000 per election term,
- Create a category of prohibited donors which would be banned from making political donations.

Each of these reforms is discussed briefly in the sections to follow. In whole, this Bill takes important steps towards bringing greater integrity to our electoral system and we support the intentions of this Bill. However, the Australian Conservation Foundation wishes to acknowledge the need for urgent, comprehensive reform in this space, including greater transparency of political funding, caps on election spending, a fair system of public funding for political parties and candidates, and more effective regulation of lobbyists.

A robust and well-functioning democracy is essential to ensuring that the decisions we make today are in the long term interests of people and our planet. We urge our leaders to take action to introduce comprehensive reforms to bring greater transparency and integrity to our electoral funding and disclosure regimes.

Banning harmful industries

Large political donations are meant to buy access and political influence. While political donations are an important form of political participation, without regulation and appropriate limits, unfettered political donations can lead to a system of political participation where those with the largest wallets are able to wield the most influence.

In addition, certain industries operate business models which either create substantial public harm (i.e. tobacco and gambling) or whose private interests come in direct conflict with a clear public interest goal or objective. For example, the oil, gas, and coal industries operate business models which rely on the continued extraction and burning of fossil fuels. The most recent quarterly estimates show that 88.1% of all greenhouse gas emissions come from the extraction and burning of fossil fuels¹. At the same time, scientific consensus shows that Australia must rapidly reduce pollution from greenhouse gas emissions to help keep climate warming below 1.5 degrees. Taking both objectives into consideration, it is apparent that companies with a vested interest in the continued long-term extraction, burning and processing of fossil fuels are in direct conflict with the public interest objective of reducing greenhouse gas emissions.

Harmful industries may also work against the public interest in other ways, such as by attempting to distort public debate on an issue in favour of their own private interest, rather than the public interest. For example, just as tobacco companies once worked to obscure the harms of smoking, some fossil fuel companies have tried to obscure the truth about global warming by intentionally casting doubt on scientific research on climate change².

Businesses such as these, whose business model causes harm or is in significant conflict with the public interest should be rightly recognised as harmful industries. Our elected representatives must ensure that all decisions reflect the public interest and are free from the influence of harmful industries. **From an ethical and integrity perspective, elected representatives should not accept donations from industries that do public harm.**

However, while we believe that elected officials should not accept donations from harmful industries, we believe that the best way to lessen the influence of these industries over our politics is through a reasonably low donation cap, which this Bill already proposes. Industry specific bans are difficult to enforce, and, as we have recently seen in Queensland, are not able to completely

¹ Australian Government Department of Industry, Science, Energy and Resources, 2020, *Quarterly Update of Australia's National Greenhouse Gas Inventory: March 2020*, <https://www.industry.gov.au/data-and-publications/national-greenhouse-gas-inventory-march-2020>

² Lawrence, F, Pegg, D, and Evans, R, 2019, *How vested interests tried to turn the world against climate science*, The Guardian, <https://www.theguardian.com/environment/2019/oct/10/vested-interests-public-against-climate-science-fossil-fuel-lobby>

ensure that banned donors are not donating through other means³. Therefore, while we do not oppose industry specific bans, particularly where they are already operating, we believe that the most effective way to reduce the influence of harmful industries is through a low cap on all political donations.

Changes to the definition of gift

This Bill replaces the previous definition of gift as defined in the *Commonwealth Electoral Act 1918* and inserts a new definition of gift in section 287AAA of the Act.

The Bill makes two important changes. First, the new definition of gift provided in this Bill includes money given at fundraising events which form part of the proceeds from the event. Fundraising events such as dinners are a common way that wealthy individuals and business are able to buy access to Ministers and parliamentarians above and beyond what the average Australian is able to obtain. It is appropriate that these types of events, frequently referred to as cash-for-access, are reportable and transparent.

Second, the Bill changes the definition of gift to include subscriptions paid to political parties, and membership fees paid to associated entities and political campaigners, over \$1000. This is an important reform necessary to accurately capture the ways that different types of entities raise funds which are later used to incur electoral expenditure.

The changes to the definition of gift in this Bill would bring greater transparency to the money flowing into our political system and are a significant improvement on the current definition of gift.

Cap on donations

This Bill caps all donations to political parties, candidates, associated entities, and political campaigners to \$3000 per donor per electoral cycle. Caps on political donations are an important reform to reduce the overall influence of big money in our political system. Ideally, caps on donations would be accompanied by limits on electoral expenditure to simultaneously reduce the demand on political parties and candidates to fundraise.

ACF supports caps on donations to political parties, candidates, and associated entities. However, this Bill should not extend the cap on donations to political campaigners. Doing so will have an

³ Robertson, J and Blucher, A 2020, *Donation to LNP via company linked to property developer sparks complaint to electoral watchdog over prohibited-donor laws*, ABC News, <https://www.abc.net.au/news/2020-10-28/qld-berkman-slams-lnp-property-developer-donations-loop-hole/12816744>

inequitable impact by silencing certain types of political campaigners while leaving others unimpeded in their electoral campaigning.

Third parties (including political campaigners) are diverse and as a result rely on different types of income streams for their campaigning. In applying the cap on donations to political campaigners, this Bill would limit certain types of political campaigners—those that rely on philanthropic gifts or membership fees as their primary sources of income—while leaving other organisations that rely on other types of income, such as special levies or corporate income, unimpeded.

Further, where entities are prevented from making large donations directly to political parties, they may be encouraged to spend this money directly through campaigning themselves. Although it is not the intention of this Bill, the impact of extending the cap on donations to political campaigners would be to worsen political equality by increasing the relative power of corporations and industry associations. ACF believes that the best way to regulate third parties (including political campaigners) in this space is through electoral expenditure caps.

Finally, a donation limit of \$3000 per electoral cycle would be unnecessarily low. Donations accumulating to \$3000 over an electoral cycle are not likely to be large enough to buy political influence. Further, understanding that election campaigns and policy development does cost money, any shortfall in political party funds may need to be supplemented with increased taxpayer funding. Therefore, a cap on donations between \$5000-\$8000 per donor per year may be more appropriate. An amount in this range is still unlikely to carry significant political influence and would protect individuals' ability to participate in politics through donating to the political party of their choice.

Thank you for the opportunity to provide this submission. Should the Committee require any further information regarding this submission, we would be pleased to provide it.

For more information:

JOLENE ELBERTH | DEMOCRACY CAMPAIGNER | P: 03 9345 1234 | E: jolene.elberth@acf.org.au

The Australian Conservation Foundation is Australia's national environment organisation. We stand up, speak out and act for a world where reefs, rivers, forests and wildlife thrive.

www.acf.org.au