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Inquiry into the 2023 NSW election

Additional material

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Thank you for having me appear before the inquiry into the administration of the 2023 NSW election and other matters, and for the opportunity to provide further information to supplement my submission and the evidence I gave at the hearing.

APPROPRIATE BENEFITS OF PARTY FORMATION

During my appearance, I referred to the positive contribution of political parties to democracy and a possible distinction between advantages of incumbency that emerge organically and those that are the result of state intervention. I have reproduced a section from *Money and power in Victorian elections,* the Australia Institute's submission to the independent review of the operation of the Electoral Legislation Amendment Bill 2018,[1] which elaborates on these ideas.

Electoral system should not favour independents or parties

Crossbench parliamentarians serve functions that government and opposition parliamentarians typically do not (especially in Australia, where party discipline is unusually strict). The Australia Institute has written extensively about the role of the crossbench, particularly in the Australian Senate.[2]

Sometimes the opposition is reluctant to question government policy or behaviour because there is a tacit agreement between the parties of government that neither

[1] Browne and Connolly (2023) *Submission: Money and power in Victorian elections*, https://australiainstitute.org.au/report/submission-money-and-power-in-victorian-elections/

[2] Browne & Oquist (2021) *Representative, still*, https://australiainstitute.org.au/report/representative-still-the-role-of-the-senate-in-our-democracy/; Oquist & Browne (2022) *The Senate's new role in protecting our democracy*, https://australiainstitute.org.au/event/the-senates-new-role-in-protecting-our-democracy/

benefits in the long term from such scrutiny. Other times, the opposition was partly responsible (when in government) for ongoing failures of government policy, and so resists probes even when they would expose wrongdoing by the current government as well. Crossbenchers have no such limitations.

Crossbenchers can also represent distinct interests or fresh perspectives, including those of civil society. Upcoming research by the Australia Institute's Democracy & Accountability Program catalogues the extensive policy contribution of the federal crossbench on issues as diverse as human rights, government accountability, the environment, health and economics.

Independent MPs also serve, in the words of Labor minister John Della Bosca, as "a filter" on government legislation that disciplined party rooms might otherwise "keep on churning through".[3]

However, there are also significant benefits to political parties (and by extension party-affiliated parliamentarians):[4]

- Parties facilitate compromise by limiting and formalising the number of representatives involved in negotiation. They do this both within the party room (the party room nominates a spokesperson to represent them for each portfolio) and across the nation (with the interests of each area represented by a single MP).[5]
- The organised, "responsible opposition" holds the government to account without obstructing the legitimate performance of its duties. The opposition is also prepared to take office should the government lose the confidence of the Parliament. This allows for orderly handover of power and legitimises the government of the day and the electoral process.[6]

[3] Clune (2019) *At cross-purposes? Governments and the crossbench in the NSW Legislative Council, 1988-2011*, https://www.parliament.nsw.gov.au/lc/roleandhistory/Pages/Legislative-Council-Oral-History-Project.aspx

[4] This list owes a great deal to an earlier internal research brief prepared by Robyn Seth-Purdie for the Australia Institute.

[5] Russell Muirhead quoted in Ellison (2021) *Can we have democracy without political parties?*, https://www.bbc.com/future/article/20210607-can-we-have-democracy-without-political-parties; Vanstone (2022) *More independents in Parliament is not the answer*, https://www.canberratimes.com.au/story/7587198/more-independents-in-parliament-is-not-the-answer/

[6] Rosenblum & Muirhead (2019) *A lot of people are saying: The new conspiracism and the assault on democracy*, Princeton, cited in Ellison (2021) *Can we have democracy without political parties?*; Webber (2016) *Loyal opposition and the political constitution*, https://core.ac.uk/download/pdf/35439086.pdf

- Political parties have the resources to assess and form comprehensive policies, and enduring parties can embody a coherent, distinct philosophy. It is harder for independent candidates and parliamentarians to cover every issue. Frances McCall Rosenbluth and Ian Shapiro write that: "Political parties are the core institution of democratic accountability because parties, not the individuals who support or comprise them, can offer competing visions of the public good"[7] – although it is worth noting that they are academics based in the United States, where independents and minor parties are rarer.
- Parties bring discipline and stability to legislative democracy, making it easier for the government of the day to deliver its election platform.[8] US historian Richard Hofstadter writes: "It is the need to legislate regularly that imposes a constant discipline within a parliamentary body".[9]
- Parties conduct due diligence on candidates, and their endorsement is a reliable guide for voters to distinguish between candidates.[10]
- Parties facilitate communication between legislators and electorates.[11]
- Parties represent the concerns of issues-based constituencies, and can unite separate constituencies behind overlapping interests.

Neither party-affiliated nor independent candidates are naturally preferable to the other. Principle 3 of the principles of fair political finance reform is that the playing field should be level regardless of whether candidates are members of a political party or independents.

[7] Rosenbluth & Shapiro (2018) *Empower political parties to revive democratic accountability*, https://www.the-american-interest.com/2018/10/02/empower-political-parties-to-revive-democratic-accountability/

[8] Rosenbluth & Shapiro (2018) *Empower political parties to revive democratic accountability*; Stokes (1999) *Political parties and democracy*, p. 245, https://www.annualreviews.org/doi/pdf/10.1146/annurev.polisci.2.1.243

[9] Hofstadter (1969) *A constitution against parties: Madisonian pluralism and the anti-party tradition*, pp. 345–346, https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1477-7053.1969.tb00805.x

[10] Cohen (2020) *The two-party system is here to stay*, http://theconversation.com/the-two-party-system-is-here-to-stay-132423

[11] Hofstadter (1969) *A constitution against parties: Madisonian pluralism and the anti-party tradition*, pp. 345–346; Römmele (2003) *Political parties, party communication and new information and communication technologies*, https://library.fes.de/libalt/journals/swetsfulltext/15994891.pdf

Should political parties reap the benefits of organisation?

Political parties benefit from economies of scale, institutional knowledge, brand recognition, goodwill from members and volunteers, accumulated assets and established networks. These organic benefits accrue to parties not by design or law, but as a consequence of having been organised in a particular way for an extended period.

Reformers may wish to account for these incumbency benefits. In other areas, it is standard to make allowances for new entrants even when incumbents have taken no active steps to exclude them. For example, new teams entering the Australian Football League (AFL) receive significant concessions to make them competitive against established teams[12] – even though the established teams did nothing wrong and it is good for the sport that established teams make use of the organic benefits that they have.

Similarly, competition law limits business behaviour that has the effect of substantially lessening competition even when it is not the purpose of the behaviour.[13]

That said, most important is that electoral laws should not amplify the organic benefits political parties may have. The law should not make the playing field *more* uneven.

[12] As discussed in Browne (2023) *Principles for fair political finance reform*, pp. 5–6, https://australiainstitute.org.au/report/principles-for-fair-political-finance-reform/

[13] Australian Competition and Consumer Commission (2023) *Competition and anti-competitive behaviour*, https://www.accc.gov.au/business/competition-and-exemptions/competition-and-anti-competitive-behaviour; *Competition and Consumer Act 2010* (Cth), sec.45, https://www.legislation.gov.au/Details/C2019C00264

TRUTH IN POLITICAL ADVERTISING LAWS

During the day's hearings, truth in political advertising laws were the subject of great interest from the committee – and some concern.

Fortunately, the successful implementation of truth in political advertising laws in South Australia gives us a working model for their adoption in New South Wales.

Constitutionality

Mr Kieran Pender has considered the constitutionality of truth in political advertising laws in a 2022 paper. He argues that:

> Australia's existing TPALs [truth in political advertising laws] likely withstand constitutional challenge, on either the *Lange/McCloy* test or the alternative calibrated scrutiny approach (although this scrutiny may be more exacting). However, … more expansive TPALs may face constitutional barriers, relating to scope, potential chilling effects, the need for justifying evidence, difficulties around the appropriate arbiter and the risk of inconsistent application.[14]

Possible regulators

It is worth noting that under the South Australia's truth in political advertising laws, the regulator – the Electoral Commission of South Australia (ECSA) – can only request a withdrawal or retraction of misleading political advertising. The power to compel a withdrawal or retraction, impose a fine or declare an election void (in the affected seat, not across the state), quite properly lies with the courts.[15]

The NSW Electoral Commission is reportedly reluctant to be the regulator responsible for truth in political advertising laws. ECSA has done well administering truth in political advertising laws since the 1980s, despite its reluctance to be the administrator. The ACT Legislative Assembly likewise chose the reluctant ACT Electoral Commission to administer the territory's laws. There is therefore no barrier to Parliament choosing a reluctant regulator if it believes that regulator is the best choice.

[14] Pender (2022) *Regulating truth and lies in political advertising: Implied freedom considerations*, http://classic.austlii.edu.au/au/journals/SydLawRw/2022/1.html

[15] *Electoral Act 1985* (SA), sec.107(5), 113, https://www.legislation.sa.gov.au/lz

That said, several other options exist for a potential regulator, including a dedicated body set up for that purpose. The NSW Electoral Commission would be a very suitable choice, but it is by no means the only option open to the Parliament.

Ascertaining the truth

Philosophical questions about the nature of objective truth are worth exploring, but they have not stopped parliaments from making laws that correct or punish falsehoods in other areas of life – and should not stop parliaments for doing the same when it comes to political advertising.

In fact, courts of law routinely consider what is true or false. Fact-finding by courts of law is "difficult but essential".[16]

In April 2024, NSW Chief Justice Andrew Bell elaborated on the relationship between truth and the judiciary. Quoting Lord Denning, he says it is the primary duty of the courts to "ascertain the truth by the best evidence available". The rule of law depends on courts being able to generate "reliable findings of fact" (quoting Chief Justice Gageler).[17]

Objective truth remains as elusive for judges and magistrates as it is for everyone else, but courts have established standards by which they can assess the particular facts in dispute. As Chief Justice Bell notes, the appointment of judges and former judges to head commissions of inquiry reflects the confidence that the other arms of government have in the ability of judges to engage in "forensic and impartial pursuit of truth".[18]

This confidence in the feasibility of finding the truth of a matter is reflected in state and federal law, which already prohibits other misleading conduct.

Perhaps the most prominent example of outlawing misleading material is the Australian Consumer Law (ACL), which sanctions misleading and deceptive conduct in trade and commerce.[19] "Conduct" under the ACL is much broader than the material contemplated under truth in political advertising laws, which is limited to electoral matter. The class of persons affected – anyone who engages in trade or commerce – is

[16] Kirby (2018) *Where does truth lie?* http://www5.austlii.edu.au/au/journals/UNSWLawJl/2018/12.html

[17] Bell (n.d.) *The implications of Truth Decay*, pp. 1–7, https://nswbar.asn.au/the-bar-association/publications/inbrief/view/f60a2d750a5a708e6cc3d9cec90bbc9a

[18] Bell (n.d.) *The implications of Truth Decay*, pp. 1–7

[19] ACCC (n.d.) *False or misleading claims*, https://www.accc.gov.au/consumers/misleading-claims-advertising/false-or-misleading-claims

also much broader. The penalties include damages and contract variation.[20] As Chief Justice Bell notes, this "most important piece of normative legislation" applies an objective test (even if someone does not intend to deceive, their conduct can end up misleading or deceiving).[21]

It is worth noting that Chief Justice Bell flags that truth in political advertising laws "may raise difficult questions about the institutional competence of courts when adjudicating disputes about truth and dishonesty in the political arena". At the same time, he reiterates that consumer law already imbues the courts with the role of "arbiters of truth".[22]

Those appearing before NSW committees are asked to swear an oath or make an affirmation to tell "the truth, the whole truth and nothing but the truth". Knowingly making a false statement could lead to imprisonment for a term of up to five years.[23] Not all houses of parliament in Westminster systems require witnesses to make affirmations/swear oaths, but those in NSW do,[24] and in 2016 a committee held an inquiry into allegedly false and misleading evidence it had received, resulting in an apology from a government agency that photographs it had supplied were not properly described.[25]

The affirmation/oath belongs to a category of "pledges of honesty" which are also required to be given in a court of law or before a royal commission and in statutory declarations and affidavits.[26] Lying in these circumstances also comes with legal consequences, including fines or prison sentences – making these pledges effective provided the pledger fears penal sanction, whether or not the pledger also fears divine punishment.[27] Similar requirements apply to lawyers, who "must not knowingly or

[20] ACCC (n.d.) *False or misleading claims*

[21] Bell (n.d.) *The implications of Truth Decay*, p. 2

[22] Bell (n.d.) *The implications of Truth Decay*, p. 20

[23] *Parliamentary Evidence Act 1901* (NSW), sec.13, https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1901-043#sec.10; NSW Parliament (2013) *NSW Legislative Assembly Practice, Procedure and Privilege*, sec. 27.3, https://www.parliament.nsw.gov.au/la/proceduralpublications/Pages/wppbook.aspx

[24] NSW Parliament (2013) *NSW Legislative Assembly Practice, Procedure and Privilege*, sec. 27.2

[25] Lovelock & Evans (1e authors); Frappell and Blunt (2e eds) (2021) *NSW Legislative Council Practice, Second Edition*, pp. 823–824, https://www.parliament.nsw.gov.au/lc/proceduralpublications/Pages/NSW-Legislative-Council-Practice-second-ed.aspx

[26] Freeman and Corbett (2020) *So Help Me God: a history of oaths in office*, pp. 10–11, 29–34, https://www.acu.edu.au/about-acu/institutes-academies-and-centres/pm-glynn-institute/projects-and-programs/so-help-me-god-a-history-of-oaths-in-office

[27] Freeman and Corbett (2020) *So Help Me God: a history of oaths in office*, pp. 15–16

recklessly mislead the court nor make false or misleading statements to an opponent".[28]

While a matter of convention rather than law, a minister misleading Parliament is "regarded as a particularly serious offence". Ministers have taken individual responsibility and resigned or been the subject of no confidence motions in some cases.[29]

The penalties for misleading political advertising are less onerous than those imposed by law for some other misleading conduct. The focus is on remedying the situation not on punishing the wrongdoer. In South Australia, misleading advertising complaints usually end when the false material is withdrawn and retracted. There is no option for a prison sentence, and I am not aware of any fine being imposed since 1997 (the option to request withdrawal/retraction was added to the legislation that year).[30]

The law often requires truthfulness. It is required of those appearing before parliamentary committees, including the NSW Joint Standing Committee on Electoral Matters. Philosophical concerns about the nature of truth have not stopped other misleading behaviour from being sanctioned, in part because courts are trusted to get to the truth of matters (should it come to that).

[28] Bell (n.d.) *The implications of Truth Decay*, pp. 1–2

[29] Lovelock & Evans (1e authors); Frappell and Blunt (2e eds) (2021) *NSW Legislative Council Practice, Second Edition*, pp. 301–305

[30] As of 2001 there were apparently only two prosecutions, one in 1993 and one in 1997: Finance and Public Administration Legislation Committee (2001) *Inquiry into bills concerning political honesty and advertising - Transcript*, pp. 41–42, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Completed_inquiries/2002-04/political_honesty/index

FEASIBILITY OF INCREASED DISCLOSURE REQUIREMENTS

Mr Robert Borsak raised the concern that my extensive recommendations for improving disclosures may not be feasible, in particular that candidates "disclose their revenue, expenditure, loans and assets" at least annually.

The proposal that candidates (and parties) publish these details is based on federal law, where candidates are required to file a return after each election outlining donations received, electoral expenditure and discretionary benefits; and parties are required to file a return each year containing total receipts, individual receipts in excess of the disclosure threshold, total payments, total debts and discretionary benefits.[31]

Candidates should not need to file anything in years where there is nothing relevant to disclose, which I expect would mean most candidates would only need to make disclosures in an election year. Nor should candidates be required to file redundant disclosures, if the necessary information is already included in a party's disclosure.

Given this, I do not think the recommended disclosure requirements would be necessarily more onerous than those federal candidates are already subject to.

My other recommendations mostly relate to (a) more stringent disclosures of political contributions (a small additional burden given contributions must already be checked against existing disclosure requirements) and (b) what that the Electoral Commission should do with the information that it receives. I do not think that this extra work would be too onerous for the commission given its funding and other responsibilities.

[31] AEC (2023) *Political parties*, https://www.aec.gov.au/Parties_and_Representatives/financial_disclosure/guides/political-parties/index.htm; (2024) *Candidate and Senate group disclosure information*, https://www.aec.gov.au/Parties_and_Representatives/financial_disclosure/guides/candidate.htm

NSW AND VICTORIAN LIMITATIONS ON STAFFERS

During the hearing Ms Janelle Saffin suggested that I wrote that there is "no rule" about political staff in New South Wales, and that is an incorrect interpretation because electorate officers are bound by rules about what they can and cannot do. What I actually wrote was "no such rule", in the context of what Victoria requires – and I believe that to be a true statement.

In the submission I wrote:

> In Victoria, for example, electorate officers are not permitted to perform "party-specific activity".[32] No such rule appears to apply to political staff in NSW, although the major parties are reportedly leery of using publicly-funded staff to dig up "dirt" on opponents.[33]

My use of the term "political staff" is meant to encompass all staff of members of Parliament – including electorate officers and ministerial staff (and, in other jurisdictions, personal staff).

Victorian legislation explicitly prohibits electorate officers from performing "party-specific activity", with details provided in the *Parliamentary Administration Act 2005* (Vic) and the Electorate Officer Code of Conduct.[34]

I wrote that "No such rule appears to apply" in NSW because in my research there appear to be no such commensurate rules. Similarly, the Sydney Morning Herald last year quoted a former political strategist as saying:

> I won't take public money for [digging up dirt]. I think if there is to be any reform in staffing full stop, they have to draw a line under using public funds to pay for political operatives.[35]

This suggests the Australia Institute is not alone in making this inference that "no such rule appears to apply". That said, we would welcome being corrected on this matter with the equivalent NSW rule to the Victorian prohibition on electorate officers performing party-specific activity.

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[32] Parliament of Victoria (n.d.) *The role of an electorate officer*, https://new.parliament.vic.gov.au/about/careers/electorate-officers/

[33] Baker (2023) *'It's a job that rewards cold patience': Inside the party dirt units*, https://www.smh.com.au/national/nsw/it-s-a-job-that-rewards-cold-patience-inside-the-party-dirt-units-20230228-p5co9e.html

[34] Parliament of Victoria (n.d.) *The role of an electorate officer*

[35] Baker (2023) *'It's a job that rewards cold patience': Inside the party dirt units*

That is not to say that no rules apply to NSW electorate officers. There are rules about the use of members' staff, including that:

- Parliamentarians should not use public resources to knowingly confer an undue private benefit, and take reasonable steps to follow guidelines or rules about using public resources.[36]
- Parliamentarians who used electoral or ministerial staff for private purposes or political campaigning, or who claimed staff were attending Parliament when they were in the electorate, have been the subject of Independent Commission Against Corruption investigations.[37]
- A 2013 report from the Standing Committee on Parliamentary Privilege and Ethics says that "some activities, such as 'direct electioneering' in the context of an immediate campaign" are not permitted. However, it also notes that staff are "inevitably and unavoidably drawn into campaigning and electioneering when they perform day-to-day parliamentary activities".[38] Rules may have changed in the intervening decade.

SUPPLEMENTARY QUESTIONS

Question 1

1) In relation to the election campaigns fund, Mr Geoffrey Watson, Centre for Public Integrity, has previously stated that:

   The rationale for the payments is to enhance democratic processes by encouraging wider participation, protecting potential candidates from the burden of necessary costs associated with the nomination process, and to assist in complying with the demands of a campaign. The payments are an important

[36] See for example the rules for MLAs: Legislative Assembly of New South Wales (2020) *Code of conduct for members*, sec. 3, https://www.parliament.nsw.gov.au/members/Documents/Code%20of%20Conduct%20(adopted%205%20March%202020).pdf

[37] ABC News (2010) *MP admits falsifying pay forms (archived)*, https://web.archive.org/web/20101117074623/http://www.abc.net.au/news/stories/2010/05/05/2891263.htm; Independent Commission Against Corruption (2024) *Annotated code of conduct for members*, https://www.icac.nsw.gov.au/prevention/corruption-prevention-publications/latest-corruption-prevention-publications/annotated-code-of-conduct-for-members-a-guide-for-members-of-nsw-parliament-january-2024

[38] Standing Committee on Parliamentary Privilege and Ethics (2013) *Electioneering, Campaigning and Doorknocking, and the Role of Electorate Officers*, pp. 4, 6–7, https://www.parliament.nsw.gov.au/committees/listofcommittees/Pages/committee-details.aspx?pk=180#tab-reportsandgovernmentresponses

component in redressing some of the incumbency advantage – it might not be entirely successful in that respect, but it can be monitored and redesigned better to achieve that. I also note the scheme is designed in a way so that it does not encourage patently frivolous nominations.

Do you agree with that statement and why. If not, why not?

Mr Geoffrey Watson identifies one of the two main rationales for public funding, with the other being that public funding (ostensibly) reduces the need for private funding, and therefore the negative effects of private funding. These negatives include that such funding can corrupt the political process and that chasing private funding consumes the time of parliamentarians and party officials that can otherwise be more productively spent.

Mr Watson also notes that the election campaigns fund might not be entirely successful and that it could be monitored and redesigned.

I agree, but would go further and argue that, overall, the design of the fund exacerbates incumbency advantages rather than redressing them:

- The threshold before parties and candidates receive funding means larger parties and some independent candidates receive relatively more funding per vote than smaller parties and other independent candidates. Because eligibility is binary, this means a small number of votes can mean the difference between significant funding and no funding.
- The provision of funding for both Legislative Assembly and Legislative Council campaigns results in parties being funded twice for winning over a voter once, something not possible for independent candidates and less feasible for minor parties.
- The use of a reimbursement model means that a new entrant that is a break-out success despite a cheap campaign is not given the funds to consolidate and expand, while major parties that reliably spend large sums can claim back their full entitlement.
- Measuring popular support based on votes at the previous election means new entrants are not eligible for the fund during their campaigns, regardless of how popular they are among the public.
- Parties can claim on behalf of their candidates, which means expensive campaigns that attract relatively few votes can be "offset" with cheap campaigns that attract many votes. The parties therefore claim their full entitlement even though many safe seats would have had cheap campaigns and many marginal seats would have attracted few votes relative to the amount spent on the campaign.

Of course, it is possible that the participation of some candidates and parties is encouraged by the election campaigns fund even if its net effect is to favour incumbents. Such candidates and parties would need to (a) start with private funding (since the election campaigns fund works on a reimbursement model) and (b) run in at least two elections. This excludes many potential candidates.

A public funding model that is open to those who have not run in an election before, like the democracy vouchers described in my submission, could better address incumbency advantages and encourage wider participation.

I agree too with Mr Watson that the scheme is designed to discourage patently frivolous nominations, by only providing payments to those who receive over 4% of the vote and by only reimbursing costs.

However, I would argue that the scheme is overly-attentive to that concern, and this comes at the expense of higher priorities like valuing every vote equally, providing a level playing field and enabling new entrants. The Coalition, Labor and Greens received about $4.10 per vote at the last state election, compared to $2.87 per vote for other candidates eligible for payment, $0.91 per vote for One Nation, and even less for Legalise Cannabis and the Liberal Democratic Party. Other candidates and parties attracting over half a million Legislative Assembly and Legislative Council votes between them were not eligible for funding.

Question 2

2) Does it better assist with the promotion of transparency and confidence in electoral processes if (a) in lieu of running as candidates or advocating issues in their own name, electoral participants (individuals, organisations or interest groups) are permitted to provide uncapped funding to political candidates, in an unregulated expenditure environment - with low information awareness within the electorate for campaign funding sources **or** (b) electoral participants are permitted to provide capped campaign resources to political candidates in a regulated expenditure environment, whilst being permitted to campaign explicitly in their own right as third party campaigners.

Transparency is served by the prompt and comprehensive release of information – including political donations and other political revenue; expenditure; and the origin of electoral matter (which goes beyond just who authorised the ad). Transparency can be achieved whether funding of political candidates is capped or uncapped. Low information awareness for campaign funding sources is a product of the donation and electoral matter disclosure regimens, not donation and spending caps.

Confidence in electoral processes depends on many factors, including the electoral system, administration of elections, campaign finance laws, disclosures and political culture. Neither (a) nor (b) are inherently better – it depends on how the particular scenario is implemented. At the moment, disclosures in NSW are murky, and the "regulated expenditure environment" treats independent candidates and new parties unfairly. This will not improve confidence in electoral processes.

Question 3

3) Do you believe that restricting, or curtailing, the campaign activities or expenditure of like-minded third party campaigners, who reflect a groundswell of support on a particular issue, could potentially entrench incumbency advantages of political parties?

One of the difficulties with regulating third-party campaigners is that these groups run the gamut from "astroturfing" operations where grassroots support is illusory through to groups that represent authentic community concern, and may even be organised on democratic lines.

Campaigners – both genuine and inauthentic – can also be of any size. This makes it difficult to calibrate restrictions so they are suitable for all campaigners, whether the campaigner represents one person or hundreds of thousands of people.

Restricting or curtailing third-party campaigners risks silencing genuine public voices – including those who may not have an affiliated political party through which their political campaigning could be conducted.

On the other hand, if parties and candidates *are* curtailed (for example, through donation and spending caps) but third-party campaigners are *not,* then that could allow third-party campaigners to dominate advertising and leave parties and candidates dependent on campaigners (who have their own agendas not necessarily in line with those of party members or the community at large).