

**Submission on behalf of GLHAM members to the Inquiry into  
the Electoral Legislation Amendment  
(Electoral Funding and Disclosure Reform)  
Bill 2017**

**24<sup>th</sup> January, 2018**



**GLOBAL HEALTH  
ALLIANCE  
MELBOURNE**

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



## Member Organisations



## **Submission on behalf of GLHAM members to the Inquiry into the Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2017.**

Dear Committee Members,

We write this submission with respect to the Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2017. The Global Health Alliance Melbourne (GLHAM) represents 28 Victorian-based organisations that work in global and indigenous health. We recognise the enormous support that the Federal Government has provided to the medical research sector in Australia, implementing a number of significant initiatives such as the Medical Research Future Fund and supporting the development of medical research and public health programs to improve the health of all Australians. We also understand the concerns the Government has in relation to international donations undermining the Australian political landscape. However, we highlight what we believe are significant unintended consequences of the proposed Bill on the health promotion, international development and medical research activities of our member organisations.

The Global Health Alliance Melbourne (GLHAM) also welcomes the opportunity to speak at any Committee hearing to provide further detail on some of the unintended consequences this bill in its current form would have on health promotion and medical research in Australia and consequently in the Indo-Pacific region and beyond.

Australia has an internationally recognised proud record in health prevention measures from its early national HIV/AIDS Strategy, its seat belt legislation, tobacco control and early adoption of the HPV vaccine to prevent cervical cancer, through inclusion of the vaccine in its national immunization schedule. These achievements are the results of multiple inputs including the research - often in collaboration with institutions outside the country - which provided the evidence, submissions to governments, advocacy with politicians and awareness-raising in the community, including through the press.

We are concerned that foreign funding from philanthropic foundations including the Wellcome Trust and the Bill and Melinda Gates Foundation will be illegal under the proposed legislation.

These foundations support public health organisations to carry out research, run public awareness campaigns and lobby MPs for policy change in relation to public health issues such as asbestos, smoking or obesity,

Organisations and institutions that are registered with the Australian Charities and Not for Profit Commission (ACNC) and which serve the public good are already required to maintain independence from political parties and are forbidden from endorsing particular candidates.

Despite this existing requirement we believe it is likely that in its current form, a number of activities would be curtailed by the proposed Bill.

This would ultimately result in poorer health outcomes, not just for Australians but also for the global community who benefit from Australian advances in medical science, the collection of evidence and its application through national policy development. Australia's leadership and contribution to tobacco control is a prime example.

As organisations that operate for the benefit of humankind, the ability to advocate on behalf of vulnerable populations, to lobby government, and stimulate public debate brings about positive change and improves the lives of those we are mandated to serve.

We believe that the advocacy, lobbying and health promotion related to advances and discoveries in these areas could be judged as "political activity", noting that much of the work done in this area by our members is funded by non-Australian entities such as the WHO, UN agencies, the Bill and Melinda Gates Foundation, foreign philanthropists, the Wellcome Trust and many more.

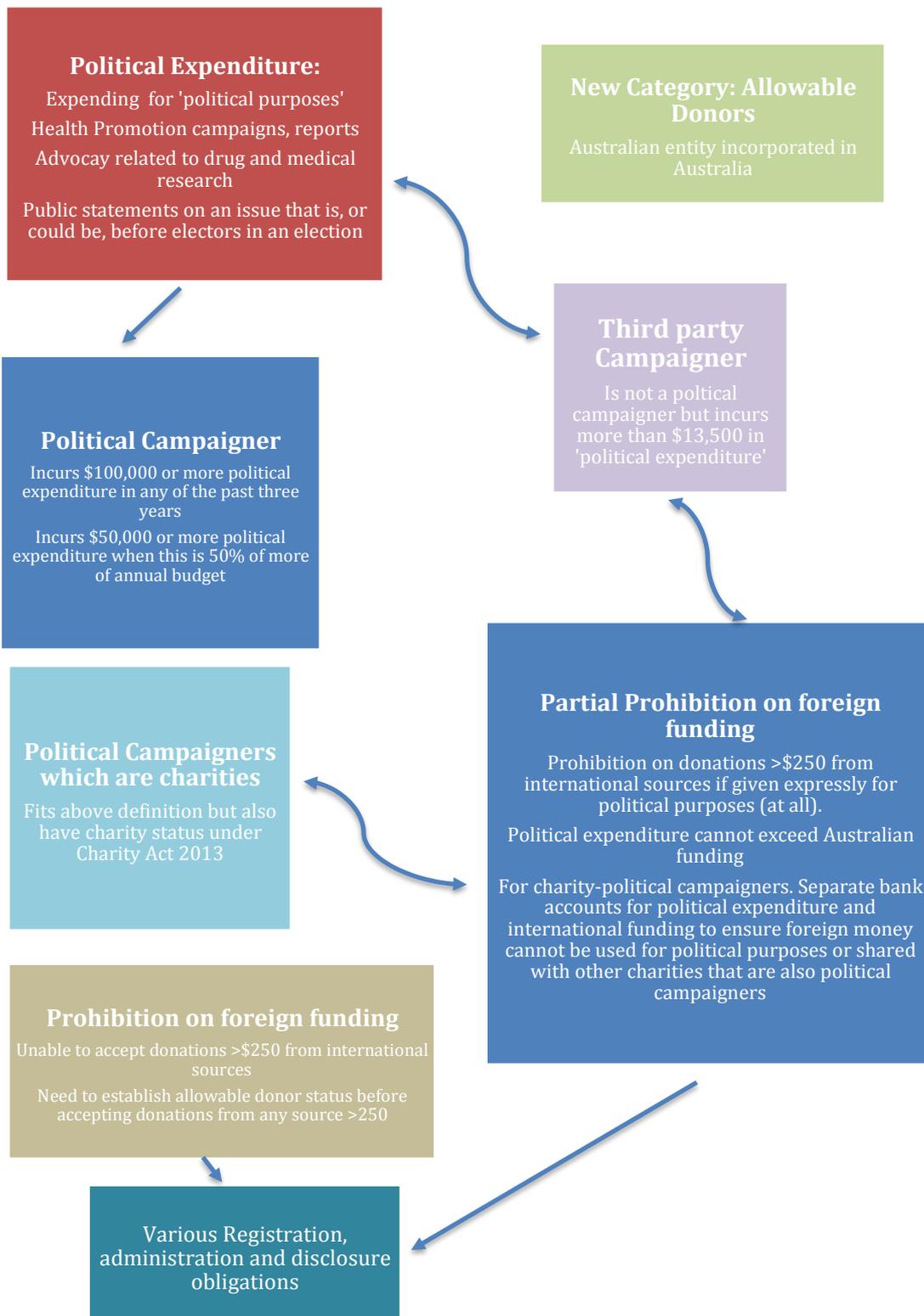
**It should be noted that the contracts issued by many philanthropic and international donors stipulate that advocacy undertaken with funds provided must be non-partisan advocacy.**

The global health sector is a vital component of Victoria and Australia's economy which we fear may be compromised by this Bill in its current form: a recent survey funded by the Victorian Government and undertaken by the Global Health Alliance in Melbourne showed that 24 organisations that work in global and first people's health receive grants and philanthropic income from organisations based outside of Australia, including those listed above, totalling just under \$450 million per annum. Australia-wide, the medical research sector employs over 15,600 staff and students, and has a combined revenue of over \$1.3 billion.

## Recommendation

**We respectfully request that this Bill be redrafted to ensure that medical research related-advocacy, health promotion activities and advocacy conducted by ACNC registered charities be exempted from the restrictions and the compliance regime foreshadowed in the proposed Bill.**

The proposed Bill creates novel classifications of ‘political campaigner’ and third-party campaigner’ with the intention of rendering international donations and funding illegal. As we understand it, the Bill can be summarised in the following flow-chart:



Our concern is that the amendments set out in the bill will lead to a number of deleterious effects across the medical research and global health sector within Melbourne and Australia. If an organisation is denoted a political campaigner, the Bill will restrict or eliminate major international donors from financial contributions to medical research and to non-government organisations that work and advocate on health-related issues. Public health campaigners that are not registered under the ACNC will be unable to accept non-Australian donations above \$250. ACNC registered political campaigners and thirdparty campaigners will have to separate funding into two bank accounts, where political expenditure must not originate from international sources.

As health promotion functions could be deemed political activities, many critical medical research and charity organisations are likely to be affected. Not only would this impose significant administrative burdens, such as financial disclosure auditing and reporting requirements, but it will significantly hamper the veracity of an organisation’s health promotion platforms and ability to engage in public debate. As the Human Rights Law Centre argues, they will “effectively have to choose between political advocacy and international funding”. Therefore, many critical public health functions will be affected.

### Case Study One



Melbourne-based Burnet Institute’s Healthy Mothers, Healthy Babies program (HMHB), which aims to reduce high maternal and newborn mortality rates in Papua New Guinea, has raised more than AUD\$700,000 from private and corporate donors within PNG since 2014.

This research program is funded purely from philanthropic support, much of which comes from overseas donations. Maternal and newborn mortality is a critical health issue in PNG and this topic is one among many others that has been raised during discussions between Burnet Institute, Federal Government agencies such as DFAT, and at ministerial level.

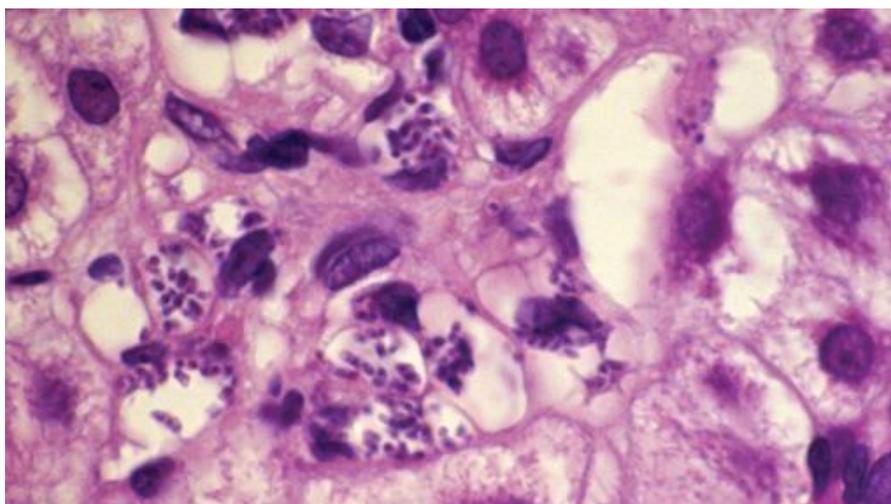
As an international NGO and medical research institute, Burnet's discussions with government around sensitive issues such as regional health security, increases or cuts to the foreign aid budget, both in a public forum and direct to government representatives, could be seen under the proposed legislation as expending funds on activities related to advocacy, lobbying or that have a political purpose. This would result under the proposed legislation in additional administrative burdens and puts at risk support from international donors, used specifically to fund research programs such as the Healthy Mothers, Healthy Babies program.

A prohibition on foreign donations directed towards what could be seen under the proposed bill as political activities could act to reduce the incentives of international donors to invest in Australian medical and public health research initiatives, with implications for the broader Australian and regional economies.

As criminal offences and fines are significant, this is likely to create strong disincentives against rigorous health promotion and advocacy positions. The burden of registering as a political campaigner, incurring administrative costs or losing critical funding lines could trigger the gradual omission of important health promotion work across the sector. In this way, advocacy on issues from the medical research, aid budget and public health policy could be truncated.

A strong relationship between organisations that provide research or implement international aid programs and Federal Government agencies and representatives, is essential if we are to successfully achieve positive health outcomes both for Australia and internationally. Part of this success is ensuring the ability to have robust discussion without it being seen to have overt political purpose.

## Case Study Two



Alongside other parties, Burnet Institute lobbied the Federal Government to include new direct acting antiviral drugs for the treatment of hepatitis C on the Pharmaceutical Benefits Scheme (PBS). With more than 225,000 people infected with hepatitis C in

Australia, they argued that improving access to new hepatitis C treatments would improve health outcomes for those affected.

The parties also showed through modelling the significant benefits to the Australian economy by reducing the infection rate and cost savings to the health care budget from the reduced burden of disease. As a result, these new direct acting antiviral medications were made available on the PBS on 1 March 2016 at a cost of more than one billion dollars to the Federal Government.

Burnet Institute has received more than AUD\$3million from a private pharmaceutical company based in the USA, to support the Institute's hepatitis C treatment and prevention program (TAP). This research program introduces these new direct acting antiviral hepatitis C treatments to participants without resorting to hospital admissions. The study assesses whether implementing this approach in a cohort of people who inject drug in Melbourne reduces the rate of new transmissions and prevalence of hepatitis C in the community.

The proposed new legislation risks undermining important international medical research partnerships such as that outlined above, and critical health promotion activities, which benefit the Australian and international community.

Limiting internationally-funded organisations such as Burnet from engaging in lobbying and public debate on critical and sensitive public health issues will have widespread implications for the advancement of medicine and the efficacy of the health system within Australia. This example shows that, contrary to the intentions of the Bill, how international funding for medical research can have a positive influence on the Australian health system.

Furthermore, multiple ambiguities around specific definitions contained within the Bill create uncertainties. There is a concern that many health-focused charities will be unduly implicated in the Bill and have significant components of their work curtailed or eliminated.

### Case Study Three

**TIPPING THE SCALES**  
8 critical actions Australia must take to tackle obesity

opc.org.au/tippingthescales  
#TippingTheScales

- 1** **Toughen restrictions on TV junk food advertising to kids**
- 2** **Set food reformulation targets**
- 3** **Make Health Star Ratings mandatory**
- 4** **Develop an active transport strategy**
- 5** **Fund public health education campaigns**
- 6** **Add a 20% health levy to sugary drinks**
- 7** **Establish a national obesity taskforce**
- 8** **Monitor diet, physical activity, weight guidelines**

Organisations such as the Royal Children's Hospital would be curtailed in making explicit politically-oriented comments or advocacy positions at the same time as performing critical public health and medical functions (including research) if they want to maintain open international funding lines. A recent example was the health promotion campaign towards addressing obesity and unhealthy dietary patterns within Australia. The Royal Children's Hospital was a key contributor to the Tipping the Scales report which called for: a raised tax on sugary drinks, Health Star Ratings as mandatory and amended national dietary, activity and weight guidelines, all of which could be deemed 'political', especially if actively discussed during an election cycle.

The hospital would have to forego this role, or risk losing significant international funding and donations, which in turn would limit basic health promotion campaigns of public good and also robust debate. While a report that simply publishes the findings of a research project would likely fall into the "academic purpose" exemption in the Bill, if the report includes statements of opinion on current Government policy or the policies of other political parties, the report may be deemed to constitute political activity.

<https://chf.org.au/sites/default/files/tipping-the-scales.pdf>

### **Definitional Ambiguity and Request for Clarity**

There are numerous definitional ambiguities and uncertainties contained in the Bill, rendering it vague and open to interpretation. As such, it seems that many key terms need to be refined, properly articulated and, in some cases, there should be some specific alterations to the language. If the Bill is to be advanced, GLHAM would like to see clarification over the following ambiguities which have been raised by GLHAM member organisations:

- What exactly constitutes an issue that is, or likely to be, before the electors in an election? When and by what mechanism can an organisation accurately identify which issues are before an electorate?
- What exactly constitutes 'public expression'? Members have noted there is a blurred line and lack of distinction between public and private expression of views. There must be clarification of which activities qualify as public expression. Lobbying?
- Given that charities are prohibited from having political purpose, can the committee explain how they will prevent the proposed label of 'political campaigner' as contravening the Charities Act 2013?
- How can organisations determine their level of political expenditure? There is only limited guidance as to what counts. At its current stage, definitions are so broad, many regular medical research and charity activities could be classified as political, including health promotion. Government relations positions? Hosting politicians/candidates? Campaign against medical research funding cuts? There should be explicit advice on the extent to which various advocacy activities could count towards political expenditure. For example, if lobbying were conducted in private, rather than public. More guidance is needed as to what type of expenditure counts towards the thresholds.

- To what extent does the ‘academic purposes’ exception apply to medical research institutes commenting on government health policy? There is a lack of clarity over this.

Answers to these questions will ensure that the Bill avoids the negative and unintended consequences of the proposed legislation. Improved definitional clarity will also facilitate a more nuanced and accurate debate over the proposed legislation in its current form.

## **Recommendation**

**In a similar vein to those exemptions which are already specified in the draft Bill, GLHAM also calls for legal exemptions to be included in the bill that exempt health promotion activities, advocacy related to medical research and advocacy conducted by ACNC registered charities.**

**Health promotion should not qualify as political expenditure as it is a core component of medical research and health charities modus operandi, as well as being of significant importance to Australian public policy and debate.**

**In addition, GLHAM seeks assurance from the Joint Standing Committee on Electoral Matters that existing health promotion and medical research initiatives will not be compromised, and that international research funds will remain secured.**