

**Submission  
No 170**

## **INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING**

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Select Committee on Electoral and Political Party Funding  
Legislative Council  
Parliament House  
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To the committee,

I would like to suggest the possible the use of a blind refund scheme to reduce the influence of money on politics and reduce the ability of politicians to force donations. I further suggest donation caps to ensure that a company can only donate an amount of money that is so large that the candidate will know it actually was donated.

A good description of blind refund schemes can be found in *The Secret Refund Booth* by Bruce Ackerman & Ian Ayres in the *University of Chicago Law Review* Volume 73 Number 4. For this method, money is not paid to a candidate, but to a trust. This makes the amount given publicly available, preferably on the Internet, but the donor may choose to have any amount of their money refunded secretly. To enable refunds, candidates are not paid the money immediately, but after a time delay. Secret refund booths are very similar to blind trusts, except that instead of no information being available, the maximum amount a company may have given is available.

The main advantage over blind trusts is that companies cannot donate obscene amounts of money as easily. To have blind trusts is to ensure that shareholders have no clue about how much money their company contributed. This means the directors can abuse their power and donate a lot more money than the shareholders will be willing to accept. With blind refunds a company can guarantee it has donated less than a certain amount and is still accountable to shareholders.

A second advantage is that donors who take refunds want them to remain secret. In contrast, with a blind trust, the donor wants it known that they made the donation. So in the former case it appears that the donors interests are aligned with the interests of the regulators so there is more chance of it being followed. Actually, this is not quite true - donors want it known they did not take a refund. However, if done properly, it should be much harder for a company to prove it didn't take a refund than prove that it made a donation.

This reduces the influence of money because a politician cannot be sure of the donors exact contributions. If they try to exert pressure for a donation then the donor can always put down the money and then take it back. The main difficulty is ensuring that refunds remain secret. This means that donors should not have a token or account which allows them to determine how much money they can get refunded. Otherwise they could use this to prove they haven't taken a refund. So the only way to determine if a company is to look at their bankbooks. Most companies would refuse this, however it is possible that a company might allow this if they wanted to demonstrate that it was their rival who was taking their money back. So this is an issue that has to be dealt with.

One problem is that companies that do not want to donate might not take refunds, treating the cost as insurance. They would consider the cost as insurance, as the candidate might retaliate if they discover the company took its money back. However, if there is confidence in the measures taken, then this issue will be significantly reduced.

Donors would have an account with the electoral commission, but this only allows them to request a certain amount be refunded to a predetermined bank account. If the refund is greater than the donation, the donation is refunded. While the bank account does not have to be the one the money was originally transferred from, it obviously cannot belong to another organization. Additionally, there is no way for a company to retrieve or change the predefined account. In large organizations, which are the cause of the greatest concern for political corruption, the finances are complex enough that the company could not easily prove that it has not taken the refund, even if the candidate has someone inside the company. Accountants have shown in the past that they are quite capable of concealing things, mostly for the wrong reasons, but in this case the reasons would be perfectly legitimate. In any case, this is better than the blind trust scheme as money appearing is easier to conceal than money disappearing.

This system will be successful provided companies cannot easily prove they haven't taken refunds. There will generally be many contributors who pretend to provide large sums of money in an effort to gain influence. This will reduce the influence of donors over parties, as the party cannot even be sure that they are donors. As an additional measure, the revealed amount could be changed to a randomly selected value with twenty five percent of the original. This would reduce a problem mentioned by Ackerman & Ian Ayres where a certain percent of donors need to be taking refunds to ensure that the donors who take refunds are anonymous. Otherwise, when a large contributor pulls out, it will be obvious that it was a large contributor who did pull out.

There are a few more issues to discuss. Minor donations could be free of such restrictions as to not prevent political fundraisers. There should be donation caps, perhaps \$100,000 so that a company cannot donate an amount so large that it will be obvious that it gave the money away (there could be a percent of turnover limit for smaller businesses). Personal donations over a certain amount would have to use the blind refund scheme to avoid the directors of a company donating on its behalf. Unfortunately, for large personal donations we cannot rely on complexity to hide whether the person took a refund. However, the person can take out a secret bank account and have money transferred into that. So even if they are pressured by a candidate into revealing their bank statement, they can still hide that they took a refund.

Basically, the blind refund booth works by ensuring there is enough uncertainty that candidates feel less obliged to donors. Whenever a donor tries to exert influence, the candidate will always wonder if they are in fact a donor.

Many others will suggest that donations be banned or severely limited. Experience in the US has shown that this simply causes companies to exert pressure on employees to donate instead. Banning donations does not seem to work as regardless of the methods used, companies have found ways of circumventing the rules, such as forming political action groups. My proposed solution should be better than the current system, as long as refund secrecy can be maintained.

Please feel free to contact me if you have any questions about my proposal. Thank you,

Chris Leong