

**Submission
No 141**

INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING

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*Building a
Cancer Smart
Community*

Rev The Hon Fred Nile
Select Committee on Electoral and Political Party Funding
Parliament House
Macquarie St
Sydney NSW 2000

Dear Rev Nile

The Cancer Council NSW welcomes this opportunity to provide a submission to the Select Committee on Electoral and Political Funding Inquiry into Electoral and Political Funding.

We believe that political party donations in NSW need to be subject to greater regulation in the interests of good public policy. The attached submission describes an example of the conflict between public interest and industry interests and the possible role of political donations in influencing the policy outcome. The submission also includes a number of recommendations that, if adopted, we believe will reduce the magnitude of influence through political donations.

We look forward to the outcomes of the above inquiry and welcome further consultation.

Yours sincerely

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The Cancer Council NSW

**Submission to the Select Committee on Electoral and Political
Funding**

Electoral and Political Funding Inquiry

February 2008



Introduction

The Cancer Council NSW is the leading cancer charity in New South Wales. Our mission is to defeat cancer. The Cancer Council envisages a future where no life is cut short or its quality diminished by cancer.

The Cancer Council welcomes this opportunity to provide comment to the Select Committee on Electoral and Political Funding Inquiry into Electoral and Political Funding. The Inquiry's Terms of Reference that are of major interest to The Cancer Council are:

- the advantages and disadvantages of banning all donations from corporations, unions and organisations to parties and candidates and
- the impact of political donations on the democratic process.

We believe that public policy should be shaped by evidence and serve the public interest. We are acutely aware that in many areas of public policy the only active constituency will be those whose corporate interests are in conflict with the public good. Examples include areas of chronic disease prevention such as tobacco control and obesity prevention. It is in these contested policy areas that political donations from corporate entities can unfairly influence policy decisions, as other stakeholders in chronic disease prevention are unable to purchase influence in the same way.

Our position

We believe that every citizen should have equal access to and influence on political decision-making. Access to policy-makers, and degree of influence should not be linked to ability to 'pay'.

We believe that political donations in NSW need to be subject to greater regulation. The existing liberal regulatory environment lacks sufficient safeguards and leaves the policy process too open to influence by donations.

Electoral and political funding should be completely transparent, with information on donations being regularly reported in the public domain.

We believe that the influence of party political donations from vested corporate interests and their representatives has a corrupting influence on the democratic process. This is a particular problem in policy areas such as public health where groups representing the interests of the general public or those who are at risk of chronic disease are unable or unwilling to use political donations as part of the policy influence strategy. In this scenario, political donations inherently disadvantage the ordinary citizen as well as charities that act in the community interest, as they are in most cases unable to match the financial resources of the corporate sector.

In the recent past in NSW, we have observed the apparent influence of party political donations on political party tobacco policy in NSW and we describe some particularly compelling examples below.

An example of public interest being compromised by industry interests

Over the past 10 years, there have been protracted debates and policy tussles regarding the introduction of smoke-free public places legislation, particularly in relation to pubs and clubs. The long procrastination of the State Government on this issue, and the final compromised policy decision coincides with a lengthy period of generous political donations from the hospitality industry to the NSW Branch of the Australian Labor Party.

Hotels and registered clubs were generous donors in the lead-up to development of the *Smoke-free Environment Act 2000*, enacted in September 2000. In the periods 1998/99 and 1999/00 financial donations from the hotels and registered clubs to the NSW ALP totalled \$433,136.¹ The Act, which banned smoking for nearly all indoor public places, contained significant exemptions for hotels, registered clubs, nightclubs and casinos.

Half a decade later, under enormous community pressure, the Government announced that pubs and clubs would become smoke-free. Yet the *Smoke-free Environment Regulation 2007* which determines what places are "substantially enclosed" under the *Smoke-free Environment Act 2000* allows for smoking in areas as little as 25% open to the outdoors.² The NSW Australian Hotels Association (AHA) vigorously advocated for this guideline prior to its adoption by the NSW Government. In the words of an AHA "Special Edition" Member Update, AHA President John Thorpe and Executive Members "lobbied hard" and "were successful" in having the guideline adopted (see Appendix).

Interestingly, the publication date of the AHA Member Update was 1 June 2005; a full eight months before the proposed Regulation was publicly announced on 10 February 2006 by the then Minister Assisting the Minister for Health (Cancer), The Hon. Frank Sartor.

Incidentally, the abovementioned AHA "Special Edition" Member Update also stated:

Our appreciation is extended to the Hon Grant McBride, Minister for Gaming & Racing who strongly supported our position and who steered the debate with his Cabinet colleagues.

In our opinion, that Minister McBride apparently "steered the debate" on this issue within Cabinet is highly inappropriate given his responsibility for gaming. The issue of smoke free environments is properly the business of the health and cancer portfolios. The role played by Minister McBride in this decision highlights the Government's close relationship with the hotel and gambling interests in NSW.

Between 2004/05 and 2006/07 the NSW ALP received \$1,286,209 from the hospitality industry.³ Almost half of this was from the Australian Hotels' Association.

The decision to allow smoking in public areas up to 75% enclosed makes a mockery of the public health objective of the *Smoke-Free Environment Act 2000* and clearly

contravenes the National Occupational Health and Safety Commission guidelines on the elimination of exposure to environmental tobacco smoke.^{iv} The policy lacks any scientific basis, and is in conflict with numerous studies about exposure to second-hand smoke, and inconsistent with community expectation.

We believe that the decision to continue to allow smoking in public areas up to 75% enclosed will result in continued harm to the community. Tobacco use is the single greatest cause of preventable cancer. Its use is also a cause of 12 other cancers as well as heart disease and many other illnesses.^v Every branch of medicine is represented among the diseases tobacco use causes and its use results in over 15,000 deaths in Australia each year.^{vi}

Exposure to second-hand tobacco smoke (SHS) is also a significant cause of ill health. Among the diseases caused by SHS exposure are lung cancer, heart disease, asthma and a range of acute respiratory conditions.^{vii} The *Smoke-free Environment Regulation 2007* Guidelines for determining what places are "substantially enclosed" do little to protect against SHS exposure in many public places.

Further, we believe that the Guidelines constitute a missed opportunity to exert a downward influence on smoking rates. There is evidence that effective smoking bans in public places and workplaces encourage strong interest in quitting.^{viii ix x xi xii xiii xiv}

This policy decision clearly contravenes the public interest, the evidence base and community demand, and satisfied the needs of only one stakeholder – the hospitality industry. It is difficult to construe a rational basis for the decision other than the disproportionate influence of the hospitality industry on the Government.

The problem of indirect donations

Both the NSW Labor Party and the Australian Labor Party adopted policies of not accepting donations from the tobacco industry. Such policies appear to recognise the irreconcilable conflict between corporate tobacco interests and the public good, and are an important statement from political parties about where they 'draw the line' on political donations.

However, there are several ways that such policy intent can be undermined in the current system.

The first is where donations are made through a party other than the tobacco industry, but from an entity that has a common interest. This has been the case in the example above, where the position of the hospitality industry donors has effectively served the interests of the tobacco industry.

In the most benign of scenarios, this commonality of interest is mere coincidence. Another analysis suggests the possibility of banned donations being funnelled through other interest groups. For example, in Australia, British American Tobacco has established an entity called the Butt Littering Trust, offering grants to local Councils to run programs that distract from more effective tobacco control measures. There has been some suggestion that the tobacco industry provides

financial support to the hospitality industry body, which would help explain its entrenched and vehement opposition to the introduction of smoke-free laws, despite evidence from other jurisdictions that smoke-free laws can bring financial benefits to pubs and clubs. A number of examples of the tobacco industry “cultivating relationships with hospitality organisations such as the AHA (Australian Hotels’ Association)” and involving sponsorship are provided by Harper and Martin.^{xv}

There are also potential loopholes with the advent of events-based sponsorship of political parties. Funds raised through Board room dinners, or political party dinners where interest groups can purchase an evening with a Member of Parliament offer extensive opportunities for corporate entities to wield influence, with relatively little transparency.

Recommendations of The Cancer Council NSW

The Cancer Council NSW supports the regulation of electoral and political funding according to the following principles and strategies:

- Ideally, corporate entities and their agents should be prohibited from making financial donations and in kind donations to political parties and electoral campaigning should be publicly funded, as is the situation in a number of overseas jurisdictions. We recognise that publicly funded electoral campaigning would entail a public cost that might meet political resistance.
- If political parties and campaigns are not to be publicly funded, the system of political donations should be more tightly regulated in the interests of accountability and transparency:
 - Political parties should be required report quarterly on the source and amount of all donations, with reports being publicly available.
 - Political parties should be required to disclose the identity of those who subscribe to political party fundraisers held in the form of dinners or other events involving access to politicians
 - Donations to political parties from individual entities should be capped at a reasonable level (for example, \$1,000 per annum).
 - Legislation should be introduced to prevent, for a period of 2 years, retiring Members of Parliament from being employed by, provide consulting services to, or otherwise assisting for benefit, any corporate entity or its agent which could be seen to be obtaining unfair advantage from such an arrangement with an ex MP.
 - Measures should be introduced to expose any entities behind donor bodies, to reduce the risk of donations being channelled through ‘front’ organisations
- Adequate funding should be provided to the NSW Election Funding Authority to enforce political funding laws.
- Penalties for breaching political funding laws should be increased.

Appendix

Page 1 of AHA (NSW) Member Update "Special Edition"

AHA (NSW) MEMBER UPDATE "SPECIAL EDITION"



SMOKING BANS IN NSW

NSW GOVERNMENT'S DECISION ON OUTDOOR AREAS

As at 1 June, 2005



Outdoor Smoking Areas

A message from
the Chief Executive

The NSW Government has now released its decision on 'what constitutes an outdoor area' where smoking will be permitted.

As explained in detail in this Member Update, the Government has now agreed that *if the proportion of an area that is open to the outdoors is greater than 25% of the total surface area of the ceiling or roof and walls and windows, then the area will be considered unenclosed and smoking will be allowed.*

Our President, John Thorpe and Executive Members have lobbied hard on this important issue. Our representations were successful and practical guidelines have been determined by the Government. (The text of the Government's guidelines appears on page 6.) This will be included in Regulations to be made under the Smoke-free Environment Act and will give hospitality venues certainty both now and into the future.

Our appreciation is extended to the Hon Grant McBride, Minister for Gaming & Racing who strongly supported our position and who steered the debate with his Cabinet colleagues.

Individual venue operators need to establish whether an outdoor area qualifies under the rules. The AHA (NSW) has prepared notes on the Government's guidelines to assist hoteliers with their calculations. However, it is emphasised that this form of self-regulation can be challenged. It would therefore be advisable to be particularly accurate with your calculations and in your best interests to retain them for later
Issued June 2005

If the proportion of an area that is open to the outdoors is greater than 25% of the total surface area of the ceiling or roof and walls and windows, then the area will be considered unenclosed and smoking will be allowed.

reference. The AHA (NSW) has developed a self-assessment calculation sheet and that is included on page 7 of this Member Update.

We are mindful that the layout of every hotel is quite different and that the new guidelines will need to be applied individually to the 'real-life' situation in each hotel.

The AHA (NSW) has prepared these notes and sketches based on the Government's guidelines with all due care and diligence. The notes contained in this Member Update is general in nature and members should seek their own professional advice. Diagrams are intended as a guide to some of the possibilities that you may wish to consider for your hotel.

This Special Edition of Member Update contains all the information you require.

Additionally page 8 includes some suggestions on how staff might be trained to handle the introduction of smoking bans.

For further information, please contact the Association on 02 9261 6922.

Brian Ross
AHA (NSW) Chief Executive



- ¹ NSW Greens Party web site "Democracy 4 Sale"
<http://www.democracy4sale.org/index.php> (accessed 5 February 2008)
- ² NSW *Smoke-free Environment Regulation 2007*, Clause 6
<http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0> (accessed 5 February 2008).
- ³ NSW Greens Party web site "Democracy 4 Sale"
<http://www.democracy4sale.org/index.php> (accessed 5 February 2008)
- ⁴ National Occupational Health & Safety Commission. *Guidance Note on the Elimination of Environmental Tobacco Smoke in the Workplace (NOHSC;3019/2003)*. Commonwealth of Australia. Canberra, 2003.
- ⁵ U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Public Health Service, Centres for Disease Control, Centre for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.
<http://www.surgeongeneral.gov/library/secondhandsmoke/> (accessed 7 February 2008)
- ⁶ Begg S, Vos T, Barker B, Stevenson C, Stanley L, Lopez AD, 2007. The burden of disease and injury in Australia 2003. Australian Institute of Health and Welfare. Canberra 2007.
<http://www.aihw.gov.au/publications/hwe/bodaiia03/bodaiia03-c00.pdf> (accessed 7 February 2008)
- ⁷ U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Public Health Service, Centres for Disease Control, Centre for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.
- ⁸ Laugesen M, Scollo M, Sweanor D, Shiffman S, Gitchell J, Barnsley K, Jacobs M, Giovini GA, Glantz SA, Daynard RA, Connolly GN, DiFranza JR. World's best practice in tobacco control. *Tobacco Control*, June 2000; 9: 228 - 236.
<http://tobaccocontrol.bmi.com/cgi/content/extract/9/2/228?maxtoshow=&HITS=10&hits=10&RESULTFORMAT=1&author1=Laugesen%2C+M&andorexacttitle=and&andorexacttitleabs=and&andorexactfulltext=and&searchid=1&FIRSTINDEX=0&sortspec=relevance&resourcetype=HWCIT,HWELTR> (accessed 7 February 2008)
- ⁹ Frieden TR, Mostashari F, Kerker BD, Miller N, Hajat A, Frankel M. Adult Tobacco Use Levels After Intensive Tobacco Control Measures: New York City, 2002-2003. *American Journal of Public Health*, June 2005, Vol 95, No. 6 1016-1023.
- ¹⁰ Bauer JE, Hyland A, Li Q, Steger C, Cummings KM. *A Longitudinal Assessment of the Impact of Smoke-Free Worksite Policies on Tobacco Use*. *American Journal of Public Health*, June 2005, Vol 95, No. 6 1024-1029.
- ¹¹ Want employees to quit smoking? (Editorial) *The Lancet* 2007; 369:1491
- ¹² Siegel M, Albers AB, Cheng DM, Biener L, Rigotti NA. Effect of local restaurant smoking regulations on progression to established smoking among youths. *Tobacco Control* 2005;14:300-306.
- ¹³ Quit Victoria. People more likely to quit if bars and clubs go smoke-free (Media Release). 1 October 2004.
- ¹⁴ Quit Victoria. Half of Victoria's young adult smokers claim they will quit when bars and clubs become smoke-free next weekend (Media Release). 23 June 2007.
- ¹⁵ Harper T, Martin J. Trojan Horses: how the tobacco industry in Australia infiltrates the smokefree debate in Australia. *Australian and New Zealand Journal of Public Health*. 2002 Vol. 26 No. 6, 572-573.