

**POLITICAL FINANCE & GOVERNMENT ADVERTISING
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It's time? Reforming political financing in Australia

**Peter Van Onselen
Edith Cowan University**

Whilst election spending in Australia has not drawn anywhere near spending in the USA (the 2004 US election saw campaign spending in excess of \$1b), it has increased dramatically in recent years.¹ The electoral returns for the financial year 2004-05 confirm this trend. Since 1984 parties receive a proportionate allotment of public monies based on their share of the vote (provided they reach the required threshold of 4 percent). The use of corporate donations is an increasingly significant addition to public funding.

In 2004, Senator Helen Coonan told the *Australian Financial Review* party fundraisers, where business people pay thousands of dollars for access to cabinet ministers, “can be considered to be very cost-effective” (24-25 July). Joe Hockey MHR, quoted in the same article, made the observation that “compared to what Labor charges” Coalition fundraising is “very cheap”.

It is unfortunate that we seem to have reached a state where politics is so replete with unethical behaviour that the prostitution of democracy is publicly promoted by some political leaders.

There are essentially three reasons corporations donate to political parties. Firstly, they do so as a civic duty. ‘Civic duty’ can sometimes be extended to include ideological preferences for one side of politics. Second, they donate because their competitors donate and they cannot afford not to. Third, they donate to have a better chance of obtaining access to decision makers, thereby increasing their corporate entities chances of impacting of legislation.

Since his mid 2004 comments, Joe Hockey has publicly proclaimed he is concerned by the amount of time ministers are required to spend attending party fundraiser events. His

concerns have been echoed by Tony Abbott, and come on the back of proposals to reform fundraising rules promoted by high profile new parliamentary entrants Malcolm Turnbull and Andrew Robb. They have proposed a ban on corporate and union donations with a \$10,000 cap on individual donations to political parties.

While a \$10,000 cap is, in my opinion, too high (a cap closer to \$1,500 would be more equitable), the fact senior members of the current federal government are prepared to debate political finance reform can only be considered a good thing. This momentum should be taken advantage of.

Within the present script of political financing there is much to be concerned about. Federal and state ministers sell their time for significant sums of money. They attend high priced fundraisers such as cocktail parties and dinners. At such functions attendees can pay thousands of dollars for their place. Worse still, senior ministers are able to auction off their time to the highest bidder. Auctions have included opportunities for private dinners, walks or jobs with ministers. Bidders for such ministerial access are generally corporate leaders.

How can our laws allow this sort of practice? They work like this: Part **XX** of the Commonwealth Electoral Act 1918 sets out the requirements for election funding and financial disclosure. Section 305B under Part **XX** states that any gifts made by a person to a registered political party (or to its State branch) totalling \$1,500 or more must be disclosed to the Electoral Commission within 20 weeks of the end of the financial year the donation was made (the provision is likely to be increased to \$10,000 in the coming months). ‘Gifts’ is defined at section 287 of the Act as meaning any disposition of property (other than by will) made without consideration in money or money’s worth or with inadequate consideration (eg if I sold a painting to a political party worth \$5,000 for \$100). It includes the provision of a service (other than voluntary labour).

In the case of ministers and shadow ministers auctioning off their time for a run, a walk or a private dinner to the highest bidder, these politicians would argue they do not disclose the

¹ For a detailed summary of political advertising costs in Australia over the last decade see: Young, S. (2004) *The Persuaders: Inside the Hidden Machine of Political Advertising*, (Melbourne: Pluto Press)

provision of this time to the Australian Electoral Commission because it is voluntary time. That is, voluntary labour as excluded from the requirement of disclosure in the Act.

The legal position of those purchasing items and services in this way is similarly opaque. Under the Electoral Act (section 287), the highest bidder in these auctions is purchasing an item or service for consideration in money. Hence, an executive of a corporation could purchase time with a minister on a run and the Australian Electoral Commission and the public may never know about it. This certainly goes against the spirit of political donation disclosure laws.

Political parties have also looked to achieve maximum benefits from donations-in-kind and parliamentary entitlements. Donations-in-kind are increasingly including access to corporate and policy expertise to assist in the drafting of party policies for elections. This is particularly common amongst opposition parties as they have less access to state resources that can be used for the same purpose. Parliamentary entitlements allow parties to spend state resources on the training of MPs and their staffers. That training is not always provided by the parliament. Rather, it is provided by a private provider, and there is evidence the private provider of training also donates substantial sums of money back to the political party affiliated to the MPs and staffers receiving the training.

The problem is that expensive professional campaigns are now needed to secure government. The High Court has made it clear that banning expensive political advertising won't be allowed. Without a total ban on private funding of political campaigns, however, it should still be possible to limit the size of individual donations and ensure that all donations are clearly disclosed, whether they are direct donations to the parties or the result of the various means of raising funds that politicians have dreamt up.

Large private donations to political parties, made by businesses or trade unions, are designed with one end in mind – to influence the public policies of the party. Is it legal? Technically. Is it ethical and proper? Absolutely not.