



New Zealand Chambers of Commerce (Inc)

Submission to Justice and Electoral Committee

Electoral Finance Bill

September 2007

Introduction

The New Zealand Chambers of Commerce (Inc), NZCCI, is an umbrella organisation serving the interests of 34 Chambers of Commerce nationwide. These, in turn, represent over 24,000 businesses around the country. While many of our members are in the SME category our membership includes most of the largest corporations in New Zealand.

NZCCI is pleased to be able to make this submission on the Electoral Finance Bill (the Bill). NZCCI opposes the Bill in its current form.

While the intention of the Bill may be to curb undue influence on election outcomes and minimise corruption, as it currently stands it would have some perverse impacts on the workings of the political process - and the important role lobby groups play in that - as well as on basic freedoms of speech in New Zealand.

Impact of the Bill

We are particularly concerned about the impact the Bill would have on the policy, advocacy and lobbying activities of NZCCI, individual chambers of commerce and other industry organisations and reputable non-government organisations.

NZCCI and the individual chambers are non-partisan organisations. We do not support particular parties or candidates; instead we are issue driven. On behalf of our members, we promote sound policies that reflect the interests of the business community and the country as a whole. As indicated above, our memberships represent a large cross section of the New Zealand business community.

The nature of much of the advocacy work of the chambers is to take a stance on a particular policy issue and promote it to policy makers. Such a stance may or may not be shared by the government or opposition parties. We are concerned that under the Bill our ability to do this would be curtailed.

The key problems with the Bill are firstly that the definitions of *third party*, *election advertisement* and *regulated period*, for which many of its provisions apply, are all unrealistically wide and secondly, that the regulations which apply to these are far too onerous. The Bill in its current form would potentially limit the ability of NZCCI and other organisations (*third parties*) to carry out much of their regular advocacy activity (*an election advertisement*) in an election year (*the regulated period*) by applying onerous requirements, such as registering and filing returns with the Chief

Electoral Officer, who has the ability to refuse applications, and imposing limits on expenditure of up to only \$60,000.

Definition of Third Party

Clause 14 of the Bill defines third party, to whom the restrictive conditions apply, as registered electors, body corporates and unincorporated bodies (whose members are registered electors). Politicians and election candidates are excluded from the definition.

This means that politicians are free to carry on as normal in an election year while individuals and organisations are potentially limited in what they can say and do.

The Regulated Period

Currently the three months prior to an election is deemed to be the regulated period. Under Clause 4 of the Bill, the period is extended from 1 January of the election year to the election. Assuming an October election date and based on a three year election cycle, this means the restrictive conditions would apply more than quarter of the time¹.

Election Advertisement

Clause 5 of the Bill defines an election advertisement as a form of words which:

- *Takes a position on a proposition with which one or more parties or one or more candidates is associated, and*
- *Encourages or persuades voters to vote, or not to vote, for a type of party or type of candidate that is described or indicated by reference to views, positions or policies that are or are not held, taken or pursued (whether or not the name of a party or the name of a candidate is stated).*

On the first of these, it is highly likely that the policy positions we take on an issue are shared by one or more parties. This means that even without endorsing a party, the positions we take will be captured. On the second, we would not engage in the practice of encouraging voters to vote or not to vote for a particular party. However, in trying to persuade people to accept a view on a particular policy issue, we may be deemed to be persuading people to vote for a particular party or parties who share that view.

Issuing a press release, posting on a website, mailing a letter and making a submission consistent with the above bullet points are everyday activities of the chambers, and all would come under the definition of an election advertisement.

Conclusion

This Bill undermines the role that industry organisations and lobby groups play in the political process. It assumes that politicians and government departments are the only legitimate players in the process. While the Bill claims to promote the participation in parliamentary democracy, it instead imposes unreasonable constraints on free speech without offering any compelling reasons. If passed in its current form the Bill would constitute a major setback for democracy in New Zealand.

¹ 1 January – 30 September is 9 months. 9months / 36 months = 25%