



HUMAN RIGHTS & DISCRIMINATION COMMISSIONER

ACT Human Rights Commission

Dr Hanna Jaireth
Secretary
Standing Committee on Justice and Community Safety
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A.C.T. LEGISLATIVE ASSEMBLY COMMITTEE OFFICE	
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Dear Dr Jaireth,

Inquiry into Campaign Finance Reform

Thank you for your invitation to make a submission to the Committee's inquiry into Campaign Finance Reform in the ACT.

I wish to make a very brief submission to the Committee regarding the possible effect of the *Human Rights Act 2004 (ACT)* (HR Act) on campaign finance reform. At this stage, given that the Terms of Reference of the Committee are very broad, my comments are necessarily general. I could consider the human rights implications of specific proposals for reform when these are further developed.

The Terms of Reference of the Committee include the regulation of donation size, political party campaign expenditure and third party campaign expenditure. They also cover issues of financial disclosure, which may include disclosure of donations and expenditure on political campaigns and advertising.

Proposals for campaign reform which seek to limit expenditure on political campaigns, where this expenditure includes political broadcasts and other forms of political speech, are likely to engage the right to freedom of expression which is protected under s.16 of the HR Act, and thus require careful consideration. Restrictions on political speech by individual third parties, as opposed to political parties and candidates, raise particular concerns.

The right to freedom of expression is not absolute, and under s.28 may be subject only to reasonable limits set by Territory laws that can be demonstrably justified in a free and democratic society. In the United States, in the recent decision of *Citizens United v Federal Election Commission* 558 U.S. (2010), a campaign finance law which sought to prohibit corporate funding of independent political broadcasts was held to breach the Constitutional right to freedom of expression. In that case the majority of the Supreme Court struck down the prohibition on corporate independent expenditures backed by criminal sanctions, finding that it amounted to an outright ban on speech.

