

30 October 2009

Ministry of Justice
C/- P.O. Box 180
Wellington

Emailed to:
electoralfinancereform@justice.govt.nz



POST	P.O. Box 11-881, Wellington, New Zealand
PHONE	+64 4 495 2119
FAX	+64 4 495 2115
EMAIL	office@internetnz.net.nz
WEB	www.internetnz.net.nz

To whom it may concern,

Re: Invitation for Submissions on the Electoral Finance Reform Proposal.

1. Introduction:

- 1.1 This submission is from InternetNZ (Internet New Zealand Inc), and is in response to the Ministry of Justice's call for submissions on the Electoral Finance Reform Proposal.
- 1.2 InternetNZ is a membership-based, not-for-profit organisation responsible for the administration of the .nz domain name system.
- 1.3 InternetNZ is a non-government non-partisan organisation that acts to protect and promote the Internet for New Zealand. We advocate for the ongoing development of an open and uncaptureable Internet, available to all New Zealanders.
- 1.4 The focus of this submission is confined to those aspects of the proposal that deal with election advertising and parallel campaigning. It touches briefly on state funding and whether or not the broadcasting allocation should be expanded to non-traditional media.
- 1.5 This submission reinforces points made in our earlier submissions on electoral law reform, in September 2007¹ and June 2009².

2. Definition of Election Advertisement:

- 2.1 InternetNZ agrees that a revised definition of 'election advertisement' is required; one that has a clearly defined meaning and avoids all doubt.
- 2.2 InternetNZ notes that the proposed definition contains several improvements, and is pleased that exceptions are proposed for websites maintained by party/candidate/parallel campaigners, and for personal opinions published on blogs, personal and social networking websites.

¹ www.internetnz.net.nz/issues/submissions/archive/2007/elecbill/view

² www.internetnz.net.nz/issues/submissions/submissions-2009/InternetNZ-Electoral-Law.pdf/view

- 2.3 InternetNZ is concerned however that the proposed definition references existing language in the Electoral Act 1993; language that is too broad and open to subjective judgment.
- “[The definition will be]...focused on campaigning that seeks to influence voting behaviour by encouraging or persuading voters, or appearing to encourage or persuade them.”*
- 2.4 The ability of politically-neutral InternetNZ to go about its business during an election year could be restricted by the above wording, as our stock-in-trade advocacy work might be misconstrued as ‘advertising’ or ‘campaigning’.
- 2.5 InternetNZ’s day-to-day advocacy work involves advancing discussion on issues of Internet public and technical policy. We regularly make submissions to the Government, regulators and Parliament, and during election years we ask questions of and publicise parties’ ICT positions.
- 2.6 These actions are aimed at informing the general public and persuading government and parliamentary decision makers to adopt improved policies for New Zealand’s Internet infrastructure. Our advocacy is done in the interests of all New Zealand Internet users and is not designed to influence the democratic process.
- 2.7 InternetNZ therefore supports the development of a narrower definition that excludes general issues advocacy (see paragraph 7.6 of the proposal), provided actions such as ours in seeking and publishing policy positions on ICT matters are not considered as “explicitly calling for a vote” and are excluded.
- 2.8 To avoid doubt, the publication of the policies of political parties or constituency candidates, whether with or without commentary, which does not explicitly call for a vote should not be regarded an election advertisement.

3. Identification of Parallel Campaigners:

- 3.1 InternetNZ has no view on the regulation of expenditure by parallel campaigners, or on the regulation of positive and negative advertising.
- 3.2 We remain concerned however with the identification of ‘parallel campaigners,’ described in the proposal as including ‘special interest groups’ and ‘lobby groups’.
- 3.3 While InternetNZ does formulate policy positions on ICT issues (e.g. fibre-to-the-home, copyright Section 92a) that may be shared by political parties or constituency candidates we never take supporting or opposing positions with respect to specific political parties or candidates.
- 3.4 Some of our advocacy actions could be seen to benefit or hurt the electoral chances of particular parties or candidates. However it is specifically the role

of non-government non-partisan organisations to critique policy proposals and to advocate for their point of view.

- 3.5 Consequently, InternetNZ submits that organisations such as ourselves that seek only to inform and educate the general public about the best policies for the Internet should not be deemed parallel campaigners under the proposal.

4. Funding (Use of Broadcast Allocation):

- 4.1 Restricting the broadcasting allocation to television and radio during official campaign periods fails to take into account new communications systems, and the important role the Internet has in facilitating exchange of information.
- 4.2 In the interests of promoting Internet use InternetNZ favours the media-neutral Option 2b (moderate reform), as outlined in the proposal.

Thank you for the opportunity to make this submission.

Regards,

A handwritten signature in black ink, appearing to read 'Jordan Carter', with a stylized flourish at the end.

Jordan Carter
Deputy Executive Director
InternetNZ

04 495 2118

jordan@internetnz.net.nz