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Electoral Finance Reform
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To whom it may concern:

Submission on “Electoral Finance Reform: Issues Paper”

Introduction

1. This submission is from InternetNZ (Internet New Zealand Inc).
2. InternetNZ is a non-partisan, non-profit membership based organisation, with the responsibility for managing the .nz domain name space, a key part of New Zealand’s Internet infrastructure.
3. Using some of the proceeds from that role, InternetNZ advocates for the interests of New Zealand Internet users, as well as playing a limited role in the development of the Internet in the Pacific. Our mission is to protect and promote the Internet for New Zealand.
4. In this submission we focus on Chapter 5 of the Issues Paper, on “Parallel Campaigning”, and our views are consistent with those we submitted in September 2007 to the Justice and Electoral Select Committee on the Electoral Finance Bill.
5. The first section of this submission outlines the activity that InternetNZ conducts which might be affected by electoral law, and the following section discusses the specific issues raised in the Issues Paper. The final section contains brief recommendations.

A - InternetNZ’s work

6. In advocating for the interests of Internet users during election periods, InternetNZ conducts two sets of activities that could be relevant to electoral law considerations:
 - a. Advocacy work on issues of public and technical policy
 - b. Efforts to publicise parties’ positions on Internet-related policy issues

Advocacy work

7. InternetNZ conducts a wide range of activities aimed at persuading government and parliamentary decision makers to adopt improved policies for New Zealand's Internet infrastructure.
8. Examples include extensive submissions to the Commerce Commission on regulatory proceedings under the Telecommunications Act; submissions where relevant to other Government agencies; submissions where relevant to Parliamentary Select Committees; support of the occasional proceedings of the Parliamentary Internet Caucus; the publication of position and issues papers; the convening of round tables and discussion forums; and other activities.
9. These activities form part of the Society's core business.
10. Depending on the political context of the time and the legislative framework in place, they could wrongly be inferred to be election campaigning. We submit that they are not, and should not be counted as such when the current review process arrives at draft legislation.

Publicising parties' positions

11. In election year, InternetNZ seeks to publicise the positions that political parties take on a range of Internet related issues, and to persuade political parties to adopt better policies for New Zealand users of the Internet.
12. Examples include the conducting of surveys assessing parties' policies in the ICT area; making public comments in response to party policy announcements; organising (in 2008 in conjunction with TVNZ7) a live debate among MPs on ICT policies and issues; encouraging debate and discussion among our members on the parties' various policies and promises.
13. These actions could be seen to benefit or hurt the electoral chances of particular parties. However it is specifically the appropriate role of non-government, non-partisan organisations to critique policy proposals and to advocate for their point of view. We do not believe they should be captured or restricted by a particular approach to electoral law.

B - “Parallel Campaigning” in the Issues Paper

14. InternetNZ cannot envisage a situation where it would take a particular stance in supporting or opposing a specific party or candidate. Our focus is on informing and educating the public about the best policies for the Internet, and it is only where some parties may propose more suitable policies than others that our output could effectively be seen to support or oppose particular parties.
15. InternetNZ is concerned that the advocacy work or public comparison of policy issues we engage in may be deemed “campaigning”. The previous regime, which has since been repealed, proved most problematic in its definition of “election advertisement”, which was broad enough to potentially capture any form of publication or statement as an advertisement.
16. InternetNZ does not believe that its ordinary activity as described above should be considered to be “electoral advertising” in any reasonable definition of the term.
17. The electoral law regime should not restrict the activities of organisations like InternetNZ's whose focus is on advocating particular issues and seeking to inform and educate the public.

18. The law should encourage informed, expert opinion being part of the wider public debate that occurs during General Elections. This is essential given the impact that such public debate can and should have – both broadly on the public's choice of government, and more specifically on the direction of public policy.
19. InternetNZ is always transparent in its advocacy, with openness and transparency at the core of the Society's ethos. As such we always make clear who we are when engaging in any advocacy or information dissemination, including at election time. We mention this so the Review understands our approach.
20. InternetNZ understands the argument that large, well-funded campaigns for or against particular parties or candidates cause concern to parties and or candidates, but the Society takes no position on whether such activity should be regulated. InternetNZ would not undertake such activity.

Recommendations

21. That the ordinary advocacy work of organisations like InternetNZ be clearly and entirely excluded from the electoral law regime.
22. That any definition of "election advertisement" be drawn tightly and clearly, so that it does not unreasonably restrict the ability of third parties to inform the public about the choices they face during an election.

Conclusion

23. InternetNZ appreciates the chance to make suggestions to the Review at this stage.
24. InternetNZ will continue to monitor the Review's progress and if necessary will make submissions in response to the Government's "Proposal Document" and to later legislation arising from the Review.

With many thanks for your consideration,

Yours sincerely,



Keith Davidson
Executive Director

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