

Transparency International Australia

Australia's National Integrity and Anti-Corruption Policies: A 2013 Federal Election Assessment

Preamble

National policies on integrity and anti-corruption are vitally important in today's increasingly globalised and competitive world. As the world's leading anti-corruption non-government organisation, Transparency International is committed to ensuring that appropriate recognition is given to those political parties and leaders who make the strongest commitments and deliver the strongest action, to strengthen their national integrity systems and reduce corruption, and the risks of corruption, in all institutions and walks of life.

Australia has adopted a high profile in international efforts to combat corruption. It is a party to the *United Nations Convention against Corruption (UNCAC)* and the Organisation for Economic Cooperation and Development's (OECD) *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*. Also, Australia will host the 2014 G20 Leader's Summit in Brisbane and is an active member of the G20's Anti-Corruption Working Group, participating in the negotiation and development of the *G 20 Anti-Corruption Action Plan*. As a party to the UNCAC, it is developing a National Anti-Corruption Plan for Australia.

Transparency International Australia is sending this questionnaire to the political parties contesting the forthcoming federal election, and to major news outlets. A panel will rate the responses to each of the 10 priority issues identified below and the results will be released to the major news outlets and published on the TIA website.

Urgent pro-integrity and anti-corruption priorities for an incoming national government

What actions will your party take to:

1. **Strengthen Commonwealth Parliamentary integrity?** For example by:
 - establishing a joint Parliamentary Committee to develop a legislated code, or codes, of ethics or conduct for Parliamentarians;
 - placing the present Ministerial Code of Ethics in legislation; and
 - establishing within 12 months a Parliamentary Integrity Commissioner, supervised by the Privileges Committees from both houses to:
 - provide advice, administration and reporting on parliamentary entitlements to report to the Parliament
 - investigate and make recommendations to the Privileges Committees on individual investigations, to provide advice to parliamentarians on ethical issues; and
 - uphold the Parliamentary Code of Conduct and to control and maintain the Government's lobbyists register.

What actions will your party take to:

2. **Strengthen oversight of non-criminal misconduct matters across all Commonwealth agencies?**

For example by:

- establishing a statutory misconduct framework for the Commonwealth public sector covering all agencies and entities;
- providing clearer statutory guidance on forms of misconduct which are best dealt with by Commonwealth agencies and entities themselves, and higher risk official misconduct (especially conduct involving higher corruption risk, e.g. conflict of interest, identity fraud and abuse of power) which would be subject to immediate mandatory reporting to an appropriate, and common, independent statutory central agency;
- legislating to provide this central agency with power to oversight the investigation of, and where necessary itself investigate, higher risk criminal and non-criminal official misconduct; set more rigorous standards for investigative responses; and monitor compliance with those standards; acting in cooperation with existing agencies; and
- providing this central agency with strengthened resources and coordination capability in respect of corruption-related misconduct intelligence, risk analysis, education and prevention, corruption resistance building, and public reporting.

What actions will your party take to:

3. **Strengthen the capacity to review and report on alleged failures in corruption prevention?** For example by:

- developing an independent standing capacity for education and prevention as well as systemic forensic investigation, review and reporting of prima facie failures in corruption prevention across **all** areas of Commonwealth employment and responsibility, including Ministers, judiciary and Members of Parliament.

What actions will your party take to:

4. **Continue the momentum towards strong and effective national whistleblower protection laws?** For example, including by:

- extending the recent Public Interest Disclosure Act 2013, or other equivalent legislation, to protect whistleblowers who disclose wrongdoing by Ministers, Members of Parliament, and federal judicial officers;
- protecting staff of Commonwealth Members of Parliament if they blow the whistle on wrongdoing;
- restricting the exclusion of intelligence agencies and intelligence information from the Public Interest Disclosure Act 2013 to that information whose publication would pose a direct and concrete risk to an identifiable intelligence, security, defence or law enforcement interest;
- increasing funding to the Commonwealth Ombudsman to ensure effective implementation of the Public Interest Disclosure Act 2013; and
- completing a full review of Part 9.4AAA of the Corporations Act with a view to enacting comprehensive whistleblower protection legislation for employees and contractors in the private and civil society sectors.

What actions will your party take to:

5. **Introduce best practice anti-bribery laws and enforcement practice?** For example by:
- providing clear incentives for companies to encourage early and full co-operation and disclosure of suspected bribery;
 - reviewing and clarifying the foreign bribery provisions of the Criminal Code with a view to resolving doubts as to their application to all subsidiaries and intermediaries in the supply chain of Australian companies;
 - taking out the limited defence for 'facilitation payments';
 - publishing a compliance guide for corporations similar to the UK Guidance Statement with its 6 principles;
 - reviewing the technical hurdles to achieving successful prosecutions in foreign bribery cases; and
 - initiating a discussion about the benefits of establishing a specialist government agency similar to the UK Serious Fraud Office.

What actions will your party take to:

6. **Reform the existing donation, disclosure and funding laws for political parties and election campaigns?** For example by introducing legislation similar to the lapsed *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2010*
- setting the donation disclosure threshold level to a flat rate of \$1,000, lowering it from the current threshold of \$11,500, applicable equally to all participants in the electoral process, including donors, registered political parties and candidates;
 - banning all anonymous donations except where the donation is \$50 or less;
 - banning foreign donations;
 - preventing donation-splitting, by no longer treating separate divisions of a political party as separate entities for the purposes of disclosing donations;
 - requiring disclosure of political donations and expenditure to be made within 8 weeks; and
 - tying public election funding to actual election expenditure.

What actions will your party take to:

7. **Strengthen the disclosure requirements on lobbying?** For example, by legislating to:
- regulate lobbyists and lobbying entities, including in the definition of entities required to register all industry peak bodies, charities and corporations that lobby on their own behalf;
 - have an independent body, e.g. the Parliamentary Integrity Commissioner, maintain the Lobbyists Register;
 - develop a Commonwealth public sector-wide enforceable code about the conduct of meetings with lobbyists, the making of records of these meetings, and the making of records of telephone conversations;
 - require the Register to include real time (eg, weekly) disclosure of meetings between Ministers, departmental secretaries and lobbyists, identifying the lobbying entity/lobbyist, the clients they represent and the policy issue or major decision about which representation is being made; and
 - broaden the prohibition on former ministers and parliamentary secretaries from engaging in any lobbying activity relating to any matters they had official dealings with in their last 18 months in office to prohibit them lobbying on any matter, and extend this prohibition to former ministerial and parliamentary secretary staff and senior public sector executives.

What actions will your party take to:

8. **Strengthen FOI laws to enable the anti-corruption function of government to be adequately discharged?** For example by:

- bringing **all** government agencies and government-owned or largely government-funded corporations or entities within the scope of the Act;
- recognising as a relevant public interest that disclosure could reasonably be expected to reveal misconduct or negligent, improper or unlawful conduct; and
- qualifying the absolute exemptions in the Act by requiring consideration of any competing public interest in disclosure of corruption.

What actions will your party take to:

9. **Strengthen Australia's laws and practices in addressing safe havens and illicit financial flows?**

For example by:

- taking action against the stock of foreign corruption proceeds currently held in Australia and giving higher priority to preventing Australia from being a haven for the proceeds of foreign corruption;
- raising the level of co-operation with other countries in the seizure of the proceeds of corruption particularly those in the Pacific region;
- improving the implementation and enforcement of legislation and treaty powers and obligations relating to the seizure of the proceeds of corruption particularly in relation to financial institutions;
- ordering and publishing an independent assessment of the performance of the Commonwealth agencies concerned with implementation and enforcement of such legislation and international treaty powers and obligations; and
- refusing entry to Australia by known corrupt foreign nationals.

What actions will your party take to:

10. **Support ongoing independent and expert monitoring of the strength and effectiveness of Australia's national integrity systems?** For example by:

- committing to support and participate in Australia's second National Integrity System Assessment, Transparency International's primary diagnostic assessment on the quality and effectiveness of integrity and anti-corruption policies;
- contributing funding to a second National Integrity System Assessment; and
- undertaking to respond to and, where possible, implement the recommendations of a second National Integrity System Assessment.

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