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A NATIONAL INTEGRITY COMMISSION – OPTIONS FOR AUSTRALIA

Speech by Serena Lillywhite, CEO Transparency International Australia

I would like to acknowledge the traditional custodians of the land we are on today, The Ngunnawal People of the Canberra region, and pay my respect to their elders, past, present and emerging.

TI Australia is a lead partner in the Australian Research Council project – Strengthening Australia’s National Integrity Systems – Priorities for Reform, and this Options Paper, developed by Griffith University provides new evidence that significant reform of our national integrity framework is needed.

TI Australia has long called for the establishment of a comprehensive, broad based anti-corruption agency at a federal level – with the scope, investigative and coercive powers necessary to combat bribery and corruption and to build an integrity framework, and to both prevent and detect the ‘grey areas’ of misconduct and integrity breaches at a national level.

This Options Paper provides some real solutions to real problems. Problems that have been addressed by community response to the Global Corruption Barometer Survey.

The Options Paper provides the evidence to support the creation of a new federal anti-corruption and integrity framework, based on an assessment of the strengths and weaknesses of the existing framework, and community awareness, perception, and views on how well corruption is being addressed at all levels of government.

Most notably, Two-thirds, or 67% of the 2,218 surveyed respondents expressed **strong support for the creation of a federal agency**, with those ‘strongly supporting’ the idea outstripping those who strongly oppose it by 4 to 1.

Interestingly, almost 50% (or 1,011) of the 2,218 respondents had worked in government, and those who had worked in the federal government recorded the highest level of strong support for a new federal agency.

Further, the survey results show that **trust and confidence in all levels of government fell in the last year**. The correlation between trust and action (or inadequate action) being taken to address corruption is clearer than ever.

Transparency International broadly defines corruption as “the abuse of entrusted power for private gain”, and it seems this is an issue in Australia.

What really struck me about the survey results was the number of respondents who reported they had either witnessed or suspected an **official or politician of making a decision in favour of a business or individual who gave them political donations or support**.

For 56% of respondents to say they had personally witnessed or suspected favouritism by a politician or official in exchange for donations or support is shocking. It is even more concerning to learn that of those respondents who had ever worked in Federal government, sees this figure jump to 67%.

The results firmly show that the risk of **undue influence** and decisions that benefit business and powerful individuals is real and driving the increasing corruption concerns.



These results further confirm research undertaken by Transparency International Australia in 2017 that looked at [Corruption Risks in Mining Approvals in Australia](#) and the awarding of mining licences and permits.

This research identified a number of corruption vulnerabilities, one of which was industry influence in resource sector development as a corruption risk relating to the governance of mining, particularly in regard to large infrastructure projects in Western Australia and Queensland.

The risk relates to the **unregulated opportunity for industry to influence both the policy and political agenda** of government in the development of major resource projects.

Ensuring there is not undue influence or interference in the business of government, including mining approvals, must be addressed.

The mining industry has disclosed donations of 16.6 million dollars to major political parties over the last 10 years.

Our research noted that the inadequate regulation of political donations and lobbyists, the movement of staff between government and industry (the revolving doors syndrome), and the culture of 'mateship' are significant factors that could (and indeed have) enabled inappropriate influence and in some cases conviction and imprisonment. This suggests more than just a perception of corruption, it's real.

The under-regulated system of political donations can allow special interest groups to attempt to influence policy and decision-making.

The political donation system has systemic loopholes, inconsistency across jurisdictions, and lacks transparency. Political donations can be made through 'associated entities' to hide the source of funds.

Further, as of September 2016, of the 538 lobbyists registered by the Department of Prime Minister and cabinet, 191 are former government representatives. In addition, industry associations are not required to register as lobbyists.

So, I am not surprised that the Griffith University Options Paper has confirmed that undue influence is a major concern.

Improved transparency and strengthened oversight of government decision-making, including the regulation of lobbyists is long overdue, and would help restore trust in government. It is hoped the shift of oversight responsibility of the Lobbyist Register from Prime Minister and Cabinet, to the Attorney General's department will strengthen transparency of lobbyists.

Another of the 7 weaknesses identified in the integrity system Options Paper that struck me was the fact that some of the most strategic areas of corruption risk at the Commonwealth level do not have independent anti-corruption supervision and assurance.

Clearly there are some strong systems in place, such as fraud control through agencies such as the Australian Commission for Law Enforcement Integrity (ACLEI), the Australian Federal Police (AFP), and the Australian National Audit Office (ANAO).

However, there are key areas of corruption risk that are not included in the ACLEI jurisdiction remit. In particular, the procurement of goods, equipment, facilities and services, and the recent integrity challenges we have seen in the Australian Tax Office.

The Australian Government procurement spend is huge. The total value of Commonwealth contracts over \$10,000 dollars in the past five years (2012-2017) was \$251.9 billion, disbursed through 70,000 contracts and procurement actions per year – Defence being by far the largest.

The ANAO has noted the failure of defence procurement procedures to mitigate known risks.



Further, the ANAO audit of Compliance with Foreign Investment Obligations for Residential Real Estate (responsibility for which rests with the ATO) found that:

- The ATO faces considerable challenges in populating the land register of residential real estate with reliable data.
- The ATO has not yet compiled and implemented a compliance and enforcement strategy foreign investment obligations for residential real estate.
- The ATO has only partially effective processes to detect non-compliance with foreign investment obligations for residential real estate.

Given the ease with which money, often the proceeds of crime and illicit financial flows, can and is, laundered through the Australian property market, and the fact that these high-risk sectors are, under the current Commonwealth integrity system, are without independent anti-corruption oversight and monitoring is a real problem. Currently they are subject only to internal control processes, or the AFP in the case of bribery or fraud.

So, which of the Options outlined in the Griffith University paper will deliver the best pro-integrity outcome for Australia, will help restore trust in government, and halt Australia's continued decline (slipping 8 points in 6 years) in the 2016 Transparency International Corruption Perception Index?

Option 1 – an Integrity and Anti-Corruption Coordination Council, will not deliver the serious reform that is needed. Minor tweaking and tinkering will not address the identified weaknesses. Particularly, the coordinated oversight of high-risk misconduct, a coherent corruption prevention framework, and the current and emerging cross-jurisdictional challenges – both public and private. In short, it is not worth the time or even limited resources to establish and manage.

Option 2 – an Independent Commission against Corruption, based on State experience is a better reform, and one that TI Australia would support, assuming it is independent, its jurisdiction is broad based, has adequate resources, the necessary investigative powers, and scope for public hearings.

Option 3 – a custom-built Commonwealth Integrity and Anti-Corruption Commission best meets the Transparency International cohesive and coordinated National Integrity framework approach. It would provide the most comprehensive package of reforms to meet both the national and international challenges, that Option 2 would not necessarily do.

It would help address some of the issue I have mentioned today, such as undue influence in political, parliamentary and executive decision-making, political finance, disclosure, lobbying, revolving doors and improper influence.

It would best address the issue of preventing corruption by tackling the effectiveness of integrity functions and not just the institutional structures. Form or function over structure is always desirable for meaningful organisational change.

It would address the cross-jurisdictional challenges including responsible business conduct, money laundering and corruption in real estate, identifying and returning the proceeds of corruption and unexplained wealth, and dealing with anonymous shell companies through the much-needed establishment of a public register of beneficial ownership – something TI Australia has long called for.

In conclusion, the good news is we now have Options for consideration, backed up by solid research, using the Transparency International Global Corruption Barometer survey.

The Options Paper gives us something the 'get our teeth into' and to think about combatting corruption and promoting integrity in an ambitious and transformative way. I look forward to today's discussion.

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