

Unhealthy political influence

Policy Position Statement

Key messages:

1. Public policy decisions should be made in the public good, and in the interest of the public's health.
2. Regulation of the activity of many industrial, commercial, and retail businesses is essential to protect public health, in terms of control of unhealthy products brought to market, promotion of unhealthy behaviours, and unhealthy effects of many manufacturing and resource-use activities.
3. Institutional guiderails such as ministerial accountability, transparency of public decision-making, auditing and investigation systems, and effective integrity agencies, are all necessary to ensure public policy integrity.

Key policy positions:

1. All Australian parliaments should enact strong legislative regimes governing corporate lobbying of elected and public sector officials.
2. Ideally, donations to political parties by corporate interests should be banned; alternatively, there should be low-level caps on such donations.
3. All donations from business sectors for which there is clear evidence of harmful products, services, or industrial processes should be banned.
4. All donations which remain legal should be the subject of a regulatory regime producing a high degree of transparency.
5. Public influence campaigns by corporate sectors should also be the subject of a regulatory regime establishing a high degree of transparency.
6. Restrictions should be applied on the employment of government ministers, members of parliament, senior public officials, and their advisory staff into corporate sectors in fields for which they have in the recent past held ministerial or official responsibilities.
7. Ministers, members of parliament, and government agencies should not engage advisory staff with recent employment in unhealthy corporate sectors.
8. Auditing and investigation agencies in all jurisdictions should be properly resourced to maintain effective independent examination of public sector integrity.
9. Anti-corruption commissions should be established in all jurisdictions.

Audience:

Federal, state and territory governments, policymakers and program managers, PHAA members, media.

Responsibility:

PHAA Political Economy of Health Special Interest Group

Date adopted:

23 September 2021

Unhealthy political influence

Policy position statement

PHAA affirms the following principles:

1. Public policy decisions should be made in the public good, and in the interest of the public's health.
2. Regulation of the activity of many industrial, commercial, and retail businesses is essential to protect public health, in terms of control of unhealthy products brought to market, promotion of unhealthy behaviours, and unhealthy effects of many manufacturing and resource-use activities.
3. Institutional guiderails such as ministerial accountability, transparency of public decision-making, auditing and investigation systems, and effective integrity agencies are all necessary to ensure public policy integrity.
4. To strengthen the capability of public decision-makers to make policy in the interests of public health, various forms of regulation of the political influence activities of businesses are justified, including measures aimed at transparency of corporate influence into political and electoral processes and influence over public officials, curtailing corporate lobbying activities, and the protection of public decision-makers and political agencies and institutions from corporate influence over the capacity of officials to act in the public good.

PHAA notes the following evidence:

Unhealthy economic activity

5. Business and commercial activity across the international economy contributes greatly to maintaining standards of living in many ways. However, many corporate actors perceive – and act on – commercial imperatives which are inimical to public health. In turn, many corporate actors invest extensive resources in influencing public policy-makers to make decisions which advance their immediate commercial and financial interests at the expense of the health and wellbeing of many people in society, often including their own customers.
6. Corporate lobbying, corporate donations to political parties, and expenditure on direct political campaigns (in addition to product marketing) all occur throughout the world on a large scale.^{1,2}
7. A wide range of practices and products which are injurious to the public's health are marketed and consumed throughout the world economy. A short list of prominent examples includes:
 - the sale and consumption of obesogenic (energy dense, nutrient poor) foods
 - the sale and use of tobacco/nicotine products
 - the inappropriate sale, and misuse, of alcohol products
 - the unethical marketing of many unhealthy foods, drinks, and other products to children
 - the unethical marketing of breast milk substitutes (infant formula)
 - the promotion and operation of addictive gambling services
 - manufacturing practices which result in toxic substances being released into the environment

PHAA Position Statement on Unhealthy political influence

- energy generation from fossil fuels, which releases climate-changing emissions harmful to the entire world ecosystem
 - a variety of construction, transport, and agricultural activities which consume materials, or which involve processes which result in climate-changing emissions
 - manufacturing of military material, especially material which is targeted at – or harms – non-combatants, including land mines, biological and toxic weapons, and nuclear weapons.
8. Public opinion in Australia appears to be firmly behind regulatory constraints on unhealthy business sectors making donations to political parties, or political parties accepting such donations.³

Regulatory purposes and constraints

9. In recent decades the High Court has recognised an ‘implied freedom of political communication’ principle of constitutional law which constrains the scope for legislative responses to the issues surrounding unhealthy corporate influence. This principle limits the capacity of federal Parliament to enact laws which limit engagement in political debate, unless a legitimate legislative purpose (consistent with the system of representative and responsible government) is identified, and a rationally connected and appropriate regulatory response is chosen.⁴
10. PHAA believes that there are several legitimate legislative purposes which justify regulation of unhealthy political influence, including at least the following:
- i. the need to prevent corruption of public officials
 - ii. the need to prevent the perception of the corruption of public officials
 - iii. the need to make corporate influence transparent, so that debate on political issues is enhanced
 - iv. the need for limits on the capability of unhealthy business sectors or interests to have inordinate influence over public policy decisions, or over the outcomes of elections
 - v. the protection of the interest of the community in sustaining a healthy environment, social equity, and public health, all of which are determinants of the overall wellbeing of the community.

Regulatory successes

11. Caps on corporate political donations have been enacted in Australia in several state jurisdictions including New South Wales⁵, Victoria⁶, Queensland⁷, and the ACT⁷. However, there is no cap on donations towards federal political parties and federal elections.
12. Bans on any political donations from corporate interests in specific highly regulated sectors have been enacted in New South Wales⁵, Queensland⁷, and the ACT⁷. The High Court has upheld the validity of such laws.^{4, 8}
13. An online [Transparency Register](#) of political donations was established at the federal level in 2019.⁹ [New South Wales](#), [Victoria](#), [Queensland](#), [South Australia](#), [Western Australia](#), the [ACT](#), and the [Northern Territory](#) have also established their own public registers of donations to political parties relating to state and territory parliamentary elections. The various schemes are not integrated, allowing loopholes, especially in relation to sector-specific donor bans which exist in some states. Moreover, the timeliness of reporting and public release of this information varies, with the national register involving delays between donation and public disclosure of up to 19 months.

14. Implementing this policy would contribute towards achievement of UN Sustainable Development Goal 16: Peace, Justice and Strong Institutions.

PHAA seeks the following actions:

15. PHAA believes that all Australian parliaments should enact strong legislative regimes governing corporate lobbying of elected and public sector officials. Some activities, including financial dealings between business sectors and political parties, should be prohibited. Some other activities should be made transparent.
16. PHAA believes that ideally, donations to political parties by corporate interests should not occur at all, and that if parties and business sectors persist with the practice of making political donations, bans on such donations should be enacted.
17. In the absence of general bans on corporate political donations, PHAA alternatively supports low-level caps on the amounts of corporate donations.
18. PHAA supports bans on all donations from specific business sectors for which there is clear evidence of association with harmful products, services, or industrial processes ('unhealthy corporate sectors'), including:
- i. tobacco/nicotine industries
 - ii. alcohol industries
 - iii. food and beverage industries responsible for products featuring added sugar, sodium, and saturated and trans fats
 - iv. mining, fossil fuel, and non-renewable energy sector
 - v. pharmaceutical sector
 - vi. private health insurance sector
 - vii. gambling industries
 - viii. commercial advertising sector
 - ix. defence/military industries.
19. Regardless of the levels of bans, caps, or restrictions on donations, all donations which remain legal should be the subject of a regulatory regime providing a high degree of transparency, with all donations from corporate sectors disclosed within very short time-frames (eg. 7 days or less).
20. Separate from the regulation of donations to political parties, public influence campaigns by unhealthy corporate sectors should also be the subject of a regulatory regime establishing a high degree of transparency, with campaign funders publicly identified through the national Transparency Register system. All campaign and influence expenditure from corporate sectors (whether associated with elections or at other times) should be disclosed within short time-frames (eg. one month or less).
21. The federal, state, and territory schemes for registration and disclosure of political donations and spending should be integrated in a manner which allows for effective scrutiny of movements of finance and resources between jurisdictions.

PHAA Position Statement on Unhealthy political influence

22. A register of visits and written representations to ministers, members of parliament, and senior public sector officials by representatives of unhealthy corporate sectors should be established and regularly maintained.
23. PHAA supports restrictions on the movement of government ministers, members of parliament, senior public officials, and their advisory staff into corporate sectors in fields for which they have in the recent past held ministerial or official responsibilities. PHAA believes that ministers, members of parliament, and relevant government agencies should not engage advisory staff with recent employment in corporate sectors, where such connections creates the reality or perception that public decision-making is influenced by industry commercial agendas or imperatives.
24. Auditing and investigation agencies in all jurisdictions should be properly resourced to maintain effective independent examination of public sector integrity.
25. Independent anti-corruption/integrity commissions should be established in all jurisdictions.

PHAA resolves to:

26. Advocate for the above steps to be taken based on the principles in this position statement.
27. Work with other organisations to advance the principles and objectives of this statement.

Related policies

28. The following other PHAA [policy position statements](#) contain material relevant to this issue:
 - i. Involvement of the Food Industry in Nutrition
 - ii. Public Funding of Private Health Insurance
 - iii. Health Effects of Fossil Fuels
 - iv. Marketing of Food and Beverages to Children
 - v. Nuclear Energy as a Response to Global Warming Policy
 - vi. Tobacco Control
 - vii. Gambling and Health
 - viii. Responsible Commercial Advertising

ADOPTED 2021

References

1. Wood D, Griffiths K, Chivers C. Who's in the room? Access and influence in Australian politics. Grattan Institute Report No. 2018-12. <https://grattan.edu.au/wp-content/uploads/2018/09/908-Who-s-in-the-room-Access-and-influence-in-Australian-politics.pdf>; Grattan Institute; 2018.
2. Wood D, Griffiths K. How to make Australian politics cleaner. Grattan Institute; 2020.
3. Miller P, Martino F, Robertson N, Stafford J, Daube M. Public opinion of alcohol industry corporate political activities. ANZJPH. 2021;45(3):283-9.
4. *McCloy v New South Wales*. High Court of Australia; 2015. p. 178.
5. Electoral Funding Act 2018, (2018).
6. Electoral Act 2002, (2002).
7. Electoral Act 1992, (1992).
8. *Spence v Queensland*. High Court of Australia; 2019. p. 643.
9. Commonwealth Electoral Act 1984, (1984).