



*everyone's family*

# **Review of the *Foreign Influence Transparency Scheme Bill 2017***

## **Submission to the Parliamentary Joint Committee on Intelligence and Security**

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Anne Hampshire  
Head of Research & Advocacy  
Level 9, 117 Clarence Street  
GPO Box 10500  
Sydney NSW 2001

Telephone 02 9085 7249  
Facsimile 02 9085 7299  
[anne.hampshire@thesmithfamily.com.au](mailto:anne.hampshire@thesmithfamily.com.au)

## A. Overview of The Smith Family

The Smith Family welcomes the opportunity to provide a short submission to the Parliamentary Joint Committee on Intelligence and Security regarding the *Foreign Influence Transparency Scheme Bill 2017 (the Draft Bill)*.

The Smith Family is a national charity founded in 1922 by a group of business men, to improve the lives of disadvantaged children in Australia. Almost a century on from its founding, it is now the nation's largest children's educational charity.

Our vision is a better future for young Australians in need. Our mission is to create opportunities for young Australians in need by providing long-term support for their participation in education. This mission is founded on the belief that every child deserves a chance.

Our mission guides every element of our work, including program development and delivery, research, advocacy and fundraising. The Smith Family delivers programs in each state and territory in Australia, in over 90 communities, including many regional and rural communities.

In 2016-17, The Smith Family supported more than 151,000 children, young people, parents, carers and community professionals through its programs. Over 120,000 children and young people participated in programs run by The Smith Family. This includes almost 39,000 children and young people participating in our largest program, *Learning for Life*.

In 2016-17, The Smith Family's total income was approximately \$100 million. Around 70 percent of this funding comes from private donations from individual supporters, corporate partners, universities, trusts and foundations, and bequests. There are over 230 partnerships helping to sustain our programs. Only a quarter of The Smith Family's income is sourced from different levels of government.

While the vast majority of our income is raised from within Australia, The Smith Family receives approximately \$1 million annually from philanthropic organisations based overseas. Funds are also secured from a range of corporates that are headquartered overseas. We have a five-year goal of increasing by 30 percent the number of young Australians we support on our effective programs. In that context, it is anticipated that there will be an increase in the total amount of funding secured from overseas-based philanthropic organisations and corporates that are also headquartered overseas.

Like many charities in the community sector, The Smith Family seeks to continuously sharpen its knowledge of emerging trends and leading practice in service delivery and public policy advocacy, in order to be both more effective and efficient in our work. This includes learning from comparable jurisdictions

overseas. In recent years, relevant executives from the organisation have undertaken research and consultation in the United States, United Kingdom, and Western Europe for these purposes. Such activities improve the organisation's capacity to help disadvantaged children and young people.

## **B. Advocacy work**

Advocacy is a core activity and priority of The Smith Family alongside program delivery. For The Smith Family, prioritising advocacy is critical because we understand that our work on the ground alone is insufficient to achieve our vision.

This is because in Australia, there are 1.1 million children and young people living in poverty and our programs do not reach all of them. Further, the wellbeing of these children and young people is influenced by a range of factors, including government policy, human service design and delivery and prevailing community attitudes, including in the corporate and philanthropic sectors. Our program delivery alone is insufficient to impact on the broader influences that impact on children and young people's wellbeing. It is through advocacy that we seek to influence those broader influences, on behalf of not only those young people who participate in our programs, but for the 1.1 million young Australians living in poverty, thereby improving their broader life opportunities.

Our current Five Year Strategy 2017 to 2022 includes as one of six priorities that The Smith Family is an authoritative and influential advocate with those who shape public policy on behalf of disadvantaged children and young people. We seek to give a voice in the public policy space to the many disadvantaged children and young people living in Australia. Advocacy is central to achieving our vision.

Many other Australian charities also undertake advocacy as part of fulfilling their core purpose. Advocacy is an intrinsic and positive component of the operations of charities. As noted by the Community Council for Australia, of which The Smith Family is a member, any charity pursuing its public purpose can legitimately become an advocate for that purpose.<sup>1</sup>

There is significant community benefit derived from charities' advocacy work. By directly delivering services to the community, charities are uniquely placed to understand the challenges facing Australian communities. Given their charitable purpose, charities can ensure that those on our community's periphery are placed at the centre of major public policy discussions. Australia's communities and civil society, are in turn better able to flourish when the voices of charities are actively encouraged in the public policy debate.

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<sup>1</sup> Submission Number 34, p3.

Advocacy helps improve the policy development processes of government. Charities provide government and the public sector with direct community insights on emerging social and economic issues whilst offering constructive reform proposals to better address the associated challenges. The institutional perspective of government combined with the frontline experience of charities can contribute to more effective policies and programs maximising impact and value for the taxpayer.

For instance, The Smith Family collects and examines longitudinal quantitative and qualitative data on key educational outcomes. We are able to utilise this data to develop and propose credible, evidence-based public policy on education issues for consideration by federal, state and territory governments.

Given the potential impact of the Draft Bill on the advocacy work of The Smith Family and the charities sector more broadly, we offer further comment in the next section below.

### **C. Comments on the Draft Bill**

The Smith Family commends the Federal Parliament for seeking to safeguard Australian democracy from undue foreign influence and interference and appreciates the opportunity to review and comment on the Draft Bill.

However, we are concerned with the breadth of the Draft Bill. It potentially entangles charities receiving overseas donations, or having a relationship with someone overseas, in an opaque regulatory regime adding significant administrative burden whilst not serving the Draft Bill's primary objective. It also adds a duplicative administrative layer unrequired in the charity sector.

The present drafting of the Draft Bill - specifically subsection 12(1) & (2) - will require charities to register under the proposed scheme and account for all legitimate advocacy work undertaken in pursuit of their public purpose. As it is currently drafted, the Bill potentially impacts the advocacy work undertaken by charities that receive foreign donations or have a relationship with someone overseas. It therefore risks limiting the public benefit derived from charities' advocacy as set out in the previous section.

The Smith Family is a strong supporter of transparency within the charity sector as evidenced by our numerous policy submissions to a range of inquiries over many years. Following work over many years, Australia has developed an effective regulatory regime led by the Australian Charities and Not-for-Profits Commission (ACNC) as the statutory authority that manages the regime for the sector. The

ACNC was established by the *Australian Charities and Not-for-Profits Commission Act 2012 (Cth)* (the ACNC Act) and is charged with the following responsibilities:<sup>2</sup>

- (a) to maintain, protect and enhance public trust and confidence in the Australian not-for-profit sector; and
- (b) to support and sustain a robust, vibrant, independent and innovative Australian not-for-profit sector; and
- (c) to promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector.

The ACNC has issued clear guidelines prohibiting political activity by charities, especially during elections. It has significant powers of monitoring and enforcement of the guidelines and has exercised them previously.

The Smith Family believes that the current regime is working sufficiently to ensure a vibrant, responsible and accountable charity sector. The ACNC is the appropriate mechanism through which charities should be regulated.

Making charities liable to register under the regime proposed in the Draft Bill would add an additional administrative and compliance requirement that is unduly burdensome and unnecessary. It will likely add substantial compliance costs to charities. This in turn will affect their ability to be as efficient as possible with public and private donations. The ACNC has also noted its concerns with the 'unnecessary regulatory burden on charities' imposed by the Draft Bill.<sup>3</sup> Overall, the Draft Bill would impose a layer of regulation impeding, not facilitating, a thriving charity sector. Australia's civil society would suffer as a result which weakens our democracy, not strengthens it.

For the reasons outlined above, The Smith Family believes that charities should not be required to adhere to the scheme proposed by the Draft Bill. We recommend that Australian charities are made exempt from the Draft Bill's requirements. This is also the recommendation and rationale put forward by the Law Council of Australia in their submission to the Review.<sup>4</sup>

Charities are legally required to operate for a public purpose and already transparently regulated. There is no benefit to be derived from requiring them to be subject to an additional compliance requirement as outlined in the Draft Bill. We therefore urge that charities be made exempt from these requirements in order that they can most efficiently fulfil their purpose of benefiting the community.

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<sup>2</sup> Section 15-5 of the ACNC Act.

<sup>3</sup> Submission Number 33, p 1.

<sup>4</sup> Submission Number 4, p6, 13-14.