



Foundation for Alcohol Research & Education

# FARE Submission to the Senate Select Committee into the Political Influence of Donations

October 2017



**STOPPING  
HARM  
CAUSED BY  
ALCOHOL**

## About the Foundation for Alcohol Research and Education

The Foundation for Alcohol Research and Education (FARE) is an independent, not-for-profit organisation working to stop the harm caused by alcohol.

Alcohol harm in Australia is significant. More than 5,500 lives are lost every year and more than 157,000 people are hospitalised making alcohol one of our nation's greatest preventive health challenges.

For over a decade, FARE has been working with communities, governments, health professionals and police across the country to stop alcohol harms by supporting world-leading research, raising public awareness and advocating for changes to alcohol policy.

FARE is guided by the World Health Organization's (2010) *Global strategy to reduce the harmful use of alcohol* for stopping alcohol harms through population-based strategies, problem directed policies, and direct interventions.

If you would like to contribute to FARE's important work, call us on (02) 6122 8600 or email [info@fare.org.au](mailto:info@fare.org.au).

## Contents

Summary .....	4
Recommendations .....	4
The level of influence that political donations exert over the public policy decisions of political parties, Members of Parliament and Government administration.....	5
Alcohol industry influence on policy decisions .....	5
Case Study 1: Hotel donations to the Carr NSW Labor Government .....	5
Case Study 2: Commonwealth Government – Wine Equalisation Tax and Rebate.....	6
Case Study 3 - Northern Territory off-premise outlet regulation.....	8
Motivations and reasons why entities give donations to political parties and political candidates .....	8
How to improve the integrity of political decision-making through our political donations regime and the public funding of elections .....	11
Recommendations .....	11
References .....	12

## Summary

Alcohol harm and its associated costs are significant. Each day, 15 Australians die and a further 430 are hospitalised because of alcohol.<sup>1</sup> These figures understate the significant impact that some individuals' alcohol use has on others, including violence on our streets and in our homes, vandalism, road traffic accidents, child maltreatment and neglect, and lost productivity in the workplace.<sup>2</sup>

The level of harm that children sustain as a result of alcohol consumption is unacceptable. More than one-fifth (22 per cent) of Australian children are negatively affected by the drinking of others.<sup>3</sup> Problematic drinking by their primary caregiver substantially affects 142,582 Australian children, with 10,166 already in the child protection system as a result.<sup>4</sup> Children can also be directly impacted by alcohol use during pregnancy, which may result in a series of lifelong disabilities known as Fetal Alcohol Spectrum Disorders (FASD).

Alcohol policy decisions relating to the taxation and regulation of the industry directly affect the health and wellbeing of the Australian population. The interests of the alcohol industry can be in direct conflict with those of the population. It is important, therefore, that appropriate measures are in place to prevent undue influence of the alcohol industry on public policy decisions. This is particularly important in relation to political donations, which corporations routinely use to influence decisions in their favour.

There has been increasing community concern about the undue influence that results from political donations. FARE's *2017 Annual Alcohol Poll* revealed that the majority (72 per cent) of Australian adults believe that political parties should not be able to receive donations from the alcohol industry and over half (55 per cent) believe that alcohol industry donations influence governments' decision-making.<sup>5</sup>

FARE welcomes the opportunity to make a submission to this review of the influence of corporate political donations. This submission addresses each of the Terms of Reference and provides several examples of how corporate political donations from the alcohol industry appear to have been used to influence public policy decisions. These are a small sample of available case studies, but are useful in highlighting the manifest risks associated with alcohol industry involvement in political processes.

FARE would welcome the opportunity to present more detail about these findings to the Select Committee into the Political Influence of Donations.

## Recommendations

1. As matter of priority, ban all donations from the alcohol industry including donations from producers, retailers (on and off-licence venues) and associated member organisations and lobbyists.
2. Ban the use of associated entities to prevent political parties from continuing to conceal the identity of their donors.
3. Require immediate disclosure of political donations to allow voters to see, in real time, attempts to influence political decisions.
4. Remove the disclosure threshold and require all donations and other receipts to be immediately reported and published.

# The level of influence that political donations exert over the public policy decisions of political parties, Members of Parliament and Government administration.

## Alcohol industry influence on policy decisions

It is well accepted that the alcohol industry has a vested interest in alcohol policy development and implementation.<sup>6</sup> Its financial success is dependent on the consumption of alcohol – the more alcohol consumed, the larger the profits of the industry. Evidence suggests that alcohol harm is directly associated with the amount that is consumed. For this reason, industry profitability is in direct conflict with the health and wellbeing of the population. It is therefore important that appropriate measures are established to safeguard against the influence of political donations from the alcohol industry in particular.

The World Health Organization (WHO) has stated, in the clearest possible terms, that alcohol policy development should be free from industry influence. Dr Margaret Chan, then Director General of the WHO, stated that “In WHO’s view, the alcohol industry has no role in formulating policies, which must be protected from distortion by commercial or vested interests”.<sup>7</sup> Despite this, the alcohol industry has significant influence in alcohol policy development both in Australia and internationally. This includes the influence applied through political donations, lobbying against evidence-based policies and co-opting policy makers in an effort to secure private and business outcomes ahead of the public interest. In addition to directly influencing outcomes, corporate political donations assist corporations to influence policy decisions through other means as well. For example, corporate political donations provide access to politicians, establishing relationships that may later be used.

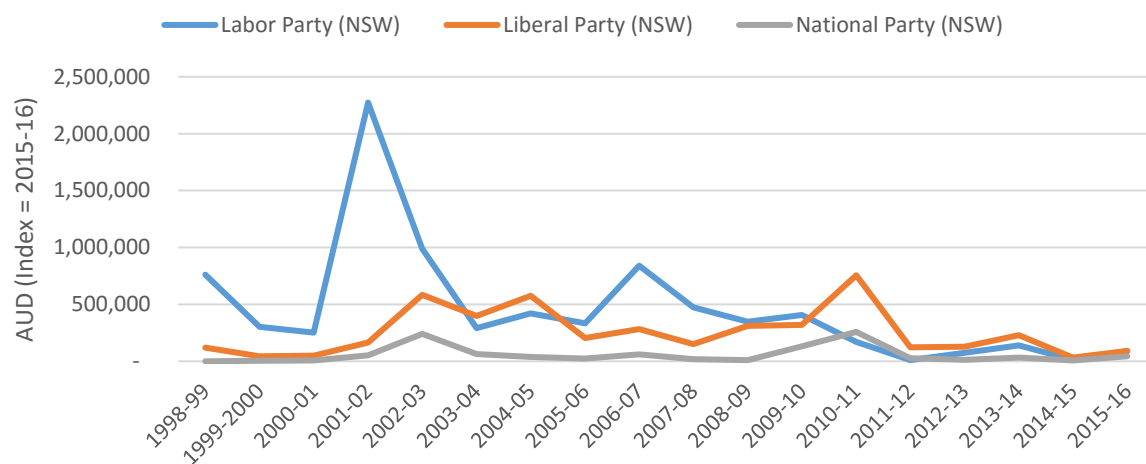
Given the harmful consequences of alcohol industry involvement in policy decision-making, it is worthwhile examining trends in past donations. This has been facilitated by Democracy for Sale, an initiative of the Australian Greens that collates data from the Australian Electoral Commission (AEC). Democracy for Sale also categorises businesses to allow analysis of trends over time. The following examples highlight potential risks of alcohol industry involvement in policy decisions regarding their regulation. While not providing a complete set of such risks, they help to illustrate the need for reform to establish adequate safeguards in the future.

### Case Study 1: Hotel donations to the Carr NSW Labor Government

One of the most disturbing examples of apparent alcohol industry influence through political donations comes during the Carr Labor Government in NSW. Under this government, NSW gaming laws were liberalised in 1997 to allow poker machines in pubs and hotels, removing previous regulation that had restricted them to clubs and casinos.<sup>8</sup> A surge in donations saw \$2.3 million (in 2015-16 terms) donated to the NSW Labor Government in the 2001-02 financial year (see Figure 1). This peak was driven by a large increase in donations from pubs and hotels that had mainly not donated in other years. This included an apparently co-ordinated effort, with 15 different hotels/pubs each donating \$57,000 (in 2015-16 terms). There were also a series of smaller donations from other

businesses in the industry. As a result, there were 79 separate donors from the alcohol industry in that year, compared with an average of just 18 across the period. This surge in donations from hotels saw a quadrupling of alcohol industry receipts. They were followed in 2003 with reforms that increased taxes on poker machines in licensed clubs, the main competitors to hotels. While the change is likely to have been driven in part by the opportunity to increase government revenue through gambling taxes, it is noteworthy that the primary beneficiaries (hotels) of several policies introduced over the period demonstrated strong financial and political connections with the Carr Labor Government.

**Figure 1 – Political donations and other receipts from the alcohol industry by major party (NSW), 1998-99 to 2015-16**



## Case Study 2: Commonwealth Government – Wine Equalisation Tax and Rebate

Other examples of attempted influence by the alcohol industry through political donations are evident in trends associated with changes to the alcohol tax system. The current approach to taxing alcohol is a complex arrangement that does not adequately recognise the extent of harms that result from the consumption of alcohol in Australia. The Henry review of the alcohol tax system described it as incoherent,<sup>9</sup> with the most illogical part of the alcohol taxation system being the Wine Equalisation Tax (WET). Wine, traditional cider, perry and mead are taxed under the WET on the basis of their wholesale price. This is in contrast to all other alcohol products sold in Australia, which are taxed on the basis of the volume of pure alcohol they contain.

The WET provides an incentive to produce large volumes of low quality wine. This is concerning because low prices fuel increased consumption, leading to higher levels of alcohol harm. The WET favours large producers, who benefit from greater economies of scale and are therefore able to produce cheaper bulk wine. To counter this distortion, the WET rebate was introduced to support small rural and regional wineries in Australia who were disadvantaged under the WET.<sup>10</sup> This is an inefficient and wasteful arrangement that has led to a system that is not achieving its objectives, with some producers receiving the rebate even though they have remitted no WET.

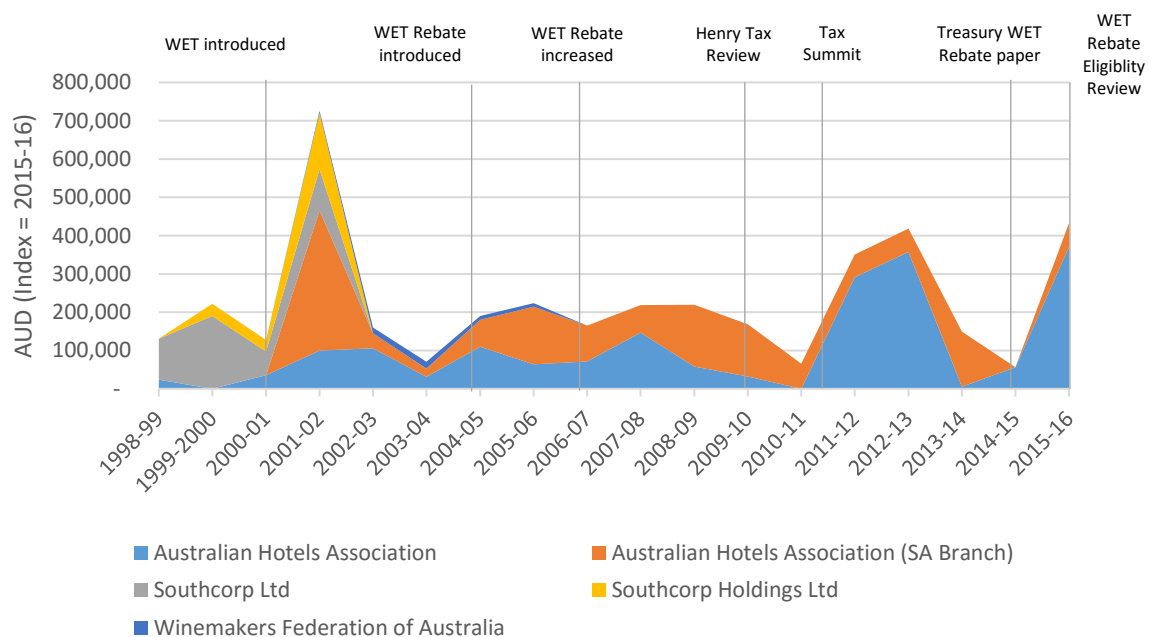
Research from the Parliamentary Budget Office identified that the effective rate of taxation on \$15 cask wine (4L) in 2014-15 was \$2.99/LAL, compared with an average across all alcohol classes of \$36.05/LAL.<sup>11</sup> Tax on cheap cask wine in 2014-15 was there just 8.3 per cent (or less than 1/12) of the average rate across all classes of alcohol. Other categories of wine also had excise rates markedly lower than the average, including \$7 bottles and \$15 bottles (with rates of \$7.97/LAL and

\$17.07/LAL respectively).<sup>12</sup> More expensive wines, however, are taxed higher than the average rate. For example, a \$40 bottle pays an effective rate of \$45.54/LAL.<sup>13</sup>

Southcorp was one of the largest wine producers in Australia in the period preceding the introduction of the Wine Equalisation Tax (WET). The company owned Penfolds, Lindemans and Wynns, and was in the process of acquiring Rosemount.<sup>14</sup> In the lead-up and immediately following the introduction of the Wine Equalisation Tax in 2000, there was a series of donations from Southcorp to the Liberal National Party Coalition. These totalled more than \$675,000 in 2015-16 terms (see Figure 2). In the 12 months leading up to the introduction of the WET, Southcorp donated more than \$220,000 in 2015-16 terms (see Figure 2). This represented approximately one quarter (24 per cent) of all alcohol industry donations across the Commonwealth and each state and territory government in that year.

Another organisation that has publicly supported the WET and its rebate is the Australian Hotels Association (AHA). The South Australian branch has had a particular interest in the WET and its rebate, as a major wine-producing region.<sup>15</sup> A marked increase in donations from the SA Branch of the AHA was evident in 2001-02, which flowed predominantly to the Howard Government. Under that Government, the WET rebate was introduced and later increased to \$500,000 per annum.

**Figure 2 – Political donations and other receipts from winemakers and the Australian Hotels Association**



In 2010, the Australia’s Future Tax System (Henry) review identified that “current taxes on beer, wine and spirits are incoherent” and recommend that all alcohol tax is moved to a volumetric system.<sup>16</sup> This would involve the abolition of the value-based WET and presumably its rebate. The report recognised the large amount of harm inflicted by the current approach, identifying that “In Alice Springs, a 2-litre wine cask costs \$10.99, which includes roughly \$1.59 of wine equalisation tax. An equivalent volume of alcohol in full-strength beer would attract \$7.48 in excise, and in spirits \$16.45”. Shortly after, a substantial increase in donations from the AHA was observed. The AHA donated \$650,000 in the two years to 2012-13, including \$300,000 to the federal Liberal Party. At the same time, the AHA called publicly for the continuation of the WET and its rebate.<sup>17</sup>



Donations resided again before increasing in 2015-16, following release of a Treasury discussion paper that recommended reform and potential abolition of the WET Rebate.<sup>18</sup> Despite announcing significant reforms to the WET rebate in the 2016-17 budget, these were quickly watered down and delayed. As a result, the WET and its rebate remain largely unchanged despite 11 separate government and parliamentary reports recommending that a volumetric system be applied in place of the current value-based tax.<sup>a</sup>

### Case Study 3 - Northern Territory off-premise outlet regulation

The Northern Territory (NT) provides a more recent example of the issues inherent in political donations. It has been alleged that the NT branch of the Australian Hotels Association (AHA) funnelled political donations through its members to the Labor Party and met leaders of that party to illegally influence public policy decisions in a manner that would benefit the hotels industry.<sup>19,20</sup> In this example, it is alleged that one part of the alcohol industry has improperly influenced policy to gain a competitive advantage against another. Improper influence was obtained by directing funds through member organisations, the AHA has previously directed donations directly to both sides of the political divide. In the lead up to the 2012 election, \$150,000 was donated to each of the Country Liberal Party and the Labor Party. These stand out as the only declared alcohol industry donations to the NT political entities in the set published by the AEC, which dates back to 1998-99.

## Motivations and reasons why entities give donations to political parties and political candidates

The entrenched relationship between alcohol industry bodies and the political system was explored in research commissioned by FARE previously. This included examination of political donations to parties in Victoria and Queensland,<sup>21,22</sup> which revealed a variety of concerning trends in corporate political donations from the alcohol industry. It also highlighted challenges relating to associated entities. For example, the Cormack Foundation, which is an associated entity used to channel money from anonymous donors to the Victorian Liberal party, was found to hold shares in and receives dividends from alcohol industry companies. In this way, the financial relationships of political parties and their members with alcohol industry interests are extensive and varied. These relationships warrant serious scrutiny to safeguard against undue influence of corporate political donors. FARE has

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<sup>a</sup> Government and parliamentary reports that have recommended a volumetric tax be applied to wine include the:

1. 1995 Committee of inquiry into the wine grape and wine industry
2. 2003 House of Representatives Standing Committee on Family and Community Affairs inquiry into substance abuse
3. 2006 Victorian inquiry into strategies to reduce harmful alcohol consumption
4. 2009 Australia's future tax system (Henry Review)
5. 2009 National Preventative Health Taskforce report on *Preventing alcohol related harms*
6. 2010 Victorian inquiry into strategies to reduce assaults in public places
7. 2011 WA Education and Health Standing Committee inquiry into alcohol
8. 2012 Australian National Preventive Health Agency *Exploring the public interest case for a minimum (floor) price for alcohol, draft report*
9. 2012 Australian National Preventive Health Agency *Exploring the public interest case for a minimum (floor) price for alcohol, final report*
10. 2014 House of Representatives report on the *Inquiry into the harmful use of alcohol in Aboriginal and Torres Strait Islander communities*.
11. 2017 Interim report of the Senate Committee on the *Effect of red tape on the sale, supply and taxation of alcohol*.



also provided a submission to the [2014 NSW Expert Panel on Political Donations](#), this submission provides further evidence on the influence of political donations by the alcohol industry.

### **The inherent contradiction of corporate political donations**

There is an unacknowledged contradiction in the political donation system in Australia. While it is corrupt for a business to receive special benefit as a result of political donations, it is similarly illegal for corporate executives to spend money in a manner not intended to increase their profits. Only when a business benefits *indirectly* does the executive meet their fiduciary obligation to the shareholders while avoiding improper benefit through corruption of the democratic system. To benefit indirectly, corporate donations must be motivated by a belief in one party's ability to deliver superior economic outcomes. These outcomes must have the broadest possible effect, as special benefit to a particular industry, for example, is inconsistent with the donation requirements outlined above. Donations from an individual business should support all businesses equally through general economic growth. It is for this reason that corporate donations are often justified on the basis that they 'support the democratic system'. Any other motivation or outcome would deservedly draw serious criticism.

Yet corporate executives' fiduciary obligation to maximise profit requires that the expected return on their investment in economic growth must be greater than their outlay. Their share of the benefit received from supporting one party over another, spread equally over all businesses in the economy, must be larger than the amount that they have donated. When considered from this perspective, the belief that corporate political donations are made in a manner consistent with laws governing both donations and the behaviour of executives acting in the interest of incorporated entities becomes unsustainable. With \$75 million donated by corporations to Australian political parties in 2015-16 alone, there is clearly no shortage of businesses with apocalyptic projections for the economic outcomes if any party other than the beneficiary of their donations wins the next election.

Such strong beliefs in the superiority of one party over another suggest that donations from any particular corporation should be relatively stable over time. Donations should generally not fluctuate between parties and should certainly not follow political power. Despite this, research has shown that donations do vary as a function of parties' status as government or opposition, proximity to the next election and polling results.<sup>23</sup> While it comes as no surprise to even casual observers that donations appear to be made in a manner designed to improperly influence government decisions, this behaviour is illegal and warrants greater scrutiny than it is currently afforded.

While it may be difficult to establish that political donations are made with the intention of influencing decisions, several strong indications are provided by the patterns of political donations over time, recipient, and proximity to key alcohol policy decisions. This is in contradiction to legislation and an unconscionable corruption of our democratic system. Most of the time it is not possible to know whether or not a donation has actually affected decisions. The public is beholden to the good will of the political class to ensure that this does not occur. Even then, political donations purchase access to decision-makers, establishing relationships that may influence such decisions whether or not the decision-maker is aware of it. If donations are genuinely made in the interest of supporting the democratic system, they should be allowed only to the extent that they do not directly influence outcomes.

## **The use of shell companies, trusts and other vehicles to obscure the original source of political donations**

It is common for political parties to establish corporations to act as intermediaries between donors and the party with the intention of obscuring proper scrutiny of these financial relationships. One widely publicised example is the Free Enterprise Foundation, which the NSW Electoral Commission found is used by senior Liberal Party officials as a means of offering anonymity to donors, including property developers, from whom donations are illegal in the state.<sup>24</sup> In the same manner, associated entities are able to conceal the identity of other banned donors, including those from the alcohol industry. Other examples include Parakeelia, associated with the Liberal Party, and the John Curtin House Limited, associated with the Australian Labor Party.<sup>25</sup> The use of associated entities is unconscionable, and a clear indication that political parties are aware of apparent or real political influence associated with such donations. The use of associated entities also represents a deliberate attempt to obfuscate the source of donations, denying the public the ability to scrutinise relationships between corporations and their elected representatives.

# How to improve the integrity of political decision-making through our political donations regime and the public funding of elections

There is compelling evidence that political donations have been used previously in an attempt to influence policy decisions. Given the real conflict between the interests of the alcohol industry and those of the community, it is recommended that political donations from that alcohol industry and associated bodies are banned immediately.

Until this policy is adopted, precautions should be established to reduce the risk associated with corporate political donations. In addition, such measures should be applied to all donations to safeguard against undue influence from any corporation. These should be designed to facilitate proper scrutiny of political donations through enhanced identification, timeliness and complete disclosure.

- a) *Identification* would primarily involve banning the use of associated entities. A corporation that is established for the sole purpose of funnelling funds from anonymous donors to political parties is in clear contradiction with the proper functioning of government.
- b) *Timeliness* would involve immediate disclosure of political donations, allowing improved scrutiny of any association between donations and policy outcomes.
- c) *Complete disclosure* would see the removal of thresholds for reporting political donations. These were ostensibly introduced to protect small businesses from punitive action of unions, but safeguards can and should be established in ways that do not facilitate corruption of democratic systems. At the very least, thresholds should be relative to the cumulative value of donations in each financial year. The current approach, which sets a disclosure threshold for individual donations, is clearly open to being circumvented.

## Recommendations

The following specific recommendations are made:

1. As matter of priority, ban all donations from the alcohol industry including donations from producers, retailers (on and off-licence venues) and associated member organisations and lobbyists.
2. Ban the use of associated entities to prevent political parties from continuing to conceal the identity of their donors.
3. Require immediate disclosure of political donations to allow voters to see, in real time, attempts to influence political decisions.
4. Remove the disclosure threshold and require all donations and other receipts to be immediately reported and published.

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