Lobbying, Non-Party Campaigning and Trade Union Administration Bill
August 2013

The British Medical Association (BMA) is an independent trade union and voluntary professional association which represents doctors from all branches of medicine across the UK. It has a total membership of over 152,000.

Introduction
The BMA has serious concerns about Part 2 of the Lobbying, Non-Party Campaigning and Trade Union Administration Bill, which has its second reading in the House of Commons on 3 September, and is due to go in to committee on 9 September 2013. It must not pass into law as written.

The Bill changes the legal requirements for organisations that raise concerns, provide commentary and seek to influence public policy or impartially campaign on issues in the year before a general election.

A combination of changes to the definition of election material (to ‘election purposes’) and the new spending limits mean that many organisations, including non-political organisations, registered charities, pressure groups, faith groups and think tanks, will have their ability to speak on issues of public interest dramatically curtailed.

The BMA is concerned that the new rules are unworkable in practice and will have serious unintended consequences for freedom of speech. We urge the government to think again and Parliament to reject these proposals.

Activities for ‘election purposes’
The Bill (clause 26) provides a very broad definition of what activities will count for ‘election purposes’, including staff time, media appearances and material posted on websites. This is much wider than election material currently regulated by the Electoral Commission (under the Political Parties Elections and Referendums Act 2000).

Furthermore, the new definition does not rely on the intention of the body producing what may be entirely non-party political material, but the effect. What was formerly legitimate comment on matters of public interest will become regulated and restricted.

Spending threshold
It also lowers the threshold for spending in the year before a general election that would trigger the need to be registered with the Electoral Commission, from £10,000 (in England) to £5,000 (and from £5,000 to £2,000 in each of the devolved nations).

The Bill (clause 27) also reduces by 60-70 per cent the amount that registered bodies can spend on raising issues or concerns or commenting on issues which are, or might be, caught by the definition of ‘election purposes’ in the year before a general election. It is a criminal offence to exceed this limit.

For example, the recent reviews by Robert Francis QC, Professor Sir Bruce Keogh and Professor Don Berwick have all outlined the key role healthcare professionals and organisations play in ensuring patient safety. However, if the BMA, which is a non-party political organisation, were to comment on, or raise concerns about, patient safety or standards of patient care at any time in
the 12 months before a general election, this could be caught by the new definition of election purposes, counting towards campaign expenditure and inhibiting the promotion of patient safety. If the new financial threshold had been reached, then the BMA in speaking up on patient safety would be breaking the law.

**Lack of clarity**

One of the difficulties with the Bill is that whether raising an issue is or is not caught by the definition of material produced for election purposes might not be immediately apparent – depending on whether the issue became an electoral issue during the year leading up to a general election. The lack of clarity about exactly what would be caught means that the administrative and regulatory burden would be immense. It has been widely reported that the Electoral Commission has significant concerns about the workability of the proposals.

The Bill in its current form would have a real and significant impact on the ability of non-party political organisations to raise matters of public concern. We do not believe it is the government’s intention to stifle debate and freedom of expression in this way, and urge the government to pause and think again, rather than rushing ahead with this ill thought through piece of legislation.

For further information, please contact:

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References

1. From £793k to £320k in England; from £108k to £35k in Scotland; from £60k to £24k in Wales and from £27k to £11k in Northern Ireland

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