Dear Lord Hodgson

THIRD PARTY CAMPAIGNING REVIEW: CALL FOR VIEWS AND EVIDENCE
SUBMISSION FROM THE BRITISH MEDICAL ASSOCIATION (BMA)

Thank you for the opportunity to contribute evidence to the Third Party Campaigning Review. The BMA views this as an important issue and welcomes your timely inquiry.

The BMA is both a trade union and a professional association. As a trade union, the BMA stands up for doctors both individually and collectively on a wide variety of employment issues and, since the inception of the NHS, we have been formally recognised for collective bargaining purposes within national negotiating machinery and by individual employers at local level. We represent doctors and medical students from all branches of medicine all over the UK and with a membership of over 154,000, we promote the medical and allied sciences, seek to maintain the honour and interests of the medical profession and promote the achievement of high quality healthcare. As a professional body, through research and publishing, the BMA leads debate on key ethical, scientific and public health matters and award grants to encourage individual research in medicine.

Please find our submission to the Review below.

PART 1 - FUNDAMENTAL QUESTIONS AND PRINCIPLES

While the BMA recognised the need for there to be transparent regulation of non-party campaigners, this Act has placed the activities of many non-party political organisations under the scope of excessive regulation without justification or cause. In particular, we believe that that the inclusion of staff costs within controlled expenditure and the additional reporting requirements are neither proportionate nor workable in practice. We believe that a disproportionate amount of BMA staff time has been spent adhering to an unnecessary piece of legislation.

PART 2- DEFINITIONS AND CONCEPTS

Third party campaigning in an election

The BMA is subject to the Trade Union and Labour Relations (Consolidation) Act 1992. The provisions of this Act mean that the BMA’s resources (funds, services or property) may not be used in any way to endorse or oppose a political party, individual politicians or candidates in a political election. The BMA does not have a political fund and is not affiliated to any political party or to the Trades Union Congress. Our work makes a significant contribution to the medical profession’s dialogue with Government and media on issues affecting public health and healthcare. Any campaign work that the BMA may carry out in the protected period in advance of an election would be shaped by these principles. The lengthening of the protected period to 12 months has the effect of bringing far more ‘business as usual’ activity unnecessarily under the spotlight for organisations such as the BMA which has a legitimate role to play in providing commentary on political announcements.
The BMA, as a membership organisation, can easily define its members. However, the advent of social media channels for communicating organisational lines means that those who ‘follow’ the BMA may receive communications who are not ‘members’ in the traditional sense. It would be disproportionately difficult, and potentially impossible, to ensure that communications through these channels during the protected period in advance of the election could only be received by ‘members’.

The BMA notes in this instance the Electoral Commission’s ‘public test’, which asks whether activities are ‘aimed at, seen or heard by, or involve the public’ and broadly excludes activities from regulation if they only involve ‘members’ or ‘committed supporters’ of the organisation.

Perception of regulation

The BMA has repeatedly expressed serious concerns that Part Two of the Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 presents a substantial risk of placing the activities of many non-party political organisations under the scope of excessive regulation without justification or cause. While the BMA recognises the need for there to be transparent regulation of non-party political groups, any legislation ought to have been proportionate and not overly bureaucratic. However, the lack of adequate pre-legislative scrutiny and consultation with those affected during the Bill’s passage through Parliament has resulted in a disproportionate regulatory regime with potentially huge and damaging unintended consequences for many non-party political organisations.

The BMA maintains its view that as a result of the Act, and largely because of its reduced spending limits and the fear of criminal sanctions, many organisations will have had to spend an excessive amount of time and resource to comply with legislation. The BMA has repeatedly expressed concerns that the combination of an extended regulated period, alongside a wider definition of regulated activities and restrictive spending limits, means that there is a real risk of a third party reaching the financial threshold during the regulated period. The BMA reiterates its concerns that the Act runs a risk of restricting the ability of many non-party political organisations to speak on issues of public interest in the run up to a general election. The bureaucracy required to adhere to the regulations are disproportionate and time consuming and so may also have impacted on the ability of organisations to legitimately campaign.

PART 3 - OPERATION OF THE REGULATORY SYSTEM

The BMA voiced serious concerns about measures in the Bill, now enshrined in the Act, whereby the coordinated expenditure of different third parties acting in conjunction with each other on a joint campaign would count towards each party’s separate allowance. Once an organisation’s controlled expenditure limit has been reached, further activity would be unlawful. We believe this is unfair, unnecessary and another mechanism to attempt to curtail the ability of third party campaigners to speak out on issues of public interest.

The inclusion of staff time within the costs provides many challenges in collecting this information, it is extremely time consuming and subjective. The BMA does not believe this requirement is necessary and is a clear step away from the parity between third party campaigners and political party campaigning.

For any further queries regarding this response, please do not hesitate to contact Susan Bahl, Senior Public Affairs Officer at either sbahl@bma.org.uk or tel: 0207 383 6520.

Yours sincerely

Mark Porter
Chair of Council, BMA