Paula Sussex,

Chief Executive,

Charity Commission,

PO Box 211,

Bootle,

L20 7YX 31 October, 2016

Dear Paula,

**The Institute of Economic Affairs (235351)(IEA)**

Thank you for your letter of 19 October, and for the continuing dialogue that you have conducted with the IEA as a result of my original letter of 9 March.

I understand why the Commission is reluctant to take regulatory action or substitute its own views when the Trustees of a charity take decisions in good faith about how best to pursue their charitable objectives. It is no good trying to exceed the powers allowed to the Commission by Parliament and the courts.

Within that framework, however, it seems desirable for the Commission to be consistent in the strategic direction, substance and strength of its guidance on important issues.

The first issue raised in my letter was about **transparency and accountability** which, as you say, the Commission has rightly made one of its core strategic aims. In your letter you say that the Commission “commends” to all charities that they should publicly acknowledge the source of their funding. You make clear that you have made the Commission’s views known to the IEA but nevertheless do not feel able to do or say publicly anything more about the IEA Trustees’ frequent refusal to identify where their money comes from. This gives rise to three concerns:

* This seems a considerably weaker positioning and tone from the guidance to charities contemplating involvement in the EU Referendum campaign, when the legal constraints on your ability to act were just the same as they are now. In that guidance, you said: “If your charity does get involved in any political activity connected with the referendum, you should ensure that, during such involvement, you publicly acknowledge the source of your funding *so that the reasons for your involvement can be fully assessed. If you do not do so, this could seriously undermine and detract from the quality of your contribution and may attract regulatory scrutiny by the Commission….full transparency about funding is especially important.” (*My italics). Yet no similar warnings are articulated in your letter about the un-transparent funding of the IEA’s contentious political activity. This can and does give rise to damaging public perceptions (whatever the intentions of the Trustees) that charitable status is being used to advance interests connected with the tobacco or food industries or the views of particular rich donors.
* You quote three reasons that the IEA trustees give for not publicising the sources of their donation income. They are that, if asked for permission to disclose their identity, most of their donors would refuse; that “the charity regards donations to charities as essentially a private matter”; and that the charity is regularly attacked by those who disagree with its research output. You give no indication as to whether or not the Commission regards these as justified reasons. Yet if the trustees of any charity can say “it is essentially a private matter!” or “our donors would stop funding us!”, without any public counter-argument from the Commission, your strategic aim of transparency is surely undermined?
* You quote the Trustees as saying that “Individuals, foundations and companies donate money to the IEA for their own reasons and IEA’s role is to ensure that it is “blind” to these reasons and to only use these funds to support its charitable objectives”, but you do not take the opportunity to point out that this view is problematic for public confidence in charity. It is part of the duty of Trustees to be alert, rather than blind, to the motives behind substantial donations and to the very damaging perceptions that can arise if independence is perceived to be compromised.

In these three ways, your letter seems unfortunately to weaken the Commission’s previous strategic determination on the subject of transparency and accountability.

The second issue in my letter concerned the nature of **the advancement of education as a charitable objective**. Has the IEA’s political activity (as defined in CC9) strayed outside it? Here again, I believe your letter advances a less robust position than previous Commission guidance. You now say that it is enough if the contribution is not “propagandist”, if it is a legitimate and recognised branch or aspect of the learning of economic or political science, and if, albeit from a particular perspective, the work is “within the rigours” of an educational charity. On the basis of this, plus some assurances from the trustees that appear to be taken on trust, you decide that there is no appropriate regulatory action to be taken. Surprisingly, you do not offer any analysis of, or even mention, the specific example raised in my letter of the part IEA played in the birth and development of the anti-advocacy clause affecting charities in receipt of Government funds.

Yet the Commission’s supplementary guidance on the advancement of education for the public benefit states clearly that “Promoting a specific point of view may be a way of furthering another charitable aim, but it would not be education.” “If the purpose of providing information or education is to persuade people to form specific conclusions, then this is not education.” So is it “education” to seek to persuade Ministers and special advisers to adopt anti-advocacy clauses in all Government contracts with charities? Is IEA saying that its political activity here was not designed to lead to a particular conclusion? The same supplementary guidance clarifies that the charitable advancement of education involves “researching and presenting information in a neutral and balanced way that encourages awareness of different points of view where appropriate”. I defy anyone to read the IEA’s sock puppet reports and find them to be within that guidance.

This issue runs deep. It concerns whether charitable status and privileges should be used by “educational” think tanks to advance specific points of view and prescriptions (whether political or economic) under the pretence that they are not promoting a specific point of view and not persuading people to form specific conclusions, whilst at the same time undermining the Commission’s important strategic aims regarding transparency and accountability. I urge the Commission to grasp this nettle. I am afraid your letter tries to avoid a clearer resolution of this issue by introducing greater ambiguity and less precision than your previous guidance.

Thank you for any consideration that you feel able to give to these further concerns.

Yours sincerely,

Andrew.

Andrew Purkis.