Foreign interference in Australian democracy poses a growing risk to our national sovereignty.

It refers to coercive, corrupt or deceptive activities by or on behalf of a foreign actor designed to undermine Australia's democracy.

It can involve foreign actors secretly cultivating and manipulating Australians to influence their decision-making, or distorting our public discourse by spreading misinformation or disinformation on social media.

Australia’s Foreign Influence Transparency Scheme, implemented in 2018 by the Turnbull government, is supposed to prevent foreign interference through increased transparency. But it’s not working – and a recent review of this scheme is unlikely to fix the flaws.
How does the scheme currently work?

The legislation that created the scheme established a public online register of “foreign influence”.

Australians must register “communications activities”, and lobbying and disbursement activities, undertaken on behalf of a “foreign principal”. There are criminal penalties for non-compliance.

But the scheme is not working to increase transparency or prevent foreign interference. The registration site attracts little traffic, and most Australians probably don’t know it exists.

As we have argued before, the complex registration requirements could chill free speech.

It may discourage normal international engagement, creating onerous red tape for Australians who are not doing anything wrong.

‘Abject failure’

Last month, a parliamentary review noted the scheme’s “significant flaws”.

It found the scheme had “failed to achieve its intended purpose” of increasing “visibility of the nature, level and extent of foreign influence on Australia’s government”. This is despite onerous compliance requirements.

The report noted more transparency in foreign influence has been achieved through ordinary investigative journalism and parliamentary inquiries. It conceded the “abject failure of enforcement” of the act.
Even the scheme's creator, Malcolm Turnbull, last year admitted most information being reported is “benign” and “barely worth” registering. Yet he noted representatives of the Chinese Communist Party’s United Front Work Department (which experts say works to advance China’s influence and power internationally through overt and covert activities) are not registering, despite operating in Australia.

The registration scheme is ineffective in its design. Why would any foreign actor who is trying to secretly undermine Australian democracy voluntarily disclose their activities, in compliance with the legal system they seek to subvert?

The review admitted no criminal prosecutions have been undertaken for offences under the act, despite criminal penalties for failure to register.

Conversely, the scheme has forced former prime ministers Kevin Rudd and Tony Abbott to register their mostly already-public international activities.

Yet the registration requirements are so complex that former prime ministers, universities and other entities have needed legal advice and departmental assistance to understand their registration obligations. What hope do ordinary Australians have?

The confusing registration requirements risk chilling free speech and dampening productivity.

Citizens might be scared away from healthy international engagement, such as speaking at international conferences or collaborating with academics overseas. Or they might ignore the registration requirements altogether, making the laws meaningless.

A poorly designed scheme

Potential foreign influence in the Voice referendum was notably not captured by the scheme, with a 2023 Senate Committee warning the scheme was inadequate to combat the real risks of “malign foreign interference” in the referendum.
The Australian Strategic Policy Institute (ASPI) reportedly found accounts on X (formerly known as Twitter), which appeared to be connected to the Chinese Communist Party, sharing negative referendum content. An ASPI researcher said:

We assess this network is very likely linked to the Chinese government and is part of a broader covert campaign to undermine Australia’s social cohesion and trust in government through X.

The registration scheme is not tailored to expose such activity.

The “no” campaign group, Advance, also reportedly partnered with Texas-based marketing and fundraising company, RJ Dunham & Co. This is not registered either, though it’s not clear it should have been, due to the complexity of the registration requirements.

‘Mere tinkering’

The bipartisan review of the scheme called for “substantial reform”. “Mere tinkering” was not enough, it said.

Yet the complex recommendations the review produced seem like tinkering. They complicate, rather than simplify, the registration scheme.

There are no ideas on how to address foreign interference via social media, which is a key issue.

While some recommendations expand registration requirements, which may increase the administrative burden on Australians wanting to engage internationally, others clarify or widen exemptions. Some clarify key definitions and suggest further review of the scheme.

The suggestion the department should register those who have failed to register, or not complied with the act, exacerbates productivity concerns.

As Turnbull told the review committee:

every time parliament passes a law that imposes regulations and compliance on people, that’s a cost to business. It’s distracting business people and citizens from more useful applications of their time, and it does the same thing in the public service.

The review committee’s recommendations are unlikely to fix this, and may make it worse.

Let’s start again

Australia should abolish the Foreign Influence Transparency Scheme and start again.
It does little to combat foreign interference, which is partly (though currently ineffectively) addressed through complex foreign interference and espionage laws, and foreign donation laws.

Yet it potentially chills free speech, undermines productivity and discourages international engagement.

Read more: Agents of foreign influence: with China it's a blurry line between corporate and state interests