



Electoral Commissioner

REF: IS20-000001

Committee Secretary
Senate Finance and Public Administration Legislation Committee
Parliament House
CANBERRA ACT 2600

Dear Committee Secretary

Submission – Inquiry into Commonwealth Electoral Amendment (Donation Reform and Other Measures) Bill 2020

Thank you for the invitation to provide a submission to the Senate Finance and Public Administration Legislation Committee inquiry into the Commonwealth Electoral Amendment (Donation Reform and Other Measures) Bill 2019 (the Bill).

The Australian Electoral Commission (AEC) made a submission to the Joint Standing Committee on Electoral Matters (JSCEM) in February 2017 that focused solely on funding and disclosure (FAD) matters. In that submission, made in response to the inquiry into and report on all aspects of the conduct of the 2016 federal election and matters related thereafter, the AEC noted the critical importance of a well-regulated FAD scheme, and provided a brief history of legislative developments in this important area (Supplementary Submission 66.11 refers).

The AEC submission also highlighted the inherently political nature of FAD schemes, and emphasised the deeply divergent and frequently strongly held views amongst key stakeholders regarding the regulatory framework surrounding party funding. Against the backdrop of those strongly held opinions, detailed and prescriptive recommendations from the AEC can be, and have been previously, criticised as partisan interventions in the policy debate.

For that reason, the AEC's submission did not make detailed recommendations; rather, it introduced four key principles that appeared to be common to most FAD schemes globally, namely:

- Transparency
- Clarity
- Timeliness
- Enforceability

The AEC's views, expressed in that submission, remain extant. In essence, I believe this matter is for Parliament to decide: effectively, for Parliament to test the existing legislation and proposals for change against those four principles to ensure Australia's FAD scheme meets community expectations. Accordingly, it would be inappropriate for the AEC to express a view on the appropriateness or otherwise of the proposal at hand.

From an administrative perspective, I note the Bill, or any changes to FAD legislation, would likely necessitate a number of changes to the AEC's administrative process and systems which would have financial impacts on the AEC.

In particular, the AEC has concerns in relation to the proposal in the Bill that it manage the administration of the proposed electoral expenditure accounts. Of the jurisdictions that require the establishment of electoral expenditure accounts, the responsibility for the management and administration of those accounts remains with the entities establishing the accounts, rather than the electoral management body. For example, the New South Wales (NSW) *Electoral Funding Act 2018* (ss36-41) requires parties to establish campaign accounts, specifies what may be paid in and out of the account, and enables the NSW Electoral Commission to audit the account. There would be added cost and complexity if the AEC were to administer such accounts, and the independence of the AEC may be perceived to be compromised by having a decision-making role in the distribution of money to political parties for campaign purposes.

As you proceed with your inquiry, I am of course happy to provide further information as requested.

Yours sincerely

Tom Rogers

26 May 2020