

Election preparation and the pre-poll period

- 4.1 The preparation for an election and the pre-poll period are key to a successful election. Within this, the maintenance of the electoral roll is a key activity, and during the preparation for the 2013 federal election maintenance of the roll was impacted by legislative changes made in the preceding years, most significantly the introduction of direct enrolment and update.
- 4.2 Australians are also taking greater advantage of pre-poll voting, and the 2013 election saw a marked increase in the number of voters choosing to cast their vote prior to election day. In respect of voting habits, this changes the focus from election day to more of a 'polling period' – a change considered in this chapter.

Electoral roll management

- 4.3 An integral part of delivering an accurate and efficient election is having a complete and accurate electoral roll.
- 4.4 The Australian Electoral Commission (AEC) has a continuous programme of maintenance and update to the federal electoral roll, and strives to deliver the most accurate and up-to-date roll for use as certified lists after the rolls are closed once an election is called and writs are issued.
- 4.5 Despite this, certain elements of roll management have been brought to the Committee's attention as requiring further focus or remedy. The use of electronic certified lists and online enrolment was considered in the Committee's November 2014 interim report on electronic voting.¹

1 Joint Standing Committee on Electoral Matters, *Second interim report on the inquiry into the conduct of the 2013 election: An assessment of electronic voting options*, November 2014, available at

Deliberate manipulation of the electoral roll

- 4.6 The confidence required in the electoral roll, and election results being reflective of the will of the eligible voters within a Division, is challenged by the potential for people to deliberately manipulate and pervert the electoral roll.
- 4.7 As became evident after the 2013 election, people can enrol within a Division in which they do not reside, with the consequence, deliberate or accidental, that their vote counts towards a candidate not representing the Division in which they live.
- 4.8 After the 2013 election, allegations were made that there was a deliberate and concerted effort by certain people in Victoria to get people resident in Melbourne to deliberately and falsely enrol in the Division of Indi.²
- 4.9 The legitimacy of the outcome of an election should never be put into question by the actions of anyone aiming to mislead or subvert the electoral process. Severe penalties exist under the *Criminal Code Act 1995* and relevant state legislation for providing false and misleading information to the AEC or other electoral body on enrolment forms, and the Committee is firmly of the view that these penalties should be applied to anyone found guilty of such an offence.
- 4.10 The allegations raised in relation to Indi are deeply concerning to the Committee. The Committee notes with approval that, after a preliminary investigation, the AEC referred the matter to the Australian Federal Police.³

Current roll management

- 4.11 Every eligible Australian citizen is entitled to enrol to vote from the age of 18 years of age. It is compulsory to vote and citizens may provisionally enrol from the age of 16, so that their names are added to the roll upon their eighteenth birthday.
- 4.12 *The Commonwealth Electoral Act 1918* (the Electoral Act) envisages that every eligible citizen will enrol and keep their enrolled details up to date.

<aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2013_General_Election/Second_Interim_Report>.

2 The Australian, *Batch of 'false' votes tares Cathy McGowan's Indi win*, accessed 13 October 2014, <theaustralian.com.au/national-affairs/batch-of-false-votes-tars-cathy-mcgowans-indi-win/story-fn59niix-1227072146852>.

3 Australian Electoral Commission (AEC) media release, *Statement from the Australian Electoral Commission: Division of Indi*, 2 October 2014, accessed 2 October 2014, <aec.gov.au/media/media-releases/2014/10-02.htm>.

Once an election is called, there is even a seven day period in which there is active enrolment and update encouraged by the AEC and the government – the close of rolls period.

- 4.13 Prior to 2012 the AEC could only enrol or update a citizen with their direct involvement, but automatic enrolment legislation changed this landscape.
- 4.14 The methods of current roll management and associated issues are outlined below.

Continuous roll update

- 4.15 The AEC has had an ongoing programme of electoral roll update to maintain the accuracy of the roll:

The AEC employs a number of strategies, based on a philosophy of continuous roll update, throughout the electoral cycle to ensure that the ever increasing numbers of Australians that are eligible to vote are correctly enrolled. These include:

- enabling self-starting electors to initiate their own enrolment via numerous channels,
- directly engaging with electors to commence enrolment action or to prompt electors to take action on their own behalf, and
- supporting these activities with complementary advertising and public relations campaigns.⁴

- 4.16 The AEC continues to support traditional enrolment methods by updating and supplying paper enrolment forms to various sources, such as Post Offices, government agencies, and electorate offices of members of Parliament; and through activities such as supporting citizenship ceremonies and providing education resources to schools and other education institutions.
- 4.17 In addition, the AEC has enhanced and supplemented online enrolment avenues, including the introduction of complete enrolment or update through an online service. This allows citizens to enrol for the first time, or update their enrolment through the AEC website.⁵

4 AEC, *Submission 20.3*, p. 43.

5 AEC website, 'Enrol to vote', accessed 19 May 2014, <aec.gov.au/enrol/>.

Direct enrolment and update

- 4.18 Legislative changes introduced as a result of recommendations from a previous Electoral Matters Committee have enabled the AEC to directly enrol or update the details of people already on the electoral roll.⁶
- 4.19 This is effected by the matching of data provided from government agencies and other third parties in order to match a person's details or establish their eligibility to vote.⁷ Additionally, the AEC has been actively working with the Australian Tax Office to encourage people to update their enrolment details if they register a change of details when using the e-tax application.⁸
- 4.20 If a person's details are to be added to or updated on the electoral roll, the AEC first writes to the individual concerned notifying them that it intends to take this action and the individual has 28 days to respond if the details are incorrect. No other action on behalf of the voter is necessary, and if no response is received the roll is automatically updated.⁹
- 4.21 A number of inquiry participants expressed support for the retention of direct enrolment and update in support of voter-initiated enrolment.¹⁰ However, direct enrolment and update has caused some difficulties with regard to state jurisdictions:

Section 42(1) of the *Electoral Act 1907* of Western Australia stipulates that a claim for enrolment must be signed on a prescribed form. Accordingly new electors who have been placed on the Commonwealth Electoral Roll through [Federal Direct Enrolment and Update (FDEU)] are still required to submit a claim for enrolment for inclusion on the Western Australian Electoral Roll.

Since the introduction of FDEU in Western Australia in April 2013 the Western Australian Electoral Commission (WAEC) has made considerable efforts to encourage these new Commonwealth electors to enrol for Western Australian elections, but many of these have not responded. As of 30 June 2014 it is estimated that at

6 Joint Standing Committee on Electoral Matters (43rd Parliament), *The 2010 federal election: Report on the conduct of the election and related matters*, June 2011, p. 36.

7 A complete list of agencies that the AEC obtain data from is at Appendix B of the *Direct Enrolment and Update – Privacy Impact Assessment*, accessed 19 May 2014, <aec.gov.au/About_AEC/Publications/Fact_Sheets/files/direct-pis.pdf>.

8 AEC, *Submission 20.3*, p. 43.

9 AEC, Fact sheet: *Direct enrolment and update*, 10 February 2014, accessed 30 October 2014, <aec.gov.au/About_AEC/Publications/Fact_Sheets/direct.htm>.

10 Australia Post, *Submission 174*, p. 8, B Costar, *Submission 116*, p. 1; GetUp!, *Submission 205*, p. 9, Prof. Clive Bean, *Transcript of Evidence*, Brisbane, 8 May 2014, p. 33.

least 25,000 eligible Western Australians were enrolled for the Commonwealth but not the State electoral roll, and this discrepancy can only increase under FDEU.

...

While we support the desirability of joint Commonwealth and State electoral enrolment we maintain the principle that all adult citizens should themselves exercise their responsibility to enrol as electors, and that FDEU can perpetuate apathy among first-time electors.¹¹

- 4.22 In the period between 27 July 2010 and the announcement of the 2013 election on 4 August 2013, 39 909 persons were newly enrolled through direct enrolment; 50 029 were re-enrolled; and 699 804 individuals' details were changed.¹²

Committee comment

- 4.23 While direct enrolment and update has seen a significant number of individuals added to or updated on the electoral roll, it is of concern that individuals are not required to take any action at all to confirm their enrolment.
- 4.24 As the Western Australian (WA) Minister for Electoral Affairs notes, WA maintains the principle that all adult voters must be responsible for exercising their obligations as electors. The AEC states that they believe that the FDEU process is 'simply a mechanism to make it easier to comply with this obligation.'¹³
- 4.25 However, it is of concern that individuals can be enrolled with no active confirmation acknowledging their new obligations as a voter. Additionally, there is no confirmation from the voter that the details for the enrolment are indeed correct.
- 4.26 It is noteworthy that, in 2013, the AEC made efforts to contact new voters enrolled through the direct enrolment programme to remind them of their obligation to vote.¹⁴ However, there is still no mechanism for the voter to confirm their new or updated enrolment at the time it is undertaken.
- 4.27 The AEC also identified one possible mechanism for confirming details in the direct enrolment process:

11 Correspondence from Hon. Peter Collier MLC, Minister for Electoral Affairs (Western Australia), dated 1 September 2014.

12 AEC, *Submission 20.3*, p. 145.

13 AEC, *Submission 20.9 Attachment B*, p. 8.

14 AEC, *Submission 20.3*, p. 84.

I think there are other measures that we could put in place to strengthen the integrity around – using your term – the automated process, where we get something from the elector that says that they are the individual. There is a range of different ways of doing that, even, frankly, an SMS message, potentially, but something simple to know that a live person got that at the other end of the process.¹⁵

- 4.28 Therefore the Committee recommends that the FDEU provisions of the Electoral Act be amended to require a confirmation to be received from newly FDEU enrolled or updated voters to finalise their enrolled status.

Recommendation 10

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to require a confirmation to be sought and received from a person prior to their enrolment being added or updated on the electoral roll due to any Federal Direct Enrolment or Update activity.

Difficulties for homeless people

- 4.29 Enrolment and the associated identity requirements can have marked impacts on certain aspects of the community. Homeless or transient people or other vulnerable populations are often either not enrolled or have difficulty maintaining correct enrolment.
- 4.30 In its submission to the inquiry Homelessness NSW pointed out that, often, such populations may have the most reason to vote based on their perception of issues related to their status, as well as voting providing a sense of self-worth and a feeling of influence on their community.¹⁶
- 4.31 The Electoral Act currently allows for a homeless person to enrol as an itinerant elector under section 96; however, the requirement to have valid identification, or have a currently enrolled person attest to the person's identity (as per section 98AA of the Act) can cause difficulties for many homeless people who do not have the requisite identity documents or are not able to have a person attest to their identity.
- 4.32 Added to this is a concern that electorates in which itinerant electors are enrolled can be either:
- the last electorate for which there was an entitlement to be enrolled;
 - the electorate of any next of kin (if the first entitlement never existed);

15 Tom Rogers, Electoral Commissioner, AEC, *Transcript of Evidence*, 4 March 2015, Canberra, pp. 11-12.

16 Homelessness NSW, *Submission 40*, p. 3.

- the electorate in which they were born; or
 - the electorate with which the applicant has the closest connection.
- 4.33 This raises the prospect of itinerant electors being enrolled in electorates to which they have no physical or residency connection in the recent past or present. However, Homelessness NSW informed the Committee that the current enrolment, engagement and voting mechanisms employed by the AEC for homeless voters are, on the whole, working well.¹⁷

Electoral Roll divergence

- 4.34 Electoral rolls are maintained federally as well as in each state and territory and each jurisdiction has separate legislation governing enrolment and the use and publication of the electoral roll. As a result, electors may have their enrolment treated differently for federal and state/territory enrolment, which causes difficulties for both the elector and electoral authorities, as outlined above.
- 4.35 In their submissions both the AEC and the Liberal Party of Australia highlighted concerns about electoral roll divergence among the jurisdictions. The AEC noted that:

Roll divergence, or differences for individual electors between their federal, and state and territory enrolments, is an issue for both the AEC, and state and territory election bodies.

Roll divergence occurs because of differences between Commonwealth, and state and territory electoral legislation and enrolment requirements. It causes confusion among electors, who are often unaware of these differences, despite communication efforts by the AEC and state and territory election bodies.¹⁸

- 4.36 The Liberal Party submitted:

The problem of divergence between the federal electoral roll and state based rolls is becoming more pronounced. The Liberal Party does not believe that it should be the case that a person is enrolled to vote at a state level but not federally. Similarly, a person should not be registered to vote at one address for state elections but at a different address for federal elections. The Liberal Party is particularly concerned at the growth of automatic enrolment in some state rolls, based on unreliable data.¹⁹

17 Digby Hughes, *Transcript of Evidence*, 13 March 2014, Sydney, p. 22.

18 AEC, *Submission 20.3*, p. 53.

19 Liberal Party of Australia, *Submission 188*, pp. 7-8.

- 4.37 The AEC highlighted that the level of divergence is high, particularly in some states:
- as at 11 November 2014 there were 525 839 divergent enrolments on the federal electoral roll;
 - ⇒ 221 604 enrolments differed between the NSW roll and the federal roll;
 - ⇒ 201 518 enrolments differed between the Victorian roll and the federal roll;
 - ⇒ 99 722 enrolments differed between the WA roll and the federal roll; and
 - ⇒ other states and territories were negligible.²⁰
- 4.38 The divergence in NSW and Victoria were an excess of enrolments on state rolls compared to federal, while WA had fewer enrolments. This was due to a mix of either data sources that were used at state levels that are not acceptable at the federal level (NSW and Victoria), FDEU enrolment not being accepted by the state electoral authority (WA), or other enrolment eligibilities that meant people could be enrolled at a state level, but not federally (due to citizenship, imprisonment etc).²¹
- 4.39 Concerns were also raised during the course of the inquiry over the divergent treatment of silent elector information among the jurisdictions. The Committee has worked with the Special Minister of State to address this issue at the Federal level.²²

Committee comment

- 4.40 There are a number of challenges in addressing electoral roll divergence across Australia. The most significant challenge is that every state and territory is responsible for the regulation and administration of roll maintenance.
- 4.41 The AEC correctly identifies that different eligibilities and enrolled statuses lead to voter confusion and potential disenfranchisement.²³ This is understandably not a desirable situation, but cannot be addressed by this Committee.
- 4.42 The Committee acknowledges that its recommendation above concerning confirmation from potentially enrolled or updated voters before their

20 AEC, *Submission 20.9 Attachment B*, pp. 4-5.

21 AEC, *Submission 20.9 Attachment B*, pp. 8-10.

22 In the interest of security of silent electors, the Committee has chosen not to detail this issue in this report.

23 AEC, *Submission 20.9 Attachment B*, p. 13.

details are changed through FDEU could potentially lead to further divergence between the federal roll and state rolls. However, the Committee is of the view that the integrity of the electoral roll is paramount in this context, and that roll convergence should not be at the price of the accuracy and integrity of the federal roll.

- 4.43 Ultimately, roll harmonisation is an issue for the federal and state electoral authorities and jurisdictions; the Committee commends the AEC on its willingness to engage the relevant state electoral commissions and work towards minimising divergence as much as possible. This work should be continued and expanded with the aim of ensuring that further roll integrity measures at the federal level are considered at the state level. The Committee recommends action on this later in the Chapter.

Public roll access

- 4.44 The restriction of access to publicly available electoral rolls, as the result of a tightening of roll access policy by the AEC over the last two years, was a key area of concern raised during the inquiry, primarily by groups involved in connecting families impacted by forced adoption.

- 4.45 Section 90A of the Electoral Act requires that a copy of the roll is available for public inspection at divisional and state offices. Legislatively, very little other guidance is provided by the Electoral Act regarding the purposes for which access should be granted.

- 4.46 The AEC provided a useful summary of the intention behind public roll access and some of the surrounding issues:

The right to access the Commonwealth electoral Roll is absolutely integral and critical to the conduct of free and fair federal elections, as it ensures a degree of public transparency and accountability in terms of accuracy of enrolment, and is a measure to mitigate electoral fraud. A lack of access to the electoral Roll has the potential to undermine the public confidence in the integrity of electoral process... There is an absolute need to provide members of the public with access to the electoral Roll to be viewed for electoral purposes; a need for the Roll to be accessible for socially worthwhile purposes; and a need to balance the protection of citizens' personal data.²⁴

- 4.47 In order to achieve this balance, in April 2014 the AEC outlined its then approach to managing public access under section 90A:

24 AEC, *Submission 20.6*, p. 3.

Section 90A of the Electoral Act provides no specific guidance as to appropriate use of the publicly accessible roll. The AEC has therefore based its approach to public access on:

- the principle of facilitating transparency of the electoral process,
- allowing private individuals wishing to object to the presence of an elector on the roll on the basis they believe the elector has not lived at their enrolled address for at least one month to check the accuracy of their information against that on the roll prior to lodging the objection with the AEC,
- the permitted purposes for specified groups to access roll information, as contained in s.91A, being for any purpose in connection with an election or referendum or for monitoring the accuracy of the information on the roll; and
- sentiments expressed by JSCEM in the report on their inquiry into the 2001 election.²⁵

4.48 Historically, public access to the electoral roll has shifted considerably, including the fact that electoral rolls were available for sale up until 2004.²⁶

4.49 However, since that time, access to the roll has become more of an issue due to the identified increased stringency of privacy and identity requirements, independent of the access provisions of the Electoral Act. The AEC noted:

Recommendation 1(a) of the ANAO's 2007 federal election performance audit recommended that the AEC engage with the Office of the Privacy Commissioner to develop improved governance arrangements for the collection, processing, data-matching, distribution and management of the person[al] information of electors and potential electors. Importantly, recommendation 1(b) of that report also recommended that the AEC assess the extent to which broad use of electoral-roll information by non-government entities may be adversely impacting on the willingness of Australians to enrol to vote.²⁷

4.50 Accordingly, the AEC:

has adopted a stricter approach to members of the public accessing the publicly available electoral roll, informing all users that the roll is provided for public viewing for the purpose of checking an elector's own details or to enable an elector to confirm information when intending to object to the enrolment of another elector. The AEC has also increased the supervision of members of the public

25 AEC, *Submission 20.3*, p. 51.

26 AEC, *Submission 20.6*, p. 3.

27 AEC, *Submission 20.3*, p. 52.

using the terminals which host the publicly accessible roll. AEC staff now approach all users and, if it is clear the terminal is being used for purposes which are not appropriate, request that usage stop.²⁸

4.51 This restriction highlighted the tensions between the enshrined right of public access to the electoral roll as provided by section 90A of the Act, the rapidly increasing requirement for privacy of citizens' details, the desire to provide the services sought by citizens, and the clear intention of the electoral roll for the conduct of complete and accurate elections and referendums.

4.52 In the past, it is possible that some entities may have used the roll for purposes other than the conduct of elections and referendums, but not in contravention of the access provided by section 90A. The AEC acknowledged that past practice allowed for a wide range of searches:

In the past, members of the public have viewed the electoral roll for many purposes, often entirely unrelated to the roll's purpose as an instrument of democracy. These are known to have included:

- adoption agencies assisting adoptees to track down their birth parents,
- law courts requiring that addresses be checked on the electoral roll,
- genealogists, both amateur and professional, who are constructing family histories,
- debt collecting agencies seeking to track down individuals,
- persons organising school reunions,
- persons seeking to return lost war medals, and
- persons finding estranged family members.²⁹

4.53 The AEC indicated its belief that the more restrictive approach to public access to the roll was justified:

In effect, until the current more stringent approach was adopted, it is clear that some members of the public, organisations and government bodies were treating the electoral roll as a government directory or a tool to locate people, rather than an element of integrity, and were using the electoral roll to perform functions for which it was not envisaged or suited.³⁰

28 AEC, *Submission 20.3*, p. 52.

29 AEC, *Submission 20.3*, p. 52.

30 AEC, *Submission 20.3*, p. 53.

- 4.54 At the same time, the AEC acknowledged that 'there is a balance to be struck between privacy and accessibility of the electoral roll'.³¹ As is noted below, however, due to recent advice, the AEC has changed its stricter public roll access policy.

Evidence received on AEC stricter roll access

- 4.55 In evidence received by the Committee, the NSW Committee on Adoption and Permanent Care Inc identified the important role that the electoral roll played in the past in assisting individuals or agencies attempting to reconnect family members affected by forced adoptions or who wished to reconnect with family members after voluntary adoption.³²

- 4.56 The NSW Committee on Adoption and Permanent Care Inc highlighted the importance of electoral roll searches in the adoption process:

Consultation with parents throughout the various stages of adoption is absolutely critical to ensure that adoption does occur in the most ethical and open and honest manner. Unfortunately, the circumstances of many parents who are within the out-of-home care system mean they often have become disengaged with service providers along the way. It is necessary that we be able to search for them and to make contact with them to enable that consultation process. Often for these families we do not have an address or a telephone number; we may simply have a name. Up until recently we have used the electoral roll to find an address to locate these family members.³³

- 4.57 International Social Service (ISS) Australia expressed concern at the impact of the more restrictive approach to roll access and contended that it is not reflective of international practice:

ISS Australia believes that such restrictions to accessing the electoral roll are not in keeping with international practice. Our experience in searching for family members separated by adoption overseas shows that the public or services can access full name and address details on many overseas electoral rolls.³⁴

- 4.58 Adoption Jigsaw also noted international practice:

It is ironic that we find it easier to search in the UK than we do in Australia. In the UK we can access a combination of the Electoral

31 AEC, *Submission 20.3*, p. 53.

32 NSW Committee on Adoption and Permanent Care Inc, *Submission 35*.

33 Lisa Vihtonen, NSW Committee on Adoption and Permanent Care, *Transcript of evidence*, 13 March 2014, Sydney, p. 14.

34 ISS Australia, *Submission 49*, p. [1].

Roll/telephone book online and we can apply for any birth, death or marriage certificate.³⁵

4.59 Apart from adoption organisations, a number of other inquiry participants also raised concerns on this matter:

- Solicitor Paul Cummins noted that he utilised the roll to find beneficiaries of deceased estates, missing defaulting debtors and missing witnesses. Mr Cummins noted that the change to access had added a significant additional cost on businesses that, without access to the electoral roll, would have to pay for access to other methods of tracing individuals.³⁶
- Mr Geoffrey Howell submitted that he had used the roll to find alumni when organising a university college reunion.³⁷
- The company 'Data Zoo' submitted that it would like access to the roll for business-related ID verification purposes.³⁸

4.60 In his submission the then Minister for Social Services, Hon Kevin Andrews MP, further noted the difficulty that restrictions on access to the electoral roll had caused organisations providing tracing services for families affected by past institutional care and forced adoption practices, particularly given the Government's commitment to assist people affected by these policies and practices with family reunification following the 2013 National Apology. Mr Andrews proposed that:

Access to the roll be restored for organisations assisting people affected by past care or forced adoption. To balance privacy concerns, access to the Roll could be limited by, for example, only permitting organisations that receive government funding to access the roll for these purposes.³⁹

4.61 The Committee sought further input from the AEC on the potential for access to the electoral roll by defined or specific organisations. The AEC noted in response that:

amongst other options the Committee may consider, one way forward might be to provide more clarity around the purpose of the Electoral Roll. This could be then supported through the development of a legislative definition of socially worthwhile activities (in the context of Roll access), which would enable the

35 Adoption Jigsaw, *Submission 18*, p. [3].

36 P Cummins, *Submission 38*.

37 G Howell, *Submission 170*.

38 Data Zoo, *Submission 173*.

39 Hon. Kevin Andrews MP, Minister for Social Services, *Submission 189*, p. [2].

AEC to make more targeted determinations at the operational level.⁴⁰

Reversal of AEC roll access policy

- 4.62 In correspondence received very late in the inquiry, the AEC informed the Committee that the Commonwealth Ombudsman had advised the AEC that, in his view, the AEC's stricter public roll access policy was inconsistent with the law.⁴¹
- 4.63 The Ombudsman also advised that, in line with Australian Privacy Principles, section 90A of the Electoral Act authorises the disclosure of personal information, and that the access provided by section 90A cannot be limited to certain purposes.
- 4.64 Accordingly, the AEC has informed the Committee that its stricter public roll access policy will be reversed. This will mean that, under section 90A, public access to the electoral roll should be unfettered.

Committee comment

- 4.65 In the Committee's opinion, the primary purpose of the electoral roll is to facilitate the electoral process. It is not a government directory or business service for the purposes of locating or tracking people. The Committee understands the approach that the AEC has taken in balancing privacy concerns with appropriate public access.
- 4.66 Nonetheless, the more restrictive approach to public access to the roll has had an unintended consequence of restricting the capacity for delivery of some government services, or related activities, for which the electoral roll can play a valuable part. Specifically, the implementation of programmes following the 2013 National Apology to people affected by forced adoption has been affected.
- 4.67 The advice received by the AEC noted above, and the AEC's consequential decision to reverse its stricter public roll access policy, mean that many of the concerns raised with the Committee in this area are no longer in issue.
- 4.68 The AEC's reversal of policy should rectify the information access concerns that legitimate adoption reunion and other socially worthwhile organisations raised in evidence to the Committee. It does not address the Committee's continued concern that other private individuals and businesses may access the roll for commercial gain or for other purposes that are not the intention of the electoral roll.
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40 AEC, *Submission 20.6*, p. 7.

41 Correspondence to the Committee from the AEC dated 23 March 2015.

- 4.69 Given the unknown downstream effects that the reversal of the AEC access policy may have (including potential misuse of roll information), the Committee encourages the AEC to monitor the outcome over the remainder of this electoral cycle with a view to reporting in the next Parliament.
- 4.70 The Parliament can then consider this information with a view to determining whether any further changes are required to section 90A of the Electoral Act.
- 4.71 Overall, the Committee believes that there is a need for a normalised approach in regard to the suite of electoral roll harmonisation issues – roll access, viewable elector information, roll harmonisation, and the minimisation of divergence between the federal roll and the state rolls. These issues are rooted in the varying electoral legislation across Australia and in the independence of the various electoral commissions.
- 4.72 The Committee recognises the continued efforts of the AEC to address harmonisation issues with their state counterparts, and recommends that this work continue. The Committee encourages active further engagement to cover all aspects of electoral roll usage and access. In the first instance, a useful means of facilitating this would be a discussion held by the Electoral Council of Australia and New Zealand (ECANZ).

Recommendation 11

The Committee recommends that at the next meeting of the Electoral Council of Australia and New Zealand, the Electoral Commissioner continue to engage with the state electoral commissions regarding normalisation and harmonisation of electoral roll use and purpose.

Ballot papers

- 4.73 Ballot papers are the vehicle through which voters exercise their franchise and express their preference for an individual or a party to represent them in federal Parliament.
- 4.74 An individual voter's ability to understand and accurately fill out a ballot paper will affect whether their vote is deemed formal and admitted to the count, giving full effect to their franchise and influence on the Australian democratic process.
- 4.75 Nationally, at the 2013 federal election, informality rates were:
- Senate – 409 142 informal votes, or 2.96 per cent of votes cast; and

- House of Representatives—811 143, or 5.91 per cent of votes cast.⁴²
- 4.76 These results broadly reflect the general informality trends of previous elections, albeit with the lower informality rate in the Senate being attributable to the fact that voters had a simpler method of casting a formal vote.
- 4.77 The recommendations made in the Committee's interim report on Senate voting practices should, if adopted, have a significant impact on the formality rates in Senate voting. A potentially smaller ballot paper would result in lower informality.

Party position

- 4.78 Some evidence to the inquiry suggested that parties or groups that secured a larger proportion of the first-preference votes in the previous election should receive preferential treatment by being assigned to the first columns of a Senate ballot paper, or potentially the top boxes of a House of Representatives ballot paper.⁴³
- 4.79 Such a mechanism would remove the randomised ballot draws that currently assign ballot paper positions, replacing them with a ballot paper position related to the level of primary vote a party, group, or candidate received at a previous election.
- 4.80 In theory, this could mean that on a Senate ballot paper, the group or individual that polled the most first-preferences at the previous election would be assigned to the first column (column A), followed by the next highest-polling group or individual, and so on. Similarly on a House of Representatives ballot paper, the previous election's highest-polling candidate (or party if they are not running again) would have the top ballot paper position, with the same progression below.
- 4.81 One effect of such a system would be that any potential 'donkey' votes (where a voter places their preferences in order of the boxes) would benefit the party, group, or candidate in that first position. The current system is designed to remove any advantage of the 'donkey' vote from those who may have been listed first due to alphabetic order or otherwise.
- 4.82 This suggested system could reflect the choice of the electorate at the previous election, with positions shifting between elections as the electorate's preferences shift. However, the Committee considers that conferring an advantage on candidates, parties or groups via the ballot paper is difficult to justify when it is recognised that electoral mechanisms
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42 AEC, results 2013 federal election, accessed 23 May 2014, <results.aec.gov.au/17496/Website/Default.htm>.

43 K Bonham, *Submission 140*, p. [10].

should not be calibrated to assist the electoral prospects of particular candidates and parties. Moreover, in the case of 'safe' Divisions, such a system could see preferential positioning repeatedly being assigned over time to the party or candidate holding the Division, thus potentially serving to entrench advantage.

Rotation

- 4.83 In contrast to party positioning, other evidence to the inquiry proposed introducing a rotational system into ballot paper production for federal elections.⁴⁴
- 4.84 Introduction of a rotation system, akin to that dubbed the 'Robson Rotation', would ensure that no overall advantage of having the first ballot position would be gained from every ballot paper.⁴⁵
- 4.85 The ACT currently uses the Robson Rotation for its Legislative Assembly election, resulting in 60 different variations of ballot paper columns for five-member electorates and 420 different variations for seven-member electorates.⁴⁶ This is achieved by limiting the number of candidates in each column to the number of vacancies, then creating the relevant number of batches of ballot papers with the candidate order shuffled according to formulas outlined in the ACT *Electoral Act 1992*. Voters are then issued with random ballot papers from each batch to ensure that as even as possible a mix of candidate order ballot papers are distributed.
- 4.86 Applying a similar system to both House of Representatives and Senate ballot papers would remove the overall advantage gained from ballot position, but would also result in massive ballot paper printing variation requirements, quality control and logistics. Similarly, the impact on political parties' ability to communicate How-to-Vote material would be significantly impacted.
- 4.87 Some inquiry participants recommended Robson Rotation implementation for Senate ballot papers, in part to address concerns over candidate numbers and nominations of parties wishing to gain a random advantage from ballot position.⁴⁷ The Committee believes that the reforms suggested in its interim report on Senate voting will address many of these concerns;

44 For example – M Maley, *Submission 19*; G Williams, *Submission 23*; K Bonham, *Submission 140*; A Green, *Submission 180*.

45 The Robson Rotation system is named after Neil Robson, a former Tasmanian Liberal parliamentarian who supported its introduction for elections in the late 1970s.

46 Elections ACT, *Ballot Papers for the Legislative Assembly*, accessed 12 August 2014, <elections.act.gov.au/elections_and_voting/ballot_papers_for_the_legislative_assembly>.

47 For example YWCA, *Submission 76*; Electoral Reform Australia, *Submission 87*; Proportional Representation Society of Australia, *Submission 142*.

introducing a further ballot order rotation system on top of these reforms is unnecessary.

Party branding/logos

- 4.88 Some submissions suggested that political party logos could be added to ballot papers to avoid voter confusion regarding potentially misleading party names. The Liberal Party of Australia, for example, suggested that logos or symbols would ease confusion; this position was also supported by the Pirate Party Australia.⁴⁸
- 4.89 This mechanism is used in many overseas jurisdictions, some of which are designed to counter voter illiteracy and others in which it is recognised that voters have a brand recognition in respect of political parties (such as in the United Kingdom).
- 4.90 Not all political parties in Australia have a trademark or logo, but the ability to replicate any logo on a ballot paper would arguably aid voters in the process of voting for any party they want to align their vote with.
- 4.91 It was also submitted that the use of symbols or images on ballot papers can be of considerable assistance for those with literacy difficulties or for whom English is not their first language, including Indigenous Australians:
- It should always be kept in mind that Australia is a multicultural society and in remote communities the English language is often a second, third or fourth language and that very many people are unable to read. The use of acronyms therefore creates one further layer of difficulty in participating in what we are attempting to achieve democratic process.
- ...
- Many third-world countries with multi languages have overcome these difficulties. As far back as the 1960s Malawi was using simple symbols for the different parties e.g. a lion, an elephant and so forth. In many countries photographs are used to assist those of other language groups and especially to assist those who do not read. This method of assisting with identification has occasionally been used in Australia.⁴⁹
- 4.92 Sections 209 and 210A of the Electoral Act, in conjunction with Schedule 1, currently outline the form that a ballot paper for either a House of Representatives or Senate election must take and the form of party name

48 Liberal Party of Australia, *Submission 188*, pp. 10-11; Pirate Party Australia, *Submission 177*, p. 5.

49 Concerned Australians, *Submission 89*, p. [1].

that can be displayed on a ballot paper, including approved and registered abbreviations.

Committee comment

- 4.93 The Committee is conscious of the merits of the proposal to permit the inclusion of party logos on ballot papers. The potential to limit confusion amongst voters, especially with complex ballot papers, is an argument for the adoption of logos.
- 4.94 Additionally, in Australia's multicultural society, such an initiative would assist voters facing language or literacy issues. Permitting the inclusion of logos would also allow parties to utilise their branding more effectively, but without conferring any advantage at the polling booth.
- 4.95 However, the Committee is also conscious of the fact that any move to register party logos and include them on ballot papers has the potential to raise the ownership and copyright issues that can emerge with regard to logos generally. In addition, the potential for similar (or misleadingly alike) logos to appear could confuse matters further. If similar registered party names can cause confusion, so too could party logos closely resembling each other.
- 4.96 The Committee is also aware that the ability to replicate and print colour party logos on House of Representatives and Senate ballot papers could present logistical and technical challenges, particularly given that House of Representatives ballot papers are required, under the Electoral Act, to be printed on a green background. As with many ostensibly straightforward solutions, the printing of logos on ballot papers is technically not as simple as it may first appear.
- 4.97 The Committee is of the view that the AEC should investigate the potential to replicate and reproduce official colour party logos on current ballot paper formats, and report to the Committee on the outcome prior to the next federal election.

Pre-poll or early voting

- 4.98 At the 2013 election the total number of pre-poll votes (ordinary and declaration votes) received was 2 507 373, up from just over 1.5 million pre-poll votes received at the 2010 election.⁵⁰
- 4.99 Within this overall total, the number of people casting a pre-poll vote in their own enrolled Division rose significantly since the 2010 election, as the AEC noted:
- Pre-poll votes cast as ordinary votes in Senate elections totalled 1 982 859, nearly double the number of ordinary votes cast at PPVCs [pre-poll voting centres] in 2010. This represents 14.3 per cent of all votes counted, up from 997 205 (7.5 per cent) in 2010.⁵¹
- 4.100 In 2004 the AEC operated 309 pre-poll voting centres (PPVCs); by the 2013 election this had increased to 645 centres.⁵² This increase reflects the increased number of people desiring to vote before election day. Overall enrolment, however, has only increased by 12.4 per cent between the 2004 and 2013 elections (13 098 461 to 14 723 385).
- 4.101 The AEC's state manager for Victoria outlined an increasing focus on convenience in pre-poll patterns and attitudes in that state:
- We are finding that it is steadily increasing across the whole period. There is always still a surge towards the end, but there has been an increase across the period.
- ...
- I think equally the anecdotal feedback that I am getting is that people are living a lifestyle of convenience. They take their voting very seriously, but they want to do that at a time or in a manner that is more convenient to them. So they are looking to exercise those options, I think, more so than they may have done in the past.⁵³
- 4.102 Schedule 2 of the Electoral Act sets out the acceptable grounds for applying for both a postal or pre-poll vote.

50 AEC, *Submission 20.3*, p. 55; AEC, Submission to the Joint Standing Committee on Electoral Matters Inquiry into the Conduct of the 2010 Federal Election and matters related thereto, *Submission 87*, p. 77.

51 AEC, *Submission 20.3*, p. 55.

52 AEC, *Submission 20.3*, p. 10.

53 Jeff Pope APM, Vic State Manager, AEC, *Transcript of Evidence*, 15 April 2014, Melbourne, pp. 1, 3.

Pre-poll time period and polling locations

- 4.103 Pre-poll voting was established in 1984 as an oral application for a postal vote that then enabled a person to vote in a divisional office or a gazetted location. These votes could be cast on specifically nominated days where a postal voting officer could take the votes cast in a certain location.
- 4.104 In 1990 the Electoral Act was amended to specifically stipulate the concept of a pre-poll vote, with the period commencing three days after the declaration of nominations (changed to four days for the 2013 election).
- 4.105 Submissions to the inquiry did not offer much in the way of commentary on pre-poll periods, though some questioned the timeframe. The Nationals for Regional Victoria and the Australian Christians both questioned the need for the pre-poll period to be for the three weeks before election day.⁵⁴
- 4.106 Concerns were also raised that the early voting period in remote areas is inequitable. It was noted that remote voting in the Northern Territory commenced eleven days after the close of candidate nominations (on 26 August 2013), with the result that ‘those Australian communities that are most distant and without ready communication services are provided with the least amount of time in which to organise for an election’.⁵⁵
- 4.107 The Australian National Audit Office (ANAO) considered the issue of adequate servicing of the electorate during the pre-poll period in its November 2014 follow-up audit report on the implementation of audit recommendations made in 2010 regarding the 2007 election. The ANAO noted the significant increase in pre-poll voting between the 2010 and 2013 elections, yet also noted that the AEC reduced the number of PPVCs from 682 at the 2010 election to 645 for the 2013 election.⁵⁶ This reduction did not properly cater for the increased pre-poll vote received at the 2013 election.
- 4.108 In response to this, the Electoral Commissioner outlined:
- we have developed a methodology for forecasting a rise in pre-poll voting, and we are applying that to our polling place matrix at the moment in an effort to rationalise that. I am conscious that that statement is not just a statistical statement. It is not just a numbers issue of closing down polling places, because that also impacts on the community. But we have to take account of the rise in pre-poll

54 The Nationals for Regional Victoria, *Submission 137*, p. 3 and The Australian Christians, *submission 179*, pp. [1-2].

55 Concerned Australians, *Submission 89*, p. [3].

56 ANAO, *Second Follow-up Audit into the Australian Electoral Commission's Preparation for the Conduct of Federal Elections*, Performance Audit Report No. 4 2014-2015, November 2014, p. 37.

voting – early voting – and what that means for us on the day, because we also need to make cost savings if we are to introduce some of these reforms, and that is one way of us doing it. So we have done quite a lot of work in that area.⁵⁷

- 4.109 The Committee is also aware that the opening dates of some PPVC premises were not communicated in a timely fashion to some candidates or party officials in order to allow adequate timing for arranging party workers or other support services.
- 4.110 Currently, the Electoral Act only requires the publication of locations on the AEC website (no direct notification to candidates) once the Electoral Commissioner issues a declaration establishing the locations, unless that publication is on the first day of pre-polling. It would be desirable for DROs to be in contact with potential candidates as soon as practicable in order to inform them of planned and actual locations of PPVCs.

Committee comment

- 4.111 The Committee acknowledges changes in voting patterns over recent election cycles. In the Committee's view, there is a balance to be preserved when providing pre-poll options to voters. On the one hand, there is a need to provide voters who cannot access a polling place on election day with a mechanism to vote. On the other hand, there are logistical considerations relating to providing pre-poll voting arrangements.
- 4.112 As intimated above, an administrative factor of relevance here is that increases in early voting can also affect the ability of the AEC to predict voting trends and adequately service the electorate with appropriate numbers of PPVCs and static polling booths. The Committee is pleased to see that the AEC is undertaking work in this area. The Committee notes those views submitted on the period available for pre-poll voting, but believes that the benefit of delivering flexible voting options to voters, and the resultant effect on overall turnout, warrant the retention of the current pre-poll voting period.
- 4.113 The Committee also notes concerns raised over inequities in the commencement of the early voting period in remote areas, but is conscious that there must be a balance between the provision of universal voting and the resources required to deliver these services.
- 4.114 While the Committee does not propose to recommend any changes to the current pre-poll period for the next election, it would be desirable for future Electoral Matters Committee inquiries into the conduct of federal

57 Tom Rogers, Electoral Commissioner, AEC, *Transcript of Evidence*, 4 March 2015, Canberra, p. 3.

elections to monitor the trend of increasing pre-poll voting and address any issues that may arise.

- 4.115 The Committee also acknowledges that the securing of adequate pre-poll premises is sometimes a challenge for the AEC, and that currently section 200BA of the Electoral Act only requires publication of the declared locations of PPVCs on the AEC website up to the day before pre-polling commences (with the requirement to only inform candidates directly if the declaration occurs on the first day of pre-polling, or so close to that day that the location cannot be published in time).
- 4.116 Whilst it would seem that candidates should have resources ready to attend any PPVC at short notice, reality dictates that in order for adequate party resources to be allocated to PPVCs in time, more timely communication is required.
- 4.117 As the AEC must go through procurement processes for the securing of these premises (if pre-existing locations are not to be used), there is logically a period in which the relevant DRO (or other AEC employee) can inform the relevant candidates of the possibility, or the securing, of a PPVC location, to enable the candidate and/or their party to provide party workers or resources if desired.
- 4.118 DROs should be encouraged to communicate with candidates at the earliest possible point (even before this two day period), but the legislative requirement for this direct communication should be enshrined in the Electoral Act.
- 4.119 To this end, the Committee recommends the Electoral Act be amended to require direct informing of candidates if the declaration and publication of PPVC locations is going to be undertaken any later than two days before the commencement of pre-polling.
- 4.120 By way of example, under the Committee's proposal, if a PPVC were to open on the first day of pre-poll (currently the Tuesday after the declaration of nominations), the DRO would be able to inform the candidates of its location by the Sunday beforehand.

Recommendation 12

The Committee recommends that section 200BA of the *Commonwealth Electoral Act 1918* and section 73AA of the *Referendum (Machinery Provisions) Act 1984* be amended to provide that notification of pre-poll locations, or potential locations, be made directly to candidates if publication is to be later than two days before the first pre-poll voting day.

Postal voting

4.121 The rise in pre-poll voting numbers has been matched by a large increase in postal votes in recent elections. The AEC noted that:

The number of postal voters at the 2013 election increased from 2010. The total number of active Postal Vote Applications (PVAs) increased by 38 per cent to 1 329 215 from 966 360. Registered General Postal Voters (GPVs) increased to 230 926 from the 2010 total of 209 426.⁵⁸

4.122 While not as marked an increase as for pre-poll voting, it is interesting to note that only 613 871 postal votes were counted for the 2004 federal election, meaning that postal votes have effectively increased by 100 per cent in less than a decade.⁵⁹ This appears to be part of the increasing trend of people choosing to vote early.

4.123 Postal voting is a long-standing and important mechanism for ensuring people have access to a voting mechanism within the system of federal compulsory voting. In order to support a compulsory voting system, remote, isolated and eligible overseas voters must be given a mechanism that can deliver their ballot papers within a timeframe that allows for an informed and lawful vote.

4.124 Some evidence to the inquiry raised concerns over the privacy of having a voter's details visible on the back of the postal vote envelope.⁶⁰

4.125 This inclusion of voter details is required by the Electoral Act (as postal votes are technically another form of declaration vote/envelope), but privacy concerns are currently accommodated by the AEC's instructions

58 AEC, *Submission 20.3*, p. 55.

59 AEC, results 2004 federal election, accessed 15 July 2014, <results.aec.gov.au/12246/results/SenateVotesCountedByState-12246.htm>.

60 S Anderson, *Submission 164*; T Liddle, *Submission 22*.

to enclose the postal vote envelope in a further outer envelope where voters are concerned about privacy.

- 4.126 The AEC acknowledges that this is not an ideal or acceptable mechanism for some parties and has indicated that work is being undertaken with postal voting suppliers to try and address these concerns.⁶¹
- 4.127 The Committee believes that the postal voting system does not need to be changed at the current time. It would be desirable, however, for future Electoral Matters Committee inquiries into the conduct of federal elections to monitor the increase in postal voting and address any anomalies or issues that may arise.
- 4.128 In addition, with the potentially changing nature of the future provision of postal services by Australia Post, the AEC should continue to work closely with Australia Post to ensure that any changes to postal service priorities, costs or delivery timeframes do not threaten the efficacy of the postal vote system.

The advertising blackout

- 4.129 In Australia a media ‘blackout’ has been imposed on traditional broadcast media, banning the broadcast of political or election advertising for the two days before election day. This prohibition is designed to reduce any last minute flooding of broadcast advertising and create a clear time period before election day.
- 4.130 Internationally, a number of countries also prohibit electoral advertising or the publication of pre-election opinion polls (also called ‘electoral silence’) for a period on or before election day. For example, Canada prohibits election advertising on polling day itself,⁶² as does New Zealand.⁶³
- 4.131 Schedule 2 of the *Broadcasting Services Act 1992* (BSA) governs the mechanisms and times that election advertisements can be broadcast and the relevant times that the ‘blackout’ period applies. The relevant period is defined as:

61 AEC, *Submission 20.3*, pp. 58-59 and *Submission 20.6*, p. 17.

62 OMAC Canada, *Canada Federal Election Advertising Guidelines*, November 2011, accessed 6 March 2015, <omaccanada.ca/Sites/omac/multimedias/Ad%20Guidelines/2011/Elections/CANADA%20Election%20Advertising%20Guidelines-EN-Nov2011.pdf>.

63 Election NZ Website, *Party Secretary Handbook: Appendix D*, accessed 6 March 2015, <elections.org.nz/party-secretary-handbook/appendix-d-summary-election-advertising-rules-parties>.

relevant period, in relation to an election, means the period that commences at the end of the Wednesday before the polling day for the election and ends at the close of the poll on that polling day.

- 4.132 The media blackout has traditionally functioned as a ‘cooling off’ period that allows voters to consider the campaigns of candidates before election day.
- 4.133 Some evidence to the inquiry raised concerns that the current blackout does not extend to non-traditional broadcast media, such as the internet and social media.⁶⁴ The Liberal Party of Australia submitted that:
- The long term future of the blackout period will also require examination in coming years with the rise of social media making the blackout increasingly redundant.⁶⁵
- 4.134 This is an increasingly relevant concern, given the rise of social media and the modern reliance on the internet and mobile communication.
- 4.135 Continued advertising and campaigning in this non-traditional media can undermine the intention of the blackout and allows candidates to campaign right up to, and including, election day.
- 4.136 The Australian Communications and Media Authority (ACMA) advised the Committee that it received 12 complaints relating to non-traditional broadcast media during the 2013 federal election, Griffith by-election and WA Senate election.⁶⁶
- 4.137 The AEC provided the Committee with a breakdown of the complaints it received during the 2013 federal election and WA Senate election. Thirty complaints were received in relation to:
- text messages from political parties;
 - advertisements on social media (Facebook and Twitter);
 - advertisements on media websites;
 - banner advertisements on non-media websites (YouTube, eBay etc);
 - mobile phone applications; and
 - unspecified ‘internet advertising’.⁶⁷
- 4.138 In its evidence to the inquiry the Liberal Party of Australia submitted that some commercial entities (including businesses owned by candidates)

64 P and A Bennie, *Submission 2*, p. [1]; Liberal Party of Australia, *Submission 188*, p. 10.

65 Liberal Party of Australia, *Submission 188*, p. 10.

66 Correspondence from the Australian Communications and Media Authority (ACMA), dated 23 October 2014.

67 Correspondence from the AEC, dated 27 October 2014.

were advertising during the blackout period, featuring candidates, effectively avoiding the definition of an electoral advertisement:

The 2013 election saw businesses promoting candidates in their advertising throughout the election campaign, including during the commercial television and radio advertising blackout period. Whilst political parties cannot advertise during the blackout in the last few days of the campaign, an associated business of a candidate may still feature a candidate under the umbrella of business advertising. This clearly distorts the intent of the blackout.⁶⁸

- 4.139 Part XXI of the Electoral Act contains provisions governing electoral advertisements. These provisions do not relate to restrictions on the broadcasting of advertising, but rather are chiefly concerned with electoral offences and elements of advertising that a person or entity should not undertake. More specifically, the relevant Part XXI provisions relate to:
- authorisation of and requirements of headings for electoral advertisements (sections 328 and 331);
 - publication of electoral advertisements on the internet (section 328A);
 - prohibition of misleading or deceptive publications (section 329); and
 - restriction of statements about candidates (section 351).
- 4.140 As noted above, restrictions on the broadcasting of advertising during an election are contained in the BSA. Under the BSA the ACMA has a range of regulatory responsibilities in relation to broadcasting services, internet content, designated content/hosting services, and datacasting services.⁶⁹
- 4.141 In its correspondence to the Committee, ACMA indicated that there is currently no restriction or prohibition in the BSA on election advertisements via online or social media. ACMA also indicated that including such a restriction in the legislation could not be achieved easily due to factors such as the separation of broadcasting and online content regulations.⁷⁰
- 4.142 There are associated requirements regarding electronic messages, telemarketing and 'cold calls' in the Electoral Act, but currently the realm of internet advertising has not been regulated outside of the requirements of section 328A.

68 Liberal Party of Australia, *Submission 188*, p. 10.

69 ACMA publishes Election Guidelines on its website at: <acma.gov.au/theACMA/About/The-ACMA-story/Regulating/political-matter-tv-content-regulation-i-acma>

70 Correspondence from ACMA, dated 23 October 2014.

Committee comment

- 4.143 With the evolution of advertising from traditional broadcasting and print to the online realm, together with reliance on the internet and the rise of social media, the traditional media blackout has clearly become less powerful and its original intent is being undermined. The increase in pre-poll voting has also potentially rendered the media blackout less relevant given that increasing numbers of votes are being cast before the blackout commences.
- 4.144 The reduced effectiveness of the traditional blackout due to the increase in online and social media advertising raises the question of its continuing viability into the future. This is an issue for broader public and parliamentary debate, and the Committee does not propose to recommend any substantive changes here. In the Committee's view, however, there would be virtue in a thorough examination of the continuing viability of the blackout.
- 4.145 The issue of ostensible business advertising possibly promoting candidates is also relevant here. On the surface it may seem attractive, as a preventive measure, to seek to apply the blackout to advertising by candidates who are also business proprietors. But this issue touches on a range of complex matters including the freedom of businesses to advertise and the difficulty of reliably determining where commercial advertising becomes electoral advertising. In the Committee's view, this issue should form part of an examination of the viability of the blackout.

Recommendation 13

The Committee recommends that the Australian Government examine the future viability of the broadcast media blackout.