

## Thresholds and public disclosure

### Background

- 3.1 When the introduction of a disclosure system was being considered by the Joint Select Committee on Electoral Reform in 1983, the majority of the committee accepted the view that:

[T]he receipt of significant donations provides the potential to influence a candidate or party and that to preserve the integrity of the system the public need to be aware of the major sources of party and candidate funds of any possible influence.<sup>1</sup>

- 3.2 The level at which the threshold is set for a requirement to make a public disclosure about financial transactions relating to election campaigns, political activity and donations is an important determinant of the breadth of information available to the public about how finances flow between key actors in the political system.
- 3.3 Changes to the disclosure threshold, which was increased from \$1,500 to 'more than \$10,000' in December 2005, has significantly increased the opportunities for participants in the political process to make large contributions to parties and others without any public knowledge.
- 3.4 The timeliness of disclosure to the public is also important. The earlier that the community can be informed about the flow of a significant sum of money the better position they are in to make judgements about how these financial flows may, or may not, have influenced decision makers.

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1 Joint Select Committee on Electoral Reform (1983), *First Report*, p. 164.

- 3.5 Part XX of the *Commonwealth Electoral Act 1918* includes requirements for selected participants in the political process to disclose to the Australian Electoral Commission certain contributions such as donations and expenditures.
- 3.6 Although 'donation' is the expression commonly used to describe money given to candidates and political parties, the Commonwealth Electoral Act uses the term 'gift'. Section 287 of the Act defines a 'gift' as:
- any disposition of property made by a person to another person ...  
being a disposition made without adequate consideration in  
money or money's worth.
- 3.7 This means that cash and non-cash (gifts-in-kind) may count as donations, but commercial transactions (such as returns on investments) do not. Section 287 notes that an 'annual subscription' to a party (for example, a membership fee) is *not* a donation. The Australian Electoral Commission indicated that some types of 'discounts' were not considered to be gifts-in-kind:
- Discounts given in the normal course of commercial trading are not considered gifts under the act. It is the normal price that anyone else would be paying if they were advertising the same volumes, or whatever. So no, they are not considered donations.
- 3.8 Donations are disclosed to the Australian Electoral Commission through election returns or annual returns (tables 3.1 and 3.2). Candidates, Senate groups and third parties must file *election* returns. Registered political parties, State and Territory branches of political parties, associated entities, and those individuals or organisations who donate \$10,900 or more to a political party in financial year must file *annual* returns.

Table 3.1 Post-election disclosure returns

<b>Participant</b>	<b>Type of return</b>	<b>Time frame for return to AEC</b>	<b>Due date (2007 election)</b>
Candidates	donations received and electoral expenditure	within 15 weeks of polling day	By Tuesday 11 March 2008
Senate groups	donations received and electoral expenditure	within 15 weeks of polling day	By Tuesday 11 March 2008
Donors	donations totalling more than \$10,900 made to an individual candidate, and donations received totalling more than \$10,900 from a single source that were used in turn to fund donations to an individual candidate must be reported.	within 15 weeks of polling day	By Tuesday 11 March 2008

Source Australian Electoral Commission (2008), *Electoral Pocketbook 2007*, p.69

Table 3.2 Annual disclosure returns

<b>Participant</b>	<b>Type of return</b>	<b>Time frame for return to AEC</b>
Registered political parties	all amounts received and total amount paid in financial year total debts outstanding as at 30 June	within 16 weeks of the end of the financial year
State/territory branches of registered political parties	all amounts received and total amount paid in financial year total debts outstanding as at 30 June	within 16 weeks of the end of the financial year
Associated entities	all amounts received and total amount paid in financial year total debts outstanding as at 30 June may also have to disclose sources of capital deposits	within 16 weeks of the end of the financial year
Third parties	details of electoral expenditure, certain donations received, and donations made to candidates and others	within 20 weeks of the end of the financial year
Persons or organisations donating \$10,900 or more in a financial year	details of each donation	within 20 weeks of the end of the financial year

Source Australian Electoral Commission (2008), *Electoral Pocketbook 2007*, pp.69–70.

- 3.9 Party-endorsed candidates do not need to disclose donations accepted or expenditure incurred on behalf of the party as these transactions are disclosed in the party's return. Similarly, donations received or expenditure incurred by a party-endorsed candidate's campaign committee are also incorporated into and disclosed in the party's annual return.
- 3.10 Under current disclosure arrangements, different divisions of a political party are treated as separate entities. As a result, the threshold for disclosure (\$10,900 for 2008-2009) applies separately for the national branch of a major political party and its state and territory divisions. This can give rise to the practice of donation splitting, whereby multiple donations under the threshold can be made to each of the separate divisions without being disclosed – even though the combined total may well exceed the threshold.
- 3.11 Election returns are available for public inspection 24 weeks after polling day. For the 2007 election, they were available from Monday 12 May 2008.
- 3.12 Annual returns are released for public inspection on the first working day in February the following year. The returns for the 2007-08 financial year (which covers the period the 2007 election was held) will be available on Monday 2 February 2009.
- 3.13 Several participants were critical of the long delay between the receipt of funds by a political party or candidate and the time that the amount would be disclosed and be publicly available.<sup>2</sup> GetUp! told the committee that:

Political donations are only conducive to transparency and accountability if they can be analysed in a meaningful and timely fashion. ... Australia can do a lot better than reducing the disclosure gap from nineteen to nine months (six month periods plus three months for processing) ...

The United States maintains an online register of donations disclosed on a quarterly basis, with additional requirements before and after elections. The United Kingdom requires parties to submit weekly reports during the election period detailing any donations over £5,000. The Internet has made it possible to process and disseminate information quickly and efficiently. If Australia is to have a cutting edge, world leading democracy, we mustn't be

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2 Tham J, submission 133 to the 2007 election inquiry, p. 37; Young S, submission 77 to the 2007 election inquiry, p. 3; Democratic Audit of Australia, submission Democratic Audit of Australia, submission 45 to the 2007 election inquiry, p. 8.

satisfied with a delay of up to nine months for publicising donations.<sup>3</sup>

## Impact of 2006 amendments

- 3.14 The *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006* included measures to increase the disclosure threshold for political donations ('gifts' in the Commonwealth Electoral Act) from \$1,500 (non-indexed) to 'more than \$10,000'. This higher threshold was to be adjusted in line with changes in the consumer price index.
- 3.15 The disclosure threshold of \$1,500 for donors and annual returns had been in place since 1991, when it was raised from the initial threshold of \$1,000, introduced in 1984.<sup>4</sup>
- 3.16 Proposals to increase the threshold were made by Joint Standing Committee on Electoral Matters in its reports on the 1996 election (to \$5,000), 1998 election (\$3,000) and 2004 election ('amounts over \$10,000'). Moreover, bills seeking to raise the thresholds to \$5,000 and \$3,000 were passed in the House of Representatives in 1999 and 2004 respectively, but did not get sufficient support in the Senate.<sup>5</sup>
- 3.17 With the change in threshold to 'more than \$10,000' taking effect from 8 December 2005, rises in the consumer price index have increased the threshold from \$10,000 for 8 December 2005 to 30 June 2006 to \$10,300 for 2006-07, \$10,500 for 2007-08 to \$10,900 for the reporting period 2008-09 (figure 3.1).<sup>6</sup>
- 3.18 The practice of donation splitting was able to continue when the threshold was raised – meaning that it was possible to donate up to \$98,091 to a major political party via individuals donations of \$10,899 to its separate national, state and territory branches. This compares with a possible combined contribution of almost \$13,500 under the previous \$1,500 threshold.

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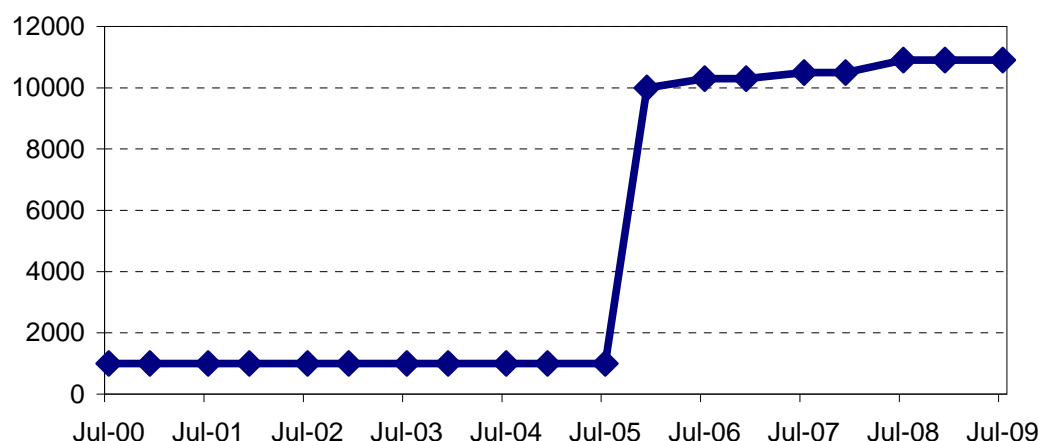
3 GetUp!, submission 155 to the 2007 election inquiry, p. 6.

4 Joint Standing Committee on Electoral Matters (2005), *The 2004 Federal Election: Report of the inquiry into the conduct of the 2004 federal election and matters related thereto*, p. 328.

5 Parliamentary Library (2006), 'Political finance disclosure under current and proposed thresholds, Research Note, no. 27, March, p. 1.

6 Australian Electoral Commission, Political Disclosures: Disclosure Threshold, viewed on 26 September 2008 at [http://www.aec.gov.au/Parties\\_and\\_Representatives/Political\\_Disclosures/threshold.htm](http://www.aec.gov.au/Parties_and_Representatives/Political_Disclosures/threshold.htm).

Figure 3.1 Donation disclosure thresholds, July 2000 to July 2009 (Nominal dollars)



Source Australian Electoral Commission, *Political disclosures, Disclosure thresholds*, viewed on 10 September 2008 at [http://www.aec.gov.au/Parties\\_and\\_Representatives/Political\\_Disclosures/threshold.htm](http://www.aec.gov.au/Parties_and_Representatives/Political_Disclosures/threshold.htm) and Australian Electoral Commission (2005), *Funding and Disclosure Report: Election 2004*, p. 12.

3.19 In addition to raising the disclosure threshold, the *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006* made a number of changes that affected the quantity and timeliness of disclosures for some entities including:

- Third parties (persons other than parties, candidates and groups, members of Parliament and Commonwealth departments and agencies) that incur expenditure for a political purpose in excess of the disclosure threshold, or if they receive gifts that are used for such expenditure, were required to complete annual disclosure returns. Previously, they were required to do so only for election periods;
- The definition of 'associated entity' was extended to include entities with financial membership of, or voting rights in, a registered political party, and entities on whose behalf a person exercises such membership or voting rights; and
- Broadcasters and publishers were no longer required to lodge disclosure returns on electoral advertisements broadcast or published during election periods.<sup>7</sup>

3.20 The Australian Electoral Commission noted that the expanded definition of associated entity had a small effect on the number of associated entity annual returns made public in February 2007, which increased from 70 in

<sup>7</sup> Australian Electoral Commission (2007), 'Changes to the Commonwealth Electoral Act 1918 since the 2004 election', *Electoral Newsfile*, no 132, September.

2005-06 to 105 in 2006-07. However, a further 100 returns were expected to be made public in February 2008.<sup>8</sup>

- 3.21 There was considerable debate when the threshold was proposed to be raised to \$10,000 and its impact on the number and amount of donations disclosed. The negative impact on the transparency of financial contributions with the increase in disclosure thresholds is apparent when looking at various returns provided to the Australian Electoral Commission over the past few years.

## Returns lodged

- 3.22 Information provided to the committee by the Australian Electoral Commission on the number of disclosure returns processed over the past few years provides an overview of the changes in overall administrative effort associated with the increase in the disclosure threshold to more than \$10,000 and other changes (tables 3.3 and 3.4).

Table 3.3 Annual disclosure returns lodged with the AEC, 2003-04 to 2006-07

	2003-04	2004-05	2005-06	2006-07
Political Party – original	83	79	89	51
Political Party - amended	67	69	34	15
Associated Entity – original	78	75	121	254
Associated Entity – amended	17	15	3	7
Donor – original	947	1,442	395	229
Donor – amended	33	38	11	17
Political expenditure – original	na	na	na	65
Political expenditure – amended	na	na	na	1

*Note* na - Not applicable.

*Source* Australian Electoral Commission, submission 3, pp. 12 and 19.

8 Australian Electoral Commission (2007), *Annual Report 2006-07*, p. 69.

Table 3.4 Election returns received, 2004 and 2007 elections

	2004 election	2007 election
Candidate	1,369	1,399
Senate group	17	23
Return of donations made and received	371	5
Return of donations received	34	na
Third party return of electoral expenditure	161	na
Broadcasters	467	na
Publishers	543	na
Total election returns	2,962	1,428

*Note* na - Not applicable.

*Source* Australian Electoral Commission, submission 3, p. 13.

- 3.23 It is important to bear in mind that the number of returns can vary from period to period for reasons other than the change in disclosure threshold including whether or not a federal (or state) election falls within the period. Other changes may also have an effect such as the broadening of the definition of associated entity and discontinuation of requirements for publishers and broadcasters to provide returns in 2006.
- 3.24 The impact of the increasing threshold to more than \$10,000 in December 1995 can be clearly seen with the decline in the number of donor annual returns from 1,442 in 2004-05 to only 229 in 2006-07 (table 3.3) and the number of election returns of donations made and received from 371 at the 2004 election to only 5 for the 2007 election (table 3.4).

## Party returns

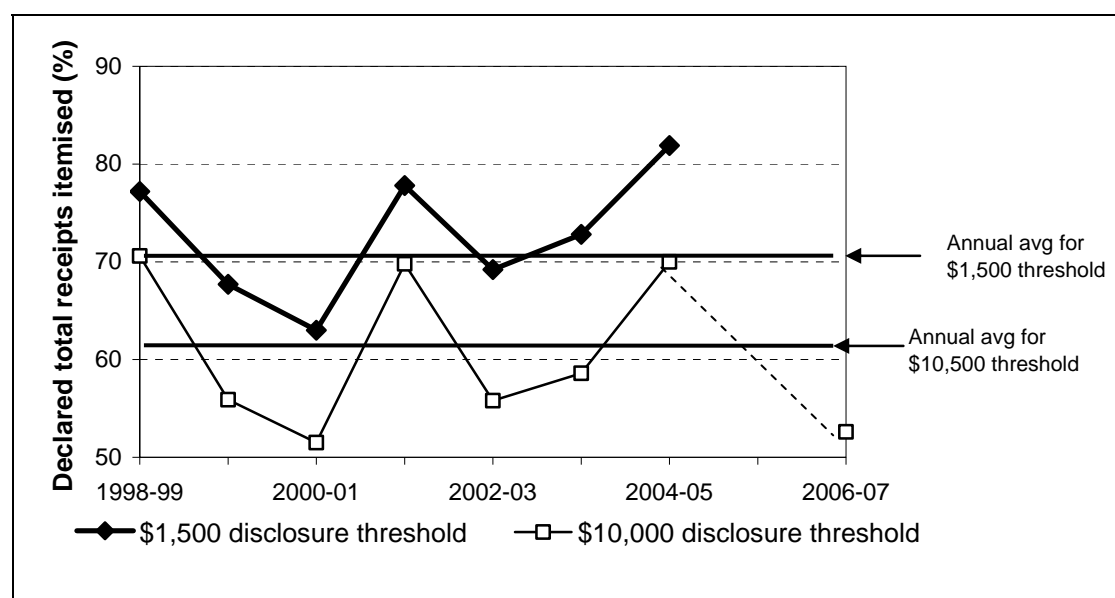
- 3.25 While the absolute numbers provide an overall picture of the reduction in returns provided with the increase in the disclosure threshold to more than \$10,000, it is also important to look at the value of disclosures above the disclosure threshold.
- 3.26 In terms of the information that is available from annual returns furnished by political parties, a 2006 research study prepared by the Parliamentary Library found that the percentage of declared total receipts which are itemised (ie: above the disclosure threshold) averaged around 74.7 per cent of declared total receipts over the period 1998-99 to 2004-05 under the \$1,500 threshold. Under the higher disclosure threshold of \$10,000 the average percentage of declared total receipts which are itemised fell to



64.1 per cent, with an average of more than \$10 million per annum not disclosed.<sup>9</sup>

- 3.27 The committee updated the Parliamentary Library's study for the latest available year (2006-07), when the disclosure threshold was \$10,300. This analysis reveals that the percentage of declared total receipts which are itemised was only 52.6 per cent of the combined \$122 million received by the Australian Labor Party, Liberal Party of Australia and The Nationals in that year (figure 3.2). This is far below the average of declared total receipts that are itemised over the period 1998-99 to 2006-07.

Figure 3.2 Disclosures by the major parties, 1998-99 to 2006-07



Source Parliamentary Library (2006), 'Political finance disclosure under current and proposed thresholds, Research Note, no. 27, March, p. 3 for 1998-99 to 2004-05; Committee estimates for 2007-08 based on Parliamentary Library methodology using data from the AEC's database <http://fadar.aec.gov.au/arwdefault.asp?submissionid=9>.

- 3.28 While the percentage of declared receipts can vary from year to year in response to the timing of federal and state elections, comparing disclosure in the financial year leading up to the last two federal elections (2003-04 and 2006-07) reveals that 72.8 per cent of total receipts fell above the \$1,500 threshold in 2003-04 compared to only 52.6 per cent above the \$10,300 threshold in 2006-07.

9 Parliamentary Library (2006), Political finance disclosure under current and proposed thresholds, Research note, 24 March, p. 3.

- 3.29 The weakening of transparency in political party returns resulting from raising the disclosure threshold to more than \$10,000 is clearly evident in the number of pages and items included in political party returns for 2006-07 compared to 2003-04:
- The Australian Labor Party (NSW Branch) return for 2006-07 consisted of 14 pages detailing 333 separate receipts and 17 outstanding debts that were greater than \$10,300. In contrast the return for 2003-04 consisted of 30 pages detailing around 700 separate receipts and over 100 outstanding debts that were more than \$1,500;
  - The Liberal Party of Australia (Victorian Division) return for 2006-07 consisted of 4 pages detailing 47 receipts and 6 outstanding debts that were greater than \$10,300. In contrast, the return for 2003-04 consisted of 11 pages detailing 137 receipts and 11 outstanding debts that were more than \$1,500; and
  - The Nationals (Queensland) return for 2006-07 consisted of 6 pages detailing 21 receipts and 2 outstanding debts that were greater than \$10,300. In contrast, the return for 2003-04 consisted of 6 pages detailing 54 receipts and 7 outstanding debts that were more than \$1,500.

## Donor returns

- 3.30 Information provided to the committee by the Australian Electoral Commission on the number and value of donations disclosed by donors also revealed a significant decline between 2004-05 and 2006-07 in the number of returns required to be furnished (table 3.5).
- 3.31 A significant number of individuals and organisations made voluntary disclosures below the threshold. However, it is important to concentrate on the number and value of donations above the relevant threshold. For example, in 2006-07, 1,780 of the 2,192 returns lodged fell below the disclosure threshold of \$10,300.
- 3.32 Comparing the number and value of disclosures above the threshold in 2004-05 and 2006-07, the share of total donations disclosed above the threshold is heavily weighted to donations above \$25,000, with around 70 per cent of the value of total donations disclosed above the disclosure threshold.

Table 3.5 Donor return summary, 2004-05 and 2006-07

	Donations		Value of donations	
	No.	%	\$m	%
2004-05 (election year)				
Voluntary disclosure below threshold	2,073	42	1.01	4
\$1,500 to \$10,000	2,102	43	7.63	25
\$10,001 to \$24,999	529	11	6.77	23
\$25,000 or more	211	4	14.52	48
Total	4,915	100	30.01	100
2006-07 (non-election year)				
Voluntary disclosure below threshold	1,780	81	4.79	27
\$10,301 to \$24,999	235	11	3.76	22
\$25,000 or more	177	8	8.97	51
Total	2,192	100	17.52	100

Source Australian Electoral Commission, submission 3, p. 14.

3.33 It is clear that the higher disclosure threshold of more than \$10,000 has significantly reduced the information available about who is making donations to political parties and other participants.

## Candidate returns

3.34 The weakened transparency associated with the higher threshold of \$10,000 or more can also be seen in information provided by the Australian Electoral Commission to the committee about the number and value of donations reported by candidates at the 2004 and 2007 elections (table 3.6). For example, at the 2004 election (when the disclosure threshold was \$1,500), the percentage of amounts donated that were individually above the threshold was 89 per cent, more than double the 41 per cent individually declared at the 2007 election (when the disclosure threshold was \$10,500).

Table 3.6 Donations received by candidates, 2004 and 2007 elections

	2004 election	2007 election
<i>Candidate returns</i>		
Total number of donations reported	2,498	3,073
Total amount of donations reported	\$957,954	\$1,488,050
Number of individually declared donations	623	36
Percentage of number of donations individually declared	25.0%	1.2%
Total of individually declared donations	\$850,704	\$606,425
Percentage of amount of donations individually declared	88.8%	40.7%
<i>Senate group returns</i>		
Total number of donations reported	55	537
Total amount of donations reported	\$82,715	\$236,831
Number of individually declared donations	15	1
Percentage of number of donations individually declared	23.3%	0.0%
Total of individually declared donations	\$76,995	\$40,000
Percentage of amount of donations individually declared	93.1	16.9%

Source Australian Electoral Commission, submission 3, p. 16.

## Proposed changes

- 3.35 The bill proposes a number of changes that will lower the disclosure threshold and shorten reporting timeframes. Administrative timeframes for the Australian Electoral Commission to publish returns will also be shortened. The proposed lower disclosure threshold of \$1,000 also reduces the opportunity to 'split' donations between related party branches without disclosure.

## Thresholds and donation splitting

- 3.36 The bill proposes to reduce the disclosure threshold from the current \$10,900 (CPI indexed) for the full range of returns provided for under the Act and remove the indexation provisions so that the threshold will be set at \$1,000.<sup>10</sup>

<sup>10</sup> Commonwealth Electoral Amendment (Political Donations and Other Measures Bill 2008, clauses 23, 24, 26, 27, 30, 32, 34, 41, 43, 45, 50, 57, 60, 67, 67, 76, 78 and 102.

- 3.37 The threshold of \$1,000 would apply to all types of returns that are required to be provided to the Australian Electoral Commission under current arrangements.
- 3.38 In relation to annual returns, the bill proposes to amend the Act to provide for 6 monthly reporting periods, although the threshold applies for the full financial year.<sup>11</sup> The \$1,000 threshold for disclosure proposed by the bill is broadly in line with that used in other Australian jurisdictions (table 3.7).

Table 3.7 Disclosure thresholds, selected Australian jurisdictions

Jurisdiction	Donations to political parties
NSW	\$1,000
Qld	\$1,000
WA	\$1,800 (indexed to CPI)
ACT	\$1,000
NT	\$1,500

Source NSW Election Funding Authority, *Funding and disclosure guide: Political parties and agents*, p. 5, viewed on 16 September 2008 at [http://www.efa.nsw.gov.au/\\_data/assets/pdf\\_file/0007/48877/Guide\\_for\\_Parties\\_and\\_Party\\_Agents.pdf](http://www.efa.nsw.gov.au/_data/assets/pdf_file/0007/48877/Guide_for_Parties_and_Party_Agents.pdf); Electoral Act 1992 (Qld), s. 305B; Western Australian Electoral Commission, *Funding and Disclosure in Western Australia: Guidelines*, p. 17, viewed on 16 September 2008 at [http://www.waec.wa.gov.au/pp\\_candidate/documents/Funding%20and%20Disclosure%20in%20WA%20Guidelines.pdf](http://www.waec.wa.gov.au/pp_candidate/documents/Funding%20and%20Disclosure%20in%20WA%20Guidelines.pdf); ACT Electoral Commission, *Funding and financial disclosure handbook: 2008 / 2009 registered political parties*, p. 1 viewed on 16 September 2008 at [http://www.elections.act.gov.au/pdfs/fadhandbooks/partiesfadhandbook2008\\_2009.pdf](http://www.elections.act.gov.au/pdfs/fadhandbooks/partiesfadhandbook2008_2009.pdf); Northern Territory Electoral Office, *Disclosure Handbook for Registered Political Parties*, p. 2, viewed on 16 September 2008 at <http://notes.nt.gov.au/nteo/Electorl.nsf?OpenDatabase>.

- 3.39 To introduce further transparency in political donations, the practice of donation splitting is to be restricted by treating all branches of a political party as one entity. This is to be achieved by inserting the existing definition of 'related' political parties in the interpretation section of the Act – thereby making it applicable to the finance and disclosure part of the Act (Part XX). This same definition previously only applied to the registration of political parties (Part XI).<sup>12</sup>
- 3.40 The Australian Electoral Commission told the committee that political party returns would not be affected by the changes, with the onus on the donor to disclose donations to related political parties.<sup>13</sup>

11 Commonwealth Electoral Amendment (Political Donations and Other Measures Bill 2008, clause 2, proposed s. 4(1).

12 Commonwealth Electoral Amendment (Political Donations and Other Measures Bill 2008, clause 1, proposed s. 4(1).

13 Pirani P, Australian Electoral Commission, transcript, 26 September 2008, p. 10.

3.41 The impact of limiting donation splitting at the current threshold can be demonstrated by reviewing donor returns for 2006-07. For example, the Coles Group disclosed 17 separate donations to political party branches, only four of which fell above the \$10,500 threshold for that year (table 3.8). Had it not been for the voluntary disclosure by the Coles Group of amounts lower than the threshold, \$40,000 of donations would not have been required to be disclosed under the existing provisions that provide for donation splitting as the individual amounts paid fell under the \$10,500 threshold.

Table 3.8 Example of the impact of limiting donation splitting – Donations disclosed by the Coles Group, 2006-07

Branch	The Nationals	Liberal Party of Australia	Australian Labor Party
National	\$17,500	\$50,000	\$50,000
Qld	\$2,000	\$2,000	\$5,000
Vic	\$1,200	\$11,000	\$9,000
SA	\$1,000	\$3,000	\$3,000
NSW	\$1,000	-	-
WA	\$800	\$3,000	\$3,000
Tas	-	\$3,000	\$3,000
Total required to be disclosed without donation splitting limit	\$17,500	\$61,000	\$50,000
Total required to be disclosed with donation splitting limit	\$23,500	\$72,000	\$73,000

Source Australian Electoral Commission, *Funding and disclosure: Annual Returns Locator Services, Analysis results – Donor returns*, viewed on 12 September 2008 at <http://fadar.aec.gov.au/arwDefault.asp?SubmissionID=9>.

3.42 The limitations on donation splitting are strengthened by provisions in the Act that aim to prevent the use of intermediaries to avoid disclosure obligations. Clause 39 of the bill requires a donor to include in a return, details of gifts which enable a person to make a gift to a political party. The intention of this new subsection is to ensure that donors are not able to use intermediaries to circumvent the operation of the new reporting obligations.<sup>14</sup>

3.43 The Democratic Audit of Australia supported this proposal but noted that it could be difficult to effectively enforce:

Proposed new sections 305B(2) and (3A) ostensibly require a donor who intends to benefit a party, to disclose that contribution, regardless of whether it passes through intermediar/ies. The

14 Explanatory Memorandum, Commonwealth Electoral Amendment (Political Donations and Other Measures Bill 2008, p. 17.

intention behind this reform is welcome, given the ease through which trust funds, corporate vehicles or even lawyers' accounts (as in New Zealand) can and have been used to channel and disguise donations. However on its own, placing an obligation of honesty on donors and intermediaries may not be enough. There will need to be strong auditing and enforcement/prosecution of the provision.

From a legislative point of view, there should also be a positive obligation on party and candidate agents to inquire into and be satisfied as to the true source of donations. Absent this, sections 305B(2) and (3A) may be no more than a vain hope for self regulation.<sup>15</sup>

3.44 Under the proposed lower disclosure threshold of \$1,000 and a requirement that the threshold apply to all donations in a reporting period to related party branches the ability to split donations between branches and avoid disclosure becomes limited. Taken together, the new requirements would reduce the ability to avoid disclosure from the current level of \$98,099.91 to \$999.99.

3.45 The thrust of proposals to reduce the disclosure threshold was supported in a number of submissions to the 2007 election inquiry.<sup>16</sup> The Public Interest Advocacy Centre told the committee that:

The Electoral and Referendum Amendment Act, which increased disclosure thresholds from \$1,000 to more than \$10,000 for anonymous donations and loans, and from \$1,500 to \$10,000 for other donations has seriously diminished transparency and accountability at a Federal level. PIAC believes it is in the public interest that these increases in thresholds be repealed and replaced with stringent regular pre-election reporting requirements using the previous lower thresholds.<sup>17</sup>

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15 Democratic Audit of Australia, submission 1, p. 2.

16 See Democratic Audit of Australia, submission 45 to the 2007 election inquiry, p. 9; Eurobodalla Greens, submission 54 to the 2007 election inquiry, p. 2; Australian Democrats, submission 56 to the 2007 election inquiry, p. 20; Electoral Reform Society of South Australia, submission 94 to the 2007 election inquiry, p. 6; Public Interest Advocacy Centre, submission 103 to the 2007 election inquiry, p. 13; Bowe W, submission 106 to the 2007 election inquiry, p. 1; Willis D, submission 126 to the 2007 election inquiry, p. 1; Tham J, submission 133 to the 2007 election inquiry, p. 37; Lockett E, submission 175 to the 2007 election inquiry, p. 1.

17 Public Interest Advocacy Centre, submission 103 to the 2007 election inquiry, p. 13.

- 3.46 Mr David Kerslake supported a reduction of the current threshold of more than \$10,000 based on the conclusions of the Queensland Electoral and Administrative Review Commission set up in the wake of the Fitzgerald inquiry:

The whole idea is that the public can see who is receiving gifts or donations and make their own judgment about the influence that such donations might wield. A donation of \$10,000 seems to me to be well above the level at which the public would prefer to be in a position to make such a judgment. Take, for example, a series of donations of \$10,000 made by, say, four different members of the same family to a political party that has separately registered branches in each state and territory, and a national branch on top of that. That would amount to a total donation by that family of four of \$360,000 – a significant sum by Australian standards – without the source of the donation being publicly known.<sup>18</sup>

- 3.47 The importance of proceeding with some urgency to reduce the threshold was supported by Mr Norm Kelly from the Democratic Audit of Australia, who considered that the threshold should be applied from the 1 July 2008 starting point:

One of the main things is the provision in the bill to reduce the threshold of disclosure back to \$1,000. That is quite important. We are agreed that that is a good democratic improvement. For that to be delayed is a danger. I personally would like to see is the government, without what some people may call retrospectivity, making an announcement that it will support disclosure at that \$1,000 threshold to be effective from the date of an announcement. I would prefer that rather than wait for the actual legislation to go through so that people are forewarned that the reduced threshold level hopefully will be introduced or passed. A lot of the provisions are probably more relevant to the next election whereas the disclosure threshold is ongoing and current. I would like to see that enacted as a matter of haste.<sup>19</sup>

- 3.48 Support for the existing disclosure threshold of more than \$10,000 was received in submissions to the 2007 election inquiry by The Nationals and the Liberal Party of Australia, who argued that the current system is working and that the case for change has not been demonstrated.<sup>20</sup>

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18 Kerslake D, transcript, 6 August 2008, p. 56.

19 Kelly N, Democratic Audit of Australia, transcript, 22 September 2008, p. 20.

20 Liberal Party of Australia, submission 156 to the 2007 election inquiry, p. 1.



- 3.49 Other views on the disclosure threshold expressed to the committee included:
- Maintaining current arrangements for donation splitting but the annual threshold for disclosure of political donations should be set based on the previous year's returns so as to ensure that a fixed percentage, between 90 per cent and 95 per cent, of total donation are disclosed;<sup>21</sup> and
  - Indexation of the \$1,000 threshold or regular review of its appropriateness.<sup>22</sup>
- 3.50 Removing indexation was seen by the Democratic Audit of Australia to have the educational benefit of keeping the figure at a memorably round number, which would likely be kept under regular review into the future.<sup>23</sup>
- 3.51 While lowering the disclosure threshold is likely to lead to an increase in the transactions disclosed by people and entities that already make disclosures, it is also likely to lead to an expansion in the number of people and entities required to provide returns. The Australian Electoral Commission estimated that the proposed measures were likely to lead to at least a three-fold increase in their workload.<sup>24</sup>
- 3.52 Under the current threshold of more than \$10,000, 63 organisations provided annual political expenditure returns, with the value of expenditure ranging from over \$10 million (Australian Council of Trade Unions) to \$6,200 (Qld Services Industrial Union of Employees - Rail Division).<sup>25</sup>
- 3.53 The Democratic Audit of Australia considered that the lower threshold may be problematic for third parties:
- It is reasonable to put large scale political spenders such as lobby and business groups and major activist groups like GetUp! on the same six month reporting timetable as parties. But lowering the threshold from \$10,000 expenditure in a financial year, to just

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21 Festival of Light Australia, submission 67 to the 2007 election inquiry, p. 6.

22 Kerslake D, transcript, 6 August 2008, p. 56; Myers P, submission 172 to the 2007 election inquiry, p. 1.

23 Democratic Audit of Australia, submission 1, p. 1.

24 Dacey P, Australian Electoral Commission, transcript, 26 September 2008, p. 2.

25 Australian Electoral Commission, Funding and disclosure, Annual returns locator service, Summary of all Political Expenditure Returns, viewed on 23 September 2008 at <http://fadar.aec.gov.au/arwdefault.asp?submissionid=9>.

\$1000 in the (six month) reporting period, potentially catches a lot of small-scale groups in a net with enhanced penalties.<sup>26</sup>

- 3.54 This view has also been expressed by others, who argue that ‘thousands’ of small groups with only an incidental interest in elections or election issues could be caught up in the net.<sup>27</sup>
- 3.55 The committee is mindful that this is likely to lead to a need for a number of people and entities making disclosures for the first time. When formulating an appropriate disclosure threshold, it is important to balance these compliance costs with the additional public benefit of increased transparency.

### Reporting and disclosure timeframes

- 3.56 Public knowledge of financial transactions of political actors requires that the disclosure returns be provided to the Australian Electoral Commission and then collated, data entered and then published on the Commission’s website (<http://fadar.aec.gov.au/>).
- 3.57 The collection of information by party organisations and candidates can involve a complex paper trail that relies on party officials, who are often volunteers, collecting appropriate information about contributions to their branch, and then forwarding this information to head office for aggregation and reporting to the Australian Electoral Commission.
- 3.58 Once received by the Australian Electoral Commission, the data from the returns is entered into the commission’s database, appropriate cross checking and matching performed and then copies of the returns are scanned for publication on the Commission’s website.
- 3.59 Timely processing of this information by parties, candidates and donors and the public availability of this information through the Australian Electoral Commission is essential in making more transparent the source of funding for candidates and parties.
- 3.60 The bill proposes to shorten these timelines significantly, thereby providing the community with more timely information.

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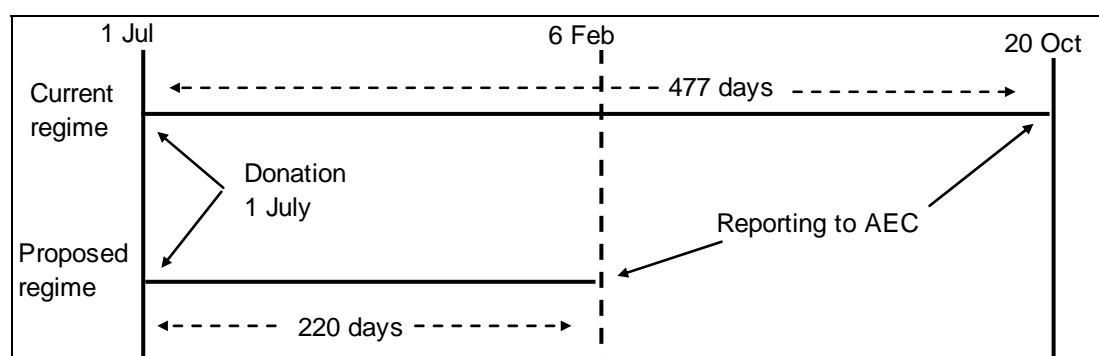
26 Democratic Audit of Australia, submission 1, p. 2.

27 Norton A (2008), ‘The chilling effect of political expenditure laws’, *Policy*, vol 24 no 1, p. 5.

## Reporting timeframes

- 3.61 For election returns, the bill proposes to shorten the disclosure timeframe from the existing 15 weeks after polling day to within 8 weeks of polling day.<sup>28</sup>
- 3.62 Using the 2007 election as an example, election returns were required to be provided to the Australian Electoral Commission by 11 March 2008.<sup>29</sup> Under the proposed 8 week reporting requirement returns would have been required to be provided to the Commission by 21 January 2008.
- 3.63 For annual returns, the bill proposes that a definition of 'reporting period' include the first six months of a financial year or a full financial year.<sup>30</sup> This definition facilitates a requirement that returns formerly provided on an annual basis be furnished on a six monthly basis. Furthermore, whereas annual returns were previously required to be provided to the Australian Electoral Commission within 16 or 20 weeks of the end of the financial year (ie: by around 20 October), the bill proposes that the biannual returns be provided to the Commission within 8 weeks of the end of a six-monthly reporting period.<sup>31</sup>
- 3.64 Figure 3.2 illustrates the impact of implementing a biannual reporting requirement and an 8 week timeframe for the receipt of returns compared to existing arrangements. For a donation to a political party made on 1 July, the proposed reporting regime will cut down the time that a return needs to be furnished from 477 days to 220 days, an improvement of 257 days or 54 per cent.

Figure 3.2 Impact of a biannual reporting framework on the timeliness of reporting



28 Commonwealth Electoral Amendment (Political Donations and Other Measures Bill 2008, clause 22 and 36.

29 Australian Electoral Commission (2008), *Electoral Pocketbook 2007*, p.69

30 Commonwealth Electoral Amendment (Political Donations and Other Measures Bill 2008, clause 2.

31 Commonwealth Electoral Amendment (Political Donations and Other Measures Bill 2008, clause 37.

- 3.65 While the bill does not change the requirement that parties are not required to furnish election returns, the biannual reporting requirement will significantly bring forward the timeframes for public reporting of this information. For example, had the proposed biannual reporting been in place currently, returns covering the 2007 federal election, held on 24 November, would have been required to be furnished to the Australian Electoral Commission by 6 February 2008 rather than 20 October 2008.
- 3.66 The bill includes provisions to avoid duplication in reporting. For example, if a return has already been furnished in the first six months of a financial year and there are no further donations for the remainder of the financial, a second return will not be required. In addition, if a person making a gift furnishes a return for the second reporting period that ends at the end of the full financial year, the person does not have to disclose any gift made by the person that has been disclosed in a return for the first six months of that financial year.<sup>32</sup>
- 3.67 The dual definition of reporting period (which includes a full financial year and the first six months of a financial year) enables the application of the \$1000 threshold across a full financial year. The effect of this is that, for example, a single \$500 donation made in the first six months of the financial year followed by a second \$500 donation in the second part of the financial year would be required to be disclosed a return furnished within 8 weeks of the end of the financial year.
- 3.68 The timeframes for returns by political parties proposed by the bill are consistent with two Australian jurisdictions that have recently moved to change disclosure arrangements, New South Wales and Queensland (table 3.9). There are some differences within jurisdictions depending on the type of returns. For example, in the ACT, third party annual returns must be furnished within 20 weeks of the end of the financial year, and within 24 weeks when an election is held following the end of the financial year.<sup>33</sup>

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32 Commonwealth Electoral Amendment (Political Donations and Other Measures Bill 2008, clause 37.

33 ACT Electoral Commission, Funding and financial disclosure handbook: Third parties, p. 3, viewed on 16 September 2008 at [www.elections.act.gov.au/pdfs/fadhandbooks/thirdpartiesfadhandbook2008\\_2009.pdf](http://www.elections.act.gov.au/pdfs/fadhandbooks/thirdpartiesfadhandbook2008_2009.pdf).

Table 3.9 Timeframes for political party disclosure returns, selected Australian jurisdictions

Jurisdiction	Due date for annual return – reporting period financial year to 30 June	Due date for election return following polling day
NSW	Biannual reporting – 25 February and 25 August for 6 month periods ending December and July respectively	na
Qld	Biannual reporting - 8 weeks after end of six monthly reporting periods ending December and July respectively (25 February and 25 August)	na
WA	30 November	15 weeks
ACT	16 weeks (20 October)	15 weeks
NT	16 weeks (20 October)	na

*Note* na – Not applicable.

*Source* NSW Election Funding Authority, *Funding and disclosure guide: Political parties and agents*, p. 25, viewed on 16 September 2008 at [http://www.efa.nsw.gov.au/\\_data/assets/pdf\\_file/0007/48877/Guide\\_for\\_Parties\\_and\\_Party\\_Agents.pdf](http://www.efa.nsw.gov.au/_data/assets/pdf_file/0007/48877/Guide_for_Parties_and_Party_Agents.pdf); *Electoral Amendment Bill 2008 (Qld)*, clause 19, 28 and 32; s. 110A; *Electoral Act 1992 (Qld)*, s. 319B; *Western Australian Electoral Commission, Funding and Disclosure in Western Australia: Guidelines*, pp. 18, 19, 22, and 23 viewed on 16 September 2008 at [http://www.waec.wa.gov.au/pp\\_candidate/documents/Funding%20and%20Disclosure%20in%20WA%20Guidelines.pdf](http://www.waec.wa.gov.au/pp_candidate/documents/Funding%20and%20Disclosure%20in%20WA%20Guidelines.pdf); *ACT Electoral Commission, Funding and financial disclosure handbook: 2008 / 2009 registered political parties*, pp. 6, 10, viewed on 16 September 2008 at [http://www.elections.act.gov.au/pdfs/fadhandbooks/partiesfadhandbook2008\\_2009.pdf](http://www.elections.act.gov.au/pdfs/fadhandbooks/partiesfadhandbook2008_2009.pdf); *Northern Territory Electoral Office, Disclosure Handbook for Registered Political Parties*, p. 17, viewed on 16 September 2008 at <http://notes.nt.gov.au/nteo/Electorl.nsf?OpenDatabase>.

3.69 While the Democratic Audit of Australia supported a move to biannual reporting, the absence of even more regular disclosures was questioned:

Moving to bi-annual rather than annual reporting periods for party and associated entity donations is commendable. And the reduction in the time allowed to file post-election and post-reporting period returns, from 15 weeks to 8 weeks, is superficially attractive. But neither of these measures addresses a key failing of the disclosure regime since its inception: the absence of regular disclosure, especially automatic disclosure of large donations. This is particularly galling in the internet age.<sup>34</sup>

3.70 Although these new timeframes for furnishing returns represent a significant improvement in timeliness, adherence to the proposed timeframes may represent a challenge to parties and others providing disclosure returns.

34 Democratic Audit of Australia, submission 1, p. 1.

- 3.71 Under the existing timeframes it is not uncommon for a number of returns to be received after their due date, a situation that has persisted for a number of years for both election returns and annual returns (tables 3.10 and 3.11).
- 3.72 The regularity with which returns are received by the Australian Electoral Commission beyond their due date highlights the difficult task that it may face in educating and encouraging participants to complete their returns in the proposed 8 week timeframe.

Table 3.10 Timeliness of election returns, 2004 election and 2007 election

	Returns received by the due date		Returns received after the due date		Total returns received	
	2004	2007	2004	2007	2004	2007
<i>Candidate and Senate Group returns</i>						
Candidates	1,264	1,054	105	345	1369	1399
Senate Groups	15	19	2	4	17	23
<i>Donor and third party returns</i>						
Donations made	192	1	179	4	371	5
Electoral expenditure	128	na	33	na	161	na
Donations received	29	na	5	na	34	na

Note na – Not applicable.

Source Australian Electoral Commission, submission 3, p. 20.

Table 3.11 Timeliness of annual returns, 2005-06 and 2006-07

	Returns received by the due date		Returns received after the due date		Total returns received	
	2005-06	2006-07	2005-06	2006-07	2005-06	2006-07
Political parties	58	26	31	11	89	51
Associated entities	58	126	63	128	121	254
Donors	229	82	166	147	395	229
Third party political expenditure	na	14	na	51	na	65

Note na – Not applicable.

Source Australian Electoral Commission, submission 3, p. 20.

- 3.73 When asked about the need to provide support to organisations and people who are likely to have a disclosure obligation, the Australian Electoral Commission acknowledged that significant effort would need to be put into education resources and the design of the returns system:

We are certainly very mindful of that. Our understanding, without looking in detail but we will look in detail at the system that operates at the New York City Campaign Finance Board, is that there is a software package provided to the participants in the process which they load on whatever systems they have and it allows them direct entry into the return system. We will be looking at whatever we can to make that as less a burden as we can for the participants, subject to resources.<sup>35</sup>

- 3.74 The shortening of reporting timeframes proposed by the bill represent a significant improvement on current arrangements. The committee is concerned that the implementation of the proposed arrangements would need to be accompanied by a significant effort on the part of the Australian Electoral Commission with its stakeholders in the provision of educational information and other resources to assist them to fulfil their reporting requirements.

### Publication timeframes

- 3.75 By itself, the shortening of the period for returns to be lodged will make publication more timely than current arrangements. However, a further key element of the financial disclosure system requires timely *publication* by electoral authorities of returns furnished by participants in the political system. The Australian Electoral Commission told the committee that:

From the AEC's perspective and the overall policy's perspective we would see there being little point in having shortened reporting time frames if we were unable to publish that and have it in the public domain in an equally short time frame.<sup>36</sup>

- 3.76 A comparison of current arrangements for the publication of annual returns and election returns for selected Australian jurisdictions is set out in table 3.12. Differences in publication timeframes can relate to the quality of publication, including whether there is any cross referencing between different types of returns, whether summary information is available electronically for searching or whether a copy of the original return is provided.

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35 Pirani P, Australian Electoral Commission, transcript, 26 September 2008, p. 23.

36 Pirani P, Australian Electoral Commission, transcript, 26 September 2008, p. 23.

Table 3.12 Timeframes for publication of disclosure returns, selected Australian jurisdictions

Jurisdiction	Annual returns – Elapsed time between receipt and publication/availability for public inspection	Election returns – Elapsed time between receipt and publication/availability for public inspection
Cwlth	Returns received 16 weeks after end of financial year for parties and associated entities and 20 after the end of the financial year for donors and third parties are available in early February of the following year	Returns received 16 weeks after polling day for associated entities, candidates and donors and 20 weeks for third parties are available 24 weeks after polling day for donors and 26 weeks after polling day for associated entities and 3 <sup>rd</sup> parties
NSW	Biannual returns – returns lodged 25 August for January to June reporting period are to be published on website on 1 September	na
Qld	Biannual returns – returns lodged 25 February and 25 September are to be published within 6 weeks	na
WA	Returns received by 30 November and available first working day after 28 December	Returns received 15 weeks after polling day are available 4 weeks later (within 19 weeks of polling day)
ACT	Returns received 16 weeks (20 October) after the end of the financial year are available in early February the following year.	Returns received 15 weeks after polling day are available 10 weeks later (within 25 weeks of polling day)
NT	Returns received 16 weeks (20 October) after the end of the financial year are available on 1 March the following year.	na

Note na – Not applicable.

Source NSW Election Funding Authority, *Funding and disclosure guide: Political parties and agents*, p. 8, viewed on 16 September 2008 at [http://www.efa.nsw.gov.au/\\_data/assets/pdf\\_file/0007/48877/Guide\\_for\\_Parties\\_and\\_Party\\_Agents.pdf](http://www.efa.nsw.gov.au/_data/assets/pdf_file/0007/48877/Guide_for_Parties_and_Party_Agents.pdf); ; Electoral Act 1992 (Qld), s. 319B; Western Australian Electoral Commission, *Funding and Disclosure in Western Australia: Guidelines*, pp. 18, 19, 22, and 23 viewed on 16 September 2008 at [http://www.waec.wa.gov.au/pp\\_candidate/documents/Funding%20and%20Disclosure%20in%20WA%20Guidelines.pdf](http://www.waec.wa.gov.au/pp_candidate/documents/Funding%20and%20Disclosure%20in%20WA%20Guidelines.pdf); ACT Electoral Commission, *Funding and financial disclosure handbook: 2008 / 2009 registered political parties*, pp. 6, 10, viewed on 16 September 2008 at [http://www.elections.act.gov.au/pdfs/fadhandbooks/partiesfadhandbook2008\\_2009.pdf](http://www.elections.act.gov.au/pdfs/fadhandbooks/partiesfadhandbook2008_2009.pdf); Northern Territory Electoral Office, *Disclosure Handbook for Registered Political Parties*, p. 17, viewed on 16 September 2008 at <http://notes.nt.gov.au/nteo/Electorl.nsf?OpenDatabase>.

- 3.77 The bill proposes to facilitate an improvement in the publication of disclosure returns by the Australian Electoral Commission. Clause 99 proposes to repeal the requirement for the Commission to have returns available for public inspection until after a specified timeframe (February for annual returns and 24 weeks after polling day for election returns).
- 3.78 In its place, the bill proposes to insert an enabling provision for the Australian Electoral Commission 'to make a copy of a claim or return available for inspection or perusal, or to provide a copy of a claim or



return, sooner after lodgement of the claim or return than is reasonably practicable'.<sup>37</sup>

3.79 The Explanatory Memorandum suggests that the administrative timeframes following the 8 week requirements for lodgements will be shortened into the future, anticipating that 'advances in technology might enable claims or returns to be available sooner than the fixed time of 24 weeks after polling day for [election returns] or February in the calendar year [for annual returns]'.<sup>38</sup>

3.80 The Special Minister of State stated that the timeframe for processing and publication by the Australian Electoral Commission would be significantly shorter:

There will be a slight lag time and on the best advice I have available to me, that will certainly be no longer than three months by the end of the six month reporting period.

It'll be in the public arena within, definitely within three months and I hope within two months. I mean, I think everyone appreciates there needs a short period of time for parties and candidates to - the political parties mainly in this instance to report and be talking about a few weeks, possibly four weeks, four weeks for the AEC to do all the administrative work.<sup>39</sup>

3.81 In its evidence to the committee, the Australian Electoral Commission indicated that the timeframes would largely depend on appropriate resourcing for ongoing administrative staff and an associated information technology platform to support a reporting system:

It depends on discussions with our colleagues in the budget process. It is mainly a resource issue and an IT issue. Currently, in the Act there are time frames – within a 15-, 16-, 20-week period – for the annual returns to be lodged. Eight weeks is proposed in the bill. Currently, we then have until the following February to put information on the website, and that is because of all the manual work we are required to do in dealing with hard copy returns that are lodged with us. As an outcome and as part of the transparency and accountability process, clearly the AEC would be seeking, and

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37 Commonwealth Electoral Amendment (Political Donations and Other Measures Bill 2008, clause 99.

38 Explanatory Memorandum, Commonwealth Electoral Amendment (Political Donations and Other Measures Bill 2008, p. 31.

39 Senator the Hon John Faulkner, Special Minister of State, transcript of media conference, 28 March 2008, viewed on 23 September at [http://www.smos.gov.au/transcripts/2008/tr\\_20080328\\_electoral\\_reform.html](http://www.smos.gov.au/transcripts/2008/tr_20080328_electoral_reform.html).

indeed we have undertaken negotiations with our colleagues in Finance, to have an IT solution that will enable this to be up in the public domain as soon as practicable.<sup>40</sup>

3.82 While a significant improvement in publication timeframes appears to be achievable, the Democratic Audit of Australia considered that further improvements were necessary as disclosure would still take place after an election.<sup>41</sup>

3.83 The Democratic Audit of Australia and Dr Sally Young raised the suggestion that the disclosure regime should provide for an Internet-based system that would provide for disclosure of donations as they are received and more timely publication, modelled on a system operated by the New York City Campaign Finance Board.<sup>42</sup> The Democratic Audit told the committee:

The system has been operating in New York for a long time. It had a very clunky start technically, but as the papers will note, once the internet became reasonably sophisticated, it became quite simple.

The way it works is that the campaign board has software which it gives to candidates. ... Then the candidate or their agent enters donations as they arrive onto this software, and that is transmitted to the campaign board's web page where it is instantly displayed.

As I said, at the beginning of a four-year cycle, the reporting is twice a year, then it becomes three times a year, and then it shortens. The big advantage of the system is, setting aside all the arguments about whether money buys influence or whatever, voters have a reasonable expectation of knowing who's funding whom before they cast the vote. It is a bit like knowing the policies of parties.<sup>43</sup>

3.84 The Australian Electoral Commission told the committee that it is aware of the New York Campaign Finance Board model and could consider its use. However, the Commission pointed out that the adoption of such a system was not without its complexities:

the adoption of such a model is not just as simple as obtaining the software used by that board for use by the AEC and those with

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40 Pirani P, Australian Electoral Commission, transcript, 26 September 2008, p. 23.

41 Democratic Audit of Australia, submission 1, p. 1.

42 Democratic Audit of Australia, submission 45 to the 2007 election inquiry, p. 8; Young S, submission 77 to the 2007 election inquiry, p. 4.

43 Costar B, Democratic Audit of Australia, transcript, 22 September 2008, p. 16.

reporting obligations. What is important is the interaction with other AEC systems and secure internet gateways to enable communications to be received by the AEC. They would all require significant development and associated costs.

## **Committee conclusion**

- 3.85 The proposals included in the bill to lower the disclosure threshold from \$10,900 (adjusted annually for inflation) to \$1,000 (not adjusted for inflation) will lead to a significant increase in the transparency of financial support and expenditure by participants in the political process. The committee supports the proposal to end the indexing of the disclosure threshold to the consumer price index. Such a move will end confusion about what the disclosure level is.
- 3.86 The proposal to close the existing loophole that allows for donation splitting – which treats state and territory branches as separate entities and allows donors to contribute up to \$10,899.99 to nine separate branches of the same political party (almost \$98,100 in total) – will further improve transparency by limiting the opportunity to contribute large amounts of money to political parties and candidates and avoid disclosure.
- 3.87 Transparency will be further enhanced by the proposal to bring forward reporting on disclosure from up to 20 weeks for annual returns and 15 weeks from polling day for election returns to 8 weeks for both types of returns. Further, those making annual returns will need to do so on a bi-annual basis.
- 3.88 Combined with a shortened administrative timeframe for processing returns by the Australian Electoral Commission, which is likely to be about half of the current timeframe, the public will be able to know about the level of support and expenditure by participants in the political process in a significantly shorter period than is provided for under current arrangements.
- 3.89 It is important that clear public targets are included in the suite of performance measures included in the Australian Electoral Commission budget portfolio statements. These targets should include performance measures that are appropriate to the level of resourcing provided and the government's goals in this area.

- 3.90 The proposed disclosure arrangements are also more closely aligned with those recently implemented in two jurisdictions and provide a sound basis for progressing harmonisation with other jurisdictions.
- 3.91 While further improvements are possible over time, including moving towards on-line reporting and more regular reporting, the proposed arrangements offer a good starting point towards achieving improvements in the future in the timeliness of disclosure.
- 3.92 While the proposal to lower disclosure threshold and implement biannual reporting arrangements for some types of disclosure returns may lead to additional compliance costs for participants in the political process, the committee believes that they achieve the right balance between making transparent the sources of support for political parties and candidates and the freedom to participate in political process.

### **Recommendation 3**

- 3.93 **The committee recommends that the Senate should support without amendment the proposals in the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008 that enhance transparency of political funding by:**
- **lowering the disclosure threshold from the current level of \$10,900 (adjusted annually for inflation) to \$1,000 and removing indexation;**
  - **improving the timeliness of reporting by replacing annual return requirements with a bi-annual reporting framework and shortening the requirement to report from 15 to 20 weeks after the end of a financial year to 8 weeks after the end of the reporting period;**
  - **improving the timeliness of election returns by shortening the period for reporting from 15 weeks after polling day to 8 weeks after polling day;**
  - **closing the loophole for donation splitting by treating related parties as a single entity thereby eliminating the possibility that separate donations totalling more than \$98,000 from a single donor can be given without disclosure; and**
  - **facilitating earlier publication of disclosures by the Australian Electoral Commission.**

**Recommendation 4**

- 3.94 **The committee recommends that the Government provide the Australian Electoral Commission with adequate funding so that the Commission can publish returns in a timely fashion and undertake public awareness activities that ensure participants understand their disclosure obligations and are able to minimise their compliance costs . In addition, clear targets for the Commission’s administrative functions, that are consistent with the level of resourcing and the government’s goals in this area, should be specified in the performance measures included in the agency’s portfolio budget statements.**

