

Committee Secretariat
Joint Standing Committee on Electoral Matters
via email: jscem@aph.gov.au

RE: Submission to Inquiry into the conduct of the 2010 Election

Dear Chair,

Firstly, I would like to thank the Committee for graciously accepting this late submission. We apologise to the Committee for the fact this submission has been submitted after the closing date.

GetUp! is pleased to provide a submission to the Committee's Inquiry into the conduct of the 2010 Election. The issues in this submission can be broadly categorised as follows:

1. Enrolment and Enfranchisement
2. Campaign Finance
3. AEC Administration of the Polling
4. MPs' Entitlements Use
5. Offences and Enforcement issues
6. Informal voting
7. Fixed terms

1. Enrolment and Enfranchisement

Over a million eligible Australians were missing from the electoral roll for the 2010 Federal Election, and administrative barriers made it unnecessarily difficult for Australians to enrol. We estimate that approximately 3million Australians who should have their voices heard at election time do not, for a variety of reasons (please see Table 1 at ATTACHMENT A).

In that context, GetUp! initiated two legal challenges to clear administrative barriers to the franchise: *GetUp limited & Ors v. Electoral Commissioner* and *Rowe v. Electoral Commissioner*.

Passage of the Electoral and Referendum Legislation Amendment (Modernisation and Other Measures) Act 2010 provided a belated and much needed means for Australians to electronically access and complete enrolment forms. GetUp! views this as just the beginning.

It's time for a wholesale reconsideration of archaic legislation and administrative practice that serve to disenfranchise Australians.

It's time for a wholesale reconsideration of archaic legislation and administrative practice that serve to disenfranchise Australians. GetUp! believes this to be an issue of utmost importance and, in partnership with newdemocracy, have prepared a considered analysis of barriers to the exercise of the vote and a Blueprint with 19 recommendations aimed at addressing them.

This Blueprint for Voting Reform is at ATTACHMENT A. GetUp! believes this paper to be a serious contribution to public policy and commends this work to the Committee for its consideration.

Campaign Finance

One of the more extraordinary aspects of the 2010 Federal were the events that proceeded it.

Australians now know what it takes to quash a policy one doesn't agree with: a broadcast and newspaper advertising campaign spend of \$22 million.

GetUp!'s view that a super profits mining tax was good public policy is irrelevant here. What concerns our members is this - the precedent has been set. Any industry can buy its way out of difficult reform through advertising spend; at a cost of \$22million plus inflation. *Clubs Australia* have recently announced their intention to spend \$20million on an advertising campaign to stymie proposed reform of poker machine regulation.

GetUp! has itself been criticised for its advocacy as a third party campaigner during campaigns. We make no apologies for doing so. In fact, while the legislative framework allows big business a bigger say than anyone else, we believe it is our duty to give everyday Australians a way to make their voice heard, otherwise the issues that concern our members would never get a hearing.

However, GetUp! has consistently argued for campaign finance reform. At the time of writing 46,677 Australians have signed onto our campaign to reform campaign finance. But GetUp! is not seeking to free itself from reform - it is our belief that all third parties, GetUp! included, should have reasonable regulation of campaign expenditure.

It is for this reason that GetUp, also in partnership with newDemocracy released *A Blueprint for Australian Democracy: This Moment and the Renewal of Parliament*, which among other things, we explicitly called for campaign finance reform and the coverage of third parties campaigners, such as ourselves, in any such reform.

In the agreement that saw Labor retain power with the backing of the Greens and some Independents, we were pleased to see that the Gillard Government committed to an all-party committee to conduct an inquiry into electoral reform. Unfortunately, to date, nothing seems to have come of it. GetUp! has a long standing interest in this matter and we believe we have something to contribute, but we are awaiting a forum.

In our view, good campaign finance legislation would need an exposure draft process to ensure it is watertight and a sound thrashing out of any issues to be covered in delegated legislation. Our concern is that what we will see is yet again a running out of time and no progress to show by the time of the next election.

We would therefore ask the Committee to consider reminding Government of its often repeated commitments to campaign finance reform and request a timetable for achieving such a Committee.

AEC Administration of the Polling

Notwithstanding our disagreement and legal disputes with the AEC over enrolments (described above), GetUp! has considerable respect for the enormity of its task and the incredible efficiency in its administration.

The AEC are a world class organisation, but are held back from world's best practice by outdated and overly prescriptive legislation. The comments contained in the Blueprint for Voting Reform at ATTACHMENT A could easily be made about any part of the Electoral Act - it is logically confused in construction, difficult to comply with (and, one suspects, difficult to administer) and sorely in need of a rewrite.

In particular, we ask the Committee to consider the location of pre-poll voting centres. The AEC has done well to establish such centres at airports and other location, but more needs to be done. If we are serious about capturing the vote we should be looking at temporary booths in the places where most busy Australians actually congregate - including in the shopping malls of our cities and regional centres.

Use of MPs' entitlements during campaigns

It is the view of most GetUp members, and we would say that of most taxpayers, that MP entitlements should not be used for campaign purposes. These entitlements are supposed to be used to service the electorate.

We are aware that the previous system of 'censoring' to prevent this has failed; instead we would argue that Members and Senators running for re-election should have their printing and communications entitlement suspended from the calling of the poll, or the issue of writs (whichever is the sooner) until they are declared elected.

In the same vein, GetUp! believes that the way the postal vote is conducted must be reformed to prevent political parties from placing a return address other than the AEC's on a postal vote application (PVA) form. Returning PVA forms to party headquarters or an MP or candidates' office for data capture is simply an inexcusable delay in the electors' right to receive a ballot. In saying this, we note that the parties seem to be better organised in getting their PVA forms out to the electorate, and we note that the majority of PVA forms processed by the AEC are party-distributed. The AEC must accordingly do more - in form design and distribution - to get their form in front of electors who need it.

A possible method would be to make the process electronic. We ask the Committee to consider whether a witness signature on a PVA currently undergoes any real check at all (other than that it is there and that the date is right). If the answer is no, perhaps the time has come to dispense with it, and instead require provision of a trusted ID number (such as a Drivers' Licence) over the internet in order to apply.

Offences and Enforcement issues.

Like many other parts of the Act, the offence provisions are archaic and overly complex. This is not helped by many AEC materials which 'hedge' rather than providing guidance when it comes to legal obligations. In our view a shift is demanded that allows the AEC to make public rulings to aid compliance in the manner of the Australian Tax Office. Such rulings would remain challengeable in the courts, but an individual or party who had acted in reliance on them would be eligible to use a 'good faith' defence. This would require

legislative change and a shift in the AEC's compliance model. GetUp! commends such reforms to the Committee.

In many instances, the Act has been superseded by technology: PDF files, mobile phone apps, Google search advertising etc are examples where the law (particularly relating to authorisation of advertising) is just not clear enough to participate safely. The picture is further complicated by differing Spam Act and Broadcasting Act authorisations. We ask the Committee to consider recommendations to simplify and harmonise the law in this area.

Sadly, the 2010 Federal election was again marred by the antics of fake how-to-vote workers. This practice, exposed in the last South Australian State election, involves party workers dressing up in the livery associated with another party, apparently in order to deceive voters into taking a second preference how to vote card. In this election LNP booth workers disguised as Greens were caught at a Brisbane booth by a Channel 9 news crew. This highlights the weakness of the offence provisions. The Committee should recommend increasing the penalties for this type of misleading, deceptive and criminal behaviour, perhaps by making the party's registered officer responsible for the conduct.

Political liberty is also under attack via creeping local government regulation and officiousness. Local councils are increasingly interfering with political liberty by making laws against the display of election signage. The Brisbane City Council is a case in point - it claims to regulate federal election signage on both public and private property, including capping the number of signs a candidate can have, at threat of fines. One might well ask, by what right does this body claim to regulate the conduct of Federal elections? GetUp! is not concerned by local government general regulation of signage for reasons of traffic flow, public health and safety. Why, however, should a GetUp member who wants to safely put a yard sign up on their own private property be denied this right, not by the Federal Parliament, but by a council? We ask the Committee to look into this type of local legislative creep into the Federal Parliament's jurisdiction.

Informal voting

The national informality rate at the 2010 House of Representatives election was the highest since 1984. The AEC have restated their opinion that most informal votes are unintentional.

Of those informal ballots, 2.6% had an incomplete sequence of numbers, 11.8% had single ticks or crosses, 9.2% had sequencing errors, and 27.8% were marked with only a single '1'. That's 51% of informal ballots which GetUp believes should be counted.

The Blueprint for Voting Reform at ATTACHMENT A contains recommendations for adopting sensible savings provisions as used in the Senate (as per s239(3)) and in South Australia, New South Wales and Queensland. We commend these reforms to the Committee.

Fixed terms

Most Australians would welcome some certainty when it comes to election dates. The NSW saga of the lemma/Rees/Keneally Governments has been cited as a sound reason not to have four year fixed terms, and it is hard to argue with experience. On that basis, we would call for a referendum on fixed three year terms, so at least the community and

Australian business has clarity and certainty. We note also that fixed terms would allow for clearer legislative solutions to problems concerning campaign finance reform, use of MPs' entitlements, and enrolment.

Conclusion

Australia has always been a pioneer of electoral reform -- but in the 21st Century our electoral system is in need of serious reform. We look to the Committee for a series of strong, clear, and as far as possible unanimous recommendations for action on the many flaws in our election system exposed again in the 2010 Federal election.

Yours Sincerely,
Simon Sheikh
National Director, GetUp!

SECRETARIAT NOTE

The *Blueprint for Voting Reform: A modern electoral roll for Australia*, referred to in this submission as 'Attachment A', is available on the GetUp website at: <http://bit.ly/mC60s0> or

[http://getup-production.s3.amazonaws.com/92-A%20Blueprint%20for%20Australia%20Democracy%20\(print%20version\).pdf](http://getup-production.s3.amazonaws.com/92-A%20Blueprint%20for%20Australia%20Democracy%20(print%20version).pdf)