

AUSTRALIAN ELECTORAL COMMISSION

**JOINT STANDING COMMITTEE
ON ELECTORAL MATTERS**

**INQUIRY INTO
DISCLOSURE OF DONATIONS
TO POLITICAL PARTIES AND CANDIDATES**

**RESPONSE TO ISSUES RAISED
AT HEARING 11 MAY 2004**

Canberra

23 June 2004

Prioritised list of recommendations

JSCEM Hansard 11 May 2004 – p.EM2

CHAIR—Mr Becker, I will start off with a very straightforward question. There are some 57 recommendations made by the AEC, which is the consolidation of a number of previous recommendations plus four or five new ones. Could you get at some stage for us a list of your priority asks?

Mr Becker—We can. I am not sure that we have done that.

Ms Mitchell—I have not prepared them in any priority, but I can do that.

CHAIR—Without pressing you to rank the 57, could you list the major areas of concern that you really do believe need to be acted on.

Ms Mitchell—We could give you a top 10, if you wanted.

CHAIR—Could you give us a top 3 now?

Ms Mitchell—Off the top of my head, yes. It is problematic in that we would probably say that our main recommendation is our very first recommendation, that the issue needs to be reviewed. On page 16 of our submission we say:

... that the JSCEM specifies the breadth of coverage of disclosure believed necessary under the Electoral Act, from which the existing legislation can be reviewed and, as necessary, redrafted.

If we had to point to a top recommendation, that would be it.

AEC RESPONSE

In addition to the main priority identified above, on the following page is a table listing the AEC's top ten priorities (recommendation number is as it appears in the AEC submission of 26 April 2004). These recommendations address other main areas of concern such as issues regarding associated entities, issues regarding identification of donations and completeness of disclosure returns.

PRIORITY ORDER	RECOMMENDATION
1	<p>Recommendation 33: the definition of an associated entity be clarified by inserting the following interpretations into the Act:</p> <ul style="list-style-type: none"> • 'controlled' to include the right of a party to appoint a majority of directors or trustees; • 'to a significant extent' to cover the receipt by a political party of more than 50% of the distributed funds, entitlements or benefits enjoyed and/or services provided by the associated entity in a financial year; and • 'benefit' to include the receipt of favourable, non-commercial terms and instances where the party ultimately enjoys the benefit.
2	<p>Recommendation 13: that all payments at fundraising events be deemed by the Electoral Act to be donations or be required to be disclosed anyway. (revised version of recommendation 2 of submission 7 to the 2000-2001 disclosure inquiry)</p>
3	<p>Recommendation 11: that the term 'benefit' currently used in the definition of 'associated entity' be further clarified by inserting the following interpretation: that 'benefit' include instances where the benefit is enjoyed by members of a registered political party on the basis of that membership.</p>
4	<p>Recommendation 23: in their annual returns, political parties be required to identify donations separately from other receipts.</p>
5	<p>Recommendation 14: that the cumulative thresholds outlawing the acceptance of anonymous donations apply irrespective of the source of the gift.</p>
6	<p>Recommendation 26: the definition of an 'anonymous donation' be revised from the name or address not being known at the time of receipt to not being known at the time of disclosure.</p>
7	<p>Recommendation 34: the prohibition on the receipt of an 'anonymous donation' be extended to associated entities on the same basis as for those made to registered political parties.</p>
8	<p>Recommendation 32: persons who fail to make or maintain such records as enables them to comply with the disclosure provisions of the Act be subject to the same penalty provisions as apply to persons who fail to retain records.</p>
9	<p>Recommendation 24: political party annual returns be accompanied by a certification from an accredited auditor.</p>
10	<p>Recommendation 7: that section 318 be amended to strengthen the test for an agent to be allowed to lodge an incomplete disclosure return by specifying certain minimum steps required to have been taken before they can be considered to be unable to obtain all necessary particulars. These steps should not, however, be considered an exhaustive test as to what should be considered reasonable attempts. Such steps must be taken before the due date for lodgement of the return. The section should contain a penalty provision for deliberate inaction or the provision of inaccurate information.</p>

Number of amendments to annual returns

JSCEM Hansard 11 May 2004 – p.EM4

Ms Mitchell—I would propose strict liability for failure to lodge but not for incorrect returns. That is the way it currently is in the legislation, and I would not propose any change in that. I do not think Mr Becker would disagree with me on that point. If the committee wants, we can give you statistics—and I would prefer not to name parties, because I do not think that is appropriate—of parties and how often they get it wrong, like the numbers of amendments and all those sorts of things, and whether it is the same parties from year to year. We are experiencing that year after year. Despite the fact that we go and compliance review parties, despite the fact that we go through and say, ‘You’re getting this wrong, you need to do these things, it would be better if you did it this way,’ and despite the fact that there are now very cheap computer hardware and software facilities for parties to use as tools to help them get their returns right, they are still not getting them right. The AEC believe that a degree of that, from our experience, is due to a lack of appropriate effort on the parts of parties.

and

JSCEM Hansard 11 May 2004 – p.EM21

Mr MELHAM—There are some parts of your submission I would like to take you through, if I could. The first is at paragraph 5.25 and 5.26. I think that is your page 20. You detail a number of amendments that were received to political party annual returns. It is obvious that just following an election year—1998, 2001—was when the most amendments were received. You say:

The largest number of amendments received to one return is eight.

Ms Mitchell—Yes.

Mr MELHAM—Is that a minor player or a major political party and were they technical amendments? What was the nature of them?

Ms Mitchell—You are testing my memory from when I was extracting the stats. As I recall, it was one of the major parties. In relation to the amendments, I cannot recall. I think several of the amendments resulted from AEC compliance review activities. I am not sure of the value of the changes of the amendments. I can get those figures out for you. There was more than one time when eight amendments to a return were received.

AEC RESPONSE

This information is contained in the following table.

Party	Receipts in original return \$	Number of amendments to return	Number of amendments to value of receipts	Value of amendments to receipts \$	Percentage increase in receipts disclosed	Value of receipts over \$1,500 \$
2002/2003						
Australian Democrats	358,616.17	1	1	-1,650.00	-0.5%	203,093.62
Australian Greens – Vic	647,096.00	1	0	0.00	0.0%	476,313.07
Australian Labor Party – NSW	16,360,704.00	1	1	247,482.00	1.5%	11,967,928.85
Australian Labor Party - Qld	4,191,614.34	1	1	2,023.54	0.0%	2,518,633.55
Australian Labor Party - Vic	10,702,541.25	2	2	7,229.00	0.1%	8,280,929.50
Country Labor Party	95,590.86	1	1	27,390.64	28.7%	0.00
Democratic Labor Party	51,327.00	1	1	38,000.00	74.0%	77,500.00
Liberal Party of Australia	4,179,291.00	1	1	23,718.00	0.6%	3,594,852.63
Liberal Party of Australia - ACT	316,393.43	1	0	0.00	0.0%	254,843.67
Liberal Party of Australia - NSW	11,866,647.00	2	2	2,272,964.00	19.2%	8,632,446.25
Liberal Party of Australia – Qld	1,420,218.00	1	1	154,066.75	10.8%	594,998.74
Liberal Party of Australia – SA	1,130,393.02	2	1	9,043.68	0.8%	359,160.91
Liberal Party of Australia – Vic	11,384,500.00	4	3	252,667.00	2.2%	8,212,510.00
National Party of Australia - NSW	4,765,533.00	2	2	12,550.00	0.3%	3,326,231.37
NT Country Liberal Party	250,866.54	1	0	0.00	0.0%	60,025.00
The Greens – NSW	533,360.63	2	0	0.00	0.0%	410,689.07
2001/2002						
Australian Democrats - ACT	135,828.76	1	1	12,321.19	9.1%	135,838.84
Australian Democrats – NSW	507,116.00	1	1	-16,701.00	-3.3%	482,652.00
Australian Democrats – SA	782,015.00	1	1	3,558.20	0.5%	680,225.12
Australian Greens – ACT	165,550.00	1	0	0.00	0.0%	104,788.11
Australian Labor Party	25,148,853.94	3	0	0.00	0.0%	24,902,620.51
Australian Labor Party - ACT	1,038,445.35	2	1	8,532.46	0.8%	711,605.78
Australian Labor Party - NSW	13,720,912.61	4	4	686,479.58	5.0%	8,374,002.81
Australian Labor Party - NT	422,290.59	1	1	114,298.28	27.1%	232,548.28
Australian Labor Party - Qld	5,652,198.04	3	2	161,088.05	2.9%	4,593,500.78
Australian Labor Party - SA	3,731,335.00	4	1	6,721.00	0.2%	2,641,071.73
Australian Labor Party – Tas	821,711.18	1	1	1,500.00	0.2%	397,065.61
Australian Labor Party - Vic	7,142,338.18	3	2	124,771.00	1.7%	5,086,765.64
Australian Labor Party - WA	2,015,787.98	1	0	0.00	0.0%	958,063.20

Party	Receipts in original return \$	Number of amendments to return	Number of amendments to value of receipts	Value of amendments to receipts \$	Percentage increase in receipts disclosed	Value of receipts over \$1,500 \$
Citizens Electoral Council	1,216,126.81	1	1	-2,542.70	-0.2%	191,830.64
Country Labor Party - NSW	109,031.01	2	2	12,548.37	11.5%	0.00
Democratic Labor Party	11,172.66	1	1	16,500.00	147.7%	16,500.00
Liberal Party of Australia - ACT	927,831.05	2	2	54,052.52	5.8%	677,154.35
Liberal Party of Australia - NSW	12,720,336.00	3	3	1,251,486.00	9.8%	9,438,461.39
Liberal Party of Australia - Qld	2,806,918.00	3	3	204,713.00	7.3%	2,047,523.23
Liberal Party of Australia - SA	5,271,546.62	3	2	8,700.59	0.2%	2,906,278.76
Liberal Party of Australia - Tas	925,865.00	3	0	0.00	0.0%	604,283.00
Liberal Party of Australia - Vic	11,325,061.00	4	4	758,629.00	6.7%	9,254,308.00
Liberal Party of Australia - WA	4,026,641.76	1	0	0.00	0.0%	2,592,847.35
National Party of Australia - NSW	4,450,681.00	3	3	460,799.00	10.4%	3,442,638.00
National Party of Australia - Qld	2,001,708.43	2	2	17,880.59	0.9%	1,410,977.27
National Party of Australia - Vic	1,237,434.00	1	2	10,000.00	0.8%	784,612.07
National Party of Australia - WA	427,336.00	1	0	0.00	0.0%	169,840.43
NT Country Liberal Party	1,362,147.00	1	1	194,994.00	14.3%	686,875.00
Pauline Hanson's One Nation - Qld	1,189,321.19	1	1	5,000.00	0.4%	999,218.00
Pauline Hanson's One Nation - SA	214,931.44	1	0	0.00	0.0%	144,225.83
Pauline Hanson's One Nation - Vic	59,653.19	1	0	0.00	0.0%	18,055.15
Pauline Hanson's One Nation - WA	404,448.00	1	1	8,384.42	2.1%	328,933.01
Progressive Labour Party	26,727.00	2	1	1,018.00	3.8%	0.00
Queensland Greens	126,863.12	2	1	44,000.00	34.7%	139,312.17
Tasmanian Greens	206,846.95	1	0	0.00	0.0%	26,201.14
The Australian Greens - Vic	798,192.38	1	0	0.00	0.0%	73,456.00
The Greens - NSW	923,141.22	2	1	62,199.74	6.7%	33,715.00
2000/2001						
Australian Democrats	783,207.00	3	0	0.00	0.0%	311,437.47
Australian Democrats - ACT	8,780.91	1	1	381.07	4.3%	7,386.67
Australian Labor Party - NSW	6,727,542.53	2	1	63,518.98	0.9%	3,745,657.05
Australian Labor Party - NT	240,670.08	1	1	5,000.00	2.1%	88,301.49
Australian Labor Party - Qld	8,296,698.62	2	0	0.00	0.0%	6,396,892.29
Australian Labor Party - SA	1,443,403.77	1	0	0.00	0.0%	582,158.40

Party	Receipts in original return \$	Number of amendments to return	Number of amendments to value of receipts	Value of amendments to receipts \$	Percentage increase in receipts disclosed	Value of receipts over \$1,500 \$
Australian Labor Party - Vic	5,386,889.00	1	0	0.00	0.0%	3,565,472.85
Australian Labor Party - WA	2,704,062.00	1	1	37,984.57	1.4%	1,891,200.43
Citizens Electoral Council	1,065,512.29	1	0	0.00	0.0%	125,409.41
Country Labor Party - NSW	76,549.10	1	1	823.72	1.1%	5,000.00
Liberal Party of Australia - NSW	4,289,013.00	5	2	732,228.00	17.1%	2,591,112.00
Liberal Party of Australia - Qld	2,795,610.00	4	3	92,811.00	3.3%	1,377,530.42
Liberal Party of Australia - SA	1,174,497.99	1	1	20,559.71	1.8%	301,251.35
Liberal Party of Australia - Vic	4,863,060.00	2	2	231,901.00	4.8%	2,732,026.00
Liberal Party of Australia - WA	4,240,445.22	3	2	382,663.21	9.0%	2,695,642.94
National Party of Australia - NSW	1,842,010.00	4	2	14,243.00	0.8%	699,939.00
National Party of Australia - Qld	2,773,791.92	1	1	4,447.00	0.2%	1,450,027.89
National Party of Australia - Vic	733,715.00	1	0	0.00	0.0%	281,409.48
National Party of Australia - WA	811,176.63	1	0	0.00	0.0%	454,061.00
NT Country Liberal Party	712,533.66	2	1	24,595.00	3.5%	437,224.23
Pauline Hanson's One Nation - Qld	239,164.39	1	0	0.00	0.0%	33,325.00
Pauline Hanson's One Nation - WA	152,082.00	1	0	0.00	0.0%	19,781.70
Phil Cleary – Independent Australia	0.00	1	1	11.14	n/a	0.00
1999/2000						
Australian Democrats	504,834.00	2	0	0.00	0.0%	291,971.33
Australian Labor Party – NSW	9,423,542.00	3	3	297,368.47	3.2%	6,620,312.00
Australian Labor Party - NT	173,945.95	1	0	0.00	0.0%	67,672.33
Australian Labor Party - Qld	5,305,085.68	3	2	-177,232.98	-3.3%	4,019,155.86
Australian Labor Party – Tas	345,111.68	1	1	47.00	0.0%	90,541.83
Australian Labor Party - Vic	6,971,800.00	1	0	0.00	0.0%	5,016,674.27
Australian Labor Party - WA	1,595,435.13	1	0	0.00	0.0%	793,448.09
Liberal Party of Australia - Qld	1,419,761.14	5	4	27,911.69	2.0%	387,735.62
Liberal Party of Australia - SA	1,069,431.22	2	2	15,971.04	1.5%	338,752.86
Liberal Party of Australia - NSW	3,127,253.00	4	2	420,000.00	13.4%	2,631,823.49
Liberal Party of Australia - Vic	7,221,562.00	8	5	483,912.00	6.7%	4,856,010.20
Liberal Party of Australia - WA	1,372,613.17	1	1	-220,708.51	-16.1%	412,914.00
National Party of Australia - NSW	1,882,640.00	3	3	53,398.00	2.8%	783,027.84

Party	Receipts in original return \$	Number of amendments to return	Number of amendments to value of receipts	Value of amendments to receipts \$	Percentage increase in receipts disclosed	Value of receipts over \$1,500 \$
National Party of Australia - Qld	1,177,646.27	2	2	12,952.20	1.1%	392,048.11
Pauline Hanson's One Nation - NSW	0.00	1	1	506,658.12	n/a	126,516.00
Pauline Hanson's One Nation - Vic	6,962.58	2	1	3,753.75	53.9%	2,500.00
Tasmanian Greens	107,280.53	1	0	0.00	0.0%	65,668.66
The Greens - WA	171,367.74	1	1	6,716.43	3.9%	104,872.50
1998/1999						
ACT Greens	54,162.00	1	1	2,000.00	3.7%	29,639.00
Australian Democrats	3,355,333.00	1	0	0.00	0.0%	2,459,465.79
Australian Democrats - NSW	533,275.64	2	1	635.00	0.1%	330,861.79
Australian Democrats - Vic	196,572.00	1	1	658.00	0.3%	155,798.00
Australian Democrats - WA	89,484.00	1	1	4,550.00	5.1%	79,967.00
Australian Labor Party	20,329,737.40	2	0	0.00	0.0%	20,108,152.19
Australian Labor Party - ACT	433,101.03	1	1	26,064.00	6.0%	327,795.91
Australian Labor Party - NSW	23,283,264.00	2	2	147,347.00	0.6%	18,139,056.00
Australian Labor Party - Qld	7,069,966.00	2	1	44,373.20	0.6%	6,662,142.52
Australian Labor Party - Tas	513,404.00	2	0	0.00	0.0%	334,375.34
Australian Labor Party - Vic	6,428,500.77	4	4	842,689.23	13.1%	5,505,783.03
Australian Shooters Party	0.00	2	1	8,904.96	n/a	8,905.00
Christian Democratic Party	0.00	1	1	45,587.00	n/a	45,587.00
Christian Democratic Party - NSW	681,156.00	3	2	561,292.00	82.4%	396,430.00
Citizens Electoral Council	1,077,982.80	1	0	0.00	0.0%	302,797.00
Liberal Party of Australia	12,448,516.45	1	0	0.00	0.0%	12,287,022.28
Liberal Party of Australia - ACT	495,306.51	2	2	14,908.00	3.0%	359,836.98
Liberal Party of Australia - NSW	15,285,130.79	3	3	902,893.00	5.9%	11,853,727.63
Liberal Party of Australia - Qld	2,960,726.80	6	6	886,487.88	29.9%	2,438,590.29
Liberal Party of Australia - SA	2,844,457.86	2	2	50,313.13	1.8%	1,857,344.12
Liberal Party of Australia - Tas	1,172,256.43	5	2	49,285.49	4.2%	898,648.27
Liberal Party of Australia - Vic	9,504,559.00	4	4	764,041.00	8.0%	2,999,701.00
Liberal Party of Australia - WA	2,981,895.55	8	3	29,995.00	1.0%	2,121,959.94
National Party of Australia - NSW	5,001,149.00	5	5	138,013.00	2.8%	3,807,359.00
National Party of Australia - Qld	2,999,493.12	1	1	-4,000.00	-0.1%	1,818,362.36

Party	Receipts in original return \$	Number of amendments to return	Number of amendments to value of receipts	Value of amendments to receipts \$	Percentage increase in receipts disclosed	Value of receipts over \$1,500 \$
National Party of Australia - Vic	1,337,924.61	1	1	11,683.90	0.9%	786,160.22
National Party of Australia - WA	459,134.00	1	1	1,486.00	0.3%	384,747.18
Natural Law Party	14,895.00	2	1	535.00	3.6%	5,816.50
NT Country Liberal Party	782,459.80	2	2	7,400.00	0.9%	507,206.68
Nuclear Disarmament Party	465.00	1	1	3,900.00	838.7%	3,900.00
Pauline Hanson's One Nation	5,882,442.63	3	2	-5,864,453.22	-99.7%	1,500.00
Pauline Hanson's One Nation - Qld	1,146,897.42	2	2	24,943.00	2.2%	1,507,203.50
Pauline Hanson's One Nation - WA	154,001.93	1	1	58,264.78	37.8%	57,707.70
Socialist Equality Party	193,102.35	1	1	8,357.10	4.3%	2,000.00
Tasmanian Greens	377,816.00	1	0	0.00	0.0%	23,530.00
Unity - Say No To Hanson	682,179.80	1	0	0.00	0.0%	59,000.00

Fact sheet regarding compliance reviews

JSCEM Hansard 11 May 2004 – p.EM6

Ms Mitchell—Most of the larger associated entities are subject to compliance review, so we have a standard process. They are actually quite used to dealing with us now. The first thing that we do when we want to go and compliance review an organisation is send out a letter notifying them. That letter sets out the legislative power that we have, the sorts of things that we are looking for when we go there and what documentation we want to have a look at. If there are problems with doing that when we arrive there the idea first of all is to discuss the issue with people. That is what we do. We discuss with the people of the organisation the process and the legislative provisions and tell them compliance reviewing is just a normal part of the work that we do. We tell them exactly what the purpose of conducting a compliance review is. We have a one-page sheet that we can give to people that explains why we do compliance reviews. We can hand that to them and they can have a look. We are now actually attaching that to the letter that we send out as well.

There is first of all a discussion process that happens. If there is still a refusal to provide documentation the staff who go out will then ring me and discuss what the issue is. Then we will consider whether or not we have to issue further formal notification under the legislation to provide specific documentation. Once we get to the stage where there are certain notices that we are serving there are offence provisions for failure to comply with those notices, so they need to be advised in the notice that if they do not provide the information required there are potential prosecution consequences that might result from that. Then it would potentially carry on from there.

Senator FAULKNER—Does that sheet include an outline of your powers under section 316?

Ms Mitchell—It does it in fairly broad terms, I would say. Because there are a variety of powers under section 316 in relation to different matters it does not go into the detail of what each subsection specifically says.

Senator FAULKNER—Has that sheet been provided? It may well have been provided previously to the committee.

Ms Mitchell—I do not think it has been provided to the committee. It has been provided previously to parties but I do not think it has been provided to the committee.

Senator FAULKNER—That might be useful, if we could have it.

AEC RESPONSE

Provided on the next page is the one page fact sheet provided as an attachment to the notice of compliance review letters sent to parties and associated entities.

CONDUCT OF COMPLIANCE REVIEWS BY THE AEC

Compliance reviews are conducted utilising the principles set out in the Australian Auditing Standards to provide reasonable assurance as to whether the political party or associated entity has met its disclosure obligations under the *Commonwealth Electoral Act 1918* (the Act). Compliance reviews may also be conducted in relations to donor disclosure obligations.

The AEC sends out letters to registered political parties and associated entities notifying of an intended visit to conduct a compliance review. In this letter, the AEC advises the sorts of records and information it will need to access in order to conduct the compliance review. These include, but are not limited to:

- books of account (eg general ledger, computer records, petty cash records etc)
- banking records (eg deposit books, statements and reconciliations etc)
- receipts (eg receipt books , register of receipts etc)
- other documents (eg meeting minutes, loan agreements, assets register etc)

Section 316 of the Act give the AEC the power to access all documents and other things which may relate to matters that are, or are required to be, set out in an annual financial disclosure return. It is not acceptable for the AEC to be provided with documents or information that have been 'sanitised' eg have segments that have been obliterated.

The AEC utilises best practice principles for external auditing when conducting compliance reviews. To do this properly it is critical that the AEC be given access to all party records. In circumstances where this does not occur, the AEC cannot have an appropriate level of confidence in the accuracy of the relevant return.

AEC staff are expected to treat information accessed during compliance review in the strictest confidence. The AEC has a policy of not discussing the details of any compliance reviews it conducts with anyone other than the organisation concerned except with the agreement of that organisation or where required to for example by a court.

As a result of the compliance review the person or organisation reviewed may be requested to lodge an amendment to their disclosure return. The AEC's aim is to assist in the achievement of accurate and complete disclosure as required by the provisions of the Act.

Please note that there are penalty provisions in the Act for failing to lodge a return or lodging an amendment to their disclosure return. Depending upon the individual set of circumstances it is possible that the AEC may commence a more detailed investigation which could lead to prosecution action.

Further information regarding disclosure obligations is available in the Funding and Disclosure handbooks for political parties, associated entities and third parties (eg donors) which are available in hard copy on request or may be accessed on the AEC's website (www.aec.gov.au). Specific questions may also be directed to the Funding and Disclosure Section by email at fad@aec.gov.au or by mail to PO Box 6172 Kingston ACT 2604.

Areas of harmonisation

JSCEM Hansard 11 May 2004 – p.EM14,15

Senator MURRAY—With my tongue in my cheek, I can say that harmonisation could be towards the donor requirements, not the donee requirements. We should not automatically think it is the other way round. As a last question, I wonder if the AEC could give some thought to any areas of harmonisation that you might think appropriate to minimise confusion and maximize transparency. As a watcher of these things, for me there is a real difficulty in analysing both sets of data.

Mr Becker—To some extent we have covered that. We have tried to get the amounts—the limits—synchronised.

Senator MURRAY—Yes, but if you have any other thoughts, I would appreciate it.

AEC RESPONSE

In addition to the current disparity in donation disclosure obligations between donors (all donations when cumulative total reaches \$1,500) and donees (individual donations of \$1,500 or more), the AEC highlights the following recommendations that address outstanding issues in disclosure thresholds.

Recommendation 25: the threshold for recovering 'anonymous donations' to registered political parties, candidates and Senate groups be the same as the disclosure thresholds.

Recommendation 36: raise the threshold at which donors to political parties are required to disclose donations received and used by them, either in whole or in part, to fund their donations to a registered political party from \$1,000 or more to \$1,500 or more to maintain a consistent value at which the Act deems disclosure necessary.

Comparison of party and donor returns

JSCEM Hansard 11 May 2004 – p.EM19,20

Mr FORREST—The submission seems to be about a whole stack of things that could possibly go wrong, or community expectations. I am trying to convince myself that there is something broken that dramatically needs fixing, but I am interested in paragraph 5.41 on page 23 of your submission, where you talk about the imbalance between receipts and donations. You say that the parties—I assume that means all of the political parties—have declared an income of \$88.8 million for 2002-03. But you then say that, so far, donors have only declared around \$19.1 million. Why is there a time lag? What does the qualification ‘so far’ mean?

Ms Mitchell—Annual returns are received in October, after the end of the financial year. The AEC spends the time between October and February—which is when the returns become publicly available—entering returns on our database, and following up outstanding returns, so that we can make them publicly available. After February, we spend the rest of the year carrying out compliance reviews. As part of the compliance review process, we follow up any donor returns that we should have received but have not received. So the reason for the qualification ‘so far’ is that additional donor returns may be received as a result of our compliance review activities.

Mr FORREST—Therefore, if it is a serious issue, what do the figures for the previous year look like? How close together do those two figures ultimately end up?

Mr Becker—They cannot come together. All receipts are included in the \$88 million.

Mr FORREST—All what?

Mr Becker—All receipts—party fees—from everywhere.

Ms Mitchell—There will never be a match between the two figures. I can give you the figure on how close they come together for previous years. I do not have the figures with me today but I can give those figures to the committee for all the years that are on the web site, which is about five years worth of returns.

AEC RESPONSE

The table below provides the requested information:

Year	Political party receipts	Donor returns
2002/2003	\$88,880,647.48	\$19,151,141.47
2001/2002	\$147,098,808.45	\$24,550,481.80
2000/2001	\$66,855,209.51	\$16,801,945.43
1999/2000	\$60,966,534.92	\$11,998,756.75
1998/1999	\$135,426,097.30	\$19,681,100.40

Clarification

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Ms Mitchell—They are the sorts of things that we were talking about earlier, where people go to a fundraising event, pay money to attend that fundraising event but do not have to declare that money as a donation because they believe they have gotten their money's worth. There does seem to be an expectation in the community that when one pays money at a fundraising event the payment should be disclosed because the purpose of attending the fundraising event is to benefit the party. Currently, with the definition of 'gift' in the legislation, it would not necessarily be disclosed. It would depend on what was in the mind of the person who made the payment about whether they had gotten their money's worth from attending that function. If you either deemed these payments to be donations or just forgot the concept of 'gift' in the legislation and required that a return of payments made be completed then payments—where they are over the threshold—made at fundraisers would all be captured.

Mr MELHAM—In effect, if you pay \$100 for a ticket, you do not disclose; if you pay \$250 for a ticket, you disclose because you are over the limit.

Ms Mitchell—Yes.

AEC RESPONSE

The AEC would like to provide some clarification regarding the above extract. The dollar limit discussed by Mr Melham appears to refer to the \$200 disclosure limit that applies to donations to individual candidates.

Most fundraising activities tend to be arranged through the party or associated entities, and payments made at those functions would then be payments to the party. Thus, the threshold for disclosure by a donor is \$1,500 cumulatively in a financial year.

Therefore, if a person paid \$250 for a ticket to a fundraising event, and considered the payment to be a gift or donation rather than payment for services, donor disclosure would only be required if the person also made other donations totalling \$1,250 or more to the same party in the same financial year.

Correction - Use of section 316 powers

JSCEM Hansard 11 May 2004 – p.EM6,7

Senator FAULKNER—..... In relation to section 316, when did the AEC last use its powers under that section?

Ms Mitchell—You mean to actually get to a prosecution stage? We exercise our powers full stop when we are doing compliance reviews. Compliance reviews are conducted under subsection 316(2A), so every officer of the AEC who goes out to carry out a compliance review is in fact exercising an authority given to them by the commission under section 316 of the act. We have the standard auditing powers in section 316.

Senator FAULKNER—Yes, but there are prosecution powers, too, aren't there, effectively?

Ms Mitchell—Yes, there are. There are the standard auditing powers, then the specific information gathering powers, then the prosecution powers that result from the specific information gathering powers.

Senator FAULKNER—So in relation to perhaps those last two categories—because I understand the distinction that you properly draw—would you be able to inform the committee when those—

Ms Mitchell—To the point of prosecution? Not in my time in funding and disclosure but I have only been there for three years. I would have to check back through our records.

Senator FAULKNER—What about the middle range for the use of the powers—the second leg of the trifecta?

Ms Mitchell—We have used the information gathering powers during my time in the Funding and Disclosure Section of the AEC over the last three years. We have used them in relation to a variety of matters. We have used them in relation to specific matters that we are looking at and we have also used them in instances where we have been declined access to documentation as part of our standard compliance reviews.

Senator FAULKNER—When did you last use your section 316 powers for that purpose?

Ms Mitchell—As part of a standard compliance review?

Senator FAULKNER—No.

Ms Mitchell—In relation to special matters, I think the last letters that we would have sent out were in January.

AEC RESPONSE

The AEC would like to correct the final statement made above by Ms Mitchell to reflect that the last time letters were sent out under section 316 in regard to specific matters was in December 2003, rather than January 2004.