



Parliament of Australia

Joint Standing Committee on Electoral Matters

FACT SHEET

Report on political funding

Issued: 9 December 2011

Chair: Mr Daryl Melham MP

FACT SHEET: COMPLIANCE

Report on the funding of political parties and election campaigns

BACKGROUND

Compliance and enforcement of political financing arrangements is central to the effectiveness of the overall scheme.

Australia's system of compliance and enforcement of its political financing arrangements are based on an *ex post facto* approach; punishing breaches or noncompliance after the fact.

The penalties for offences against the funding and disclosure provisions of the *Commonwealth Electoral Act 1918* (the Act) are relatively weak, and have not been updated since the scheme's introduction in 1984.

All offences are criminal offences and so must be prosecuted by the Commonwealth Director of Public Prosecutions (CDPP) before a penalty can be imposed on those who breach the funding and disclosure requirements.

However, the successful prosecution of offences against the Act has proven difficult. This has been attributed to the relatively low penalties for some funding and disclosure offences, which it been suggested sends a message to the CDPP that these offences are not viewed as serious and so not in the public interest to pursue ahead of other competing cases.

KEY POINTS

The committee has made a number of recommendations aimed at increasing the AEC's capacity to effectively enforce the funding and disclosure provisions in the Act.

Recommendation 26 (page 186)

Some offences that are of a straightforward nature should be subject to administrative penalties.

This will enable the AEC to issue fines for breaches such as a failure to lodge a return by the due date.

Recommendation 27 (page 186)

Strengthen the penalties for offences that are classified as more 'serious' to convey the gravity of breaches of political financing laws.

Recommendations 28 & 29 (page 188)

Extend the compliance review powers of the AEC to enable them to conduct compliance reviews of candidates and Senate groups in addition to federal registered parties, state branches and associated entities.

This is an important mechanism to check that all those involved in the political and electoral processes are meeting their reporting and disclosure obligations.

For media comment: Please contact the Committee Chair, Daryl Melham MP on 02 6277 2054 (Parliament House office) or 02 9774 2111 (Electoral office).

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Extract of Executive summary

| Compliance | | |
|---------------------------------|---|--|
| Features | Current scheme | Proposed approach |
| Types of offences and penalties | All offences against the Act are criminal offences and require prosecution | <p>Offences and penalties should be categorised based on the seriousness of the offence, to enhance administrative efficiency and address the low incidence of prosecution of funding and disclosure offences</p> <p>Administrative penalties, with a right of review, should be implemented for all offences that are 'straightforward matters of fact' to allow the AEC to more effectively enforce the provisions</p> <p>Matters it could cover are:</p> <ul style="list-style-type: none"> • failure to lodge a disclosure return • lodging an incomplete return • refusal to comply with a notice issued under s. 316 <p>Penalties for more serious offences (those that do not attract administrative penalties) should be strengthened to convey the gravity of breaches of the law to the CDDP and increase prosecution rates</p> |
| Compliance reviews | <p>AEC can conduct compliance reviews of federal registered parties, their state branches and associated entities</p> <p>AEC can request that certain documents be produced</p> | <p>Same</p> <p>Extend the AEC's power to also conduct compliance reviews and to serve notices on candidates and Senate groups so that Independents are also subject to checks regarding the accuracy of their disclosure</p> <p>Information on compliance reviews should be made publically available on the AEC's website to enhance transparency and accountability</p> |