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Mr Stephen Boyd
Committee Secretary
Joint Standing Committee on Electoral Matters
Parliament House
CANBERRA ACT 2600

REVIEW OF ELECTORAL FUNDING AND DISCLOSURE

Dear Mr Boyd

On 29 November 2005, the Joint Standing Committee on Electoral Matters (the Committee) wrote to the Australian Electoral Commission (AEC) inviting the AEC to make a further submission to the *Inquiry into disclosure of donations political parties and candidates*.

The AEC's considers that its submissions to the Committee's inquiries commenced during the 39th and 40th Parliaments along with its several post-election Funding and Disclosure reports (particularly those subsequent to the 2001 and 2004 federal elections) raise issues relevant to the Committee's current inquiry and set out in detail the issues that the AEC has encountered in the administration of Parts XI and XX of the *Commonwealth Electoral Act 1918* (the Act).

Consequently, the AEC offers some preliminary information that might assist the Committee in considering disclosure matters in light of recommendations contained in the Committee's "*Report of the Inquiry into the Conduct of the 2004 federal Election and Matters Related thereto*" and the relevant amendments to the Act contained in the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005 (the Bill). The matters currently before the 41st Parliament give rise to a number of administrative issues which the Committee may wish to examine as some time in the future.

The relevant amendments in the Bill are:

- increasing the political donation disclosure threshold (from the date of introduction of the Bill into Parliament) to amounts of more than \$10,000, indexed annually. The previously existing thresholds were amounts equalling, or amounts totalling, \$200, \$1,000 and \$1,500. This gives effect to recommendations 49 and 50 of the JSCEM Report.
- requiring third parties¹ to complete annual financial disclosure returns if they incur expenditure for political purposes over the disclosure threshold during a financial year, or if they receive gifts over the disclosure threshold that are used for such expenditure. Expenditure for political purposes includes production, publication or distribution of electoral matter², public expression of views on election issues, advertising material required to be authorized under the Act and election or voter related research. This gives effect to recommendation 53 of the JSCEM Report by requiring third parties to lodge annual returns of expenditure for political purposes rather than election period returns of electoral expenditure as was previously required.
- abolishing media returns of electoral advertisements broadcast or published during an election period.
- extending the definition of ‘associated entity’³ to include entities with financial membership of a registered political party and entities on whose behalf a person exercises voting rights in a registered political party.
- freezing the *Register of Political Parties* for six months, automatically de-registering parties other than those with current or past representation in the Federal Parliament, and requiring those de-registered parties to meet contemporary registration requirements (including naming provisions) before being re-registered. This gives effect to recommendation 20 of the JSCEM Report.

Impact of the amendments

The AEC notes that the proposed increase in the disclosure threshold will be likely to affect the volume of disclosure information reported.

The proposed increase, effective from 8 December 2005, gives rise to a reporting obligation for parties, associated entities and donors against two different financial limits for the 2005-06 financial year. Disclosure returns based on the old thresholds must be lodged for the period 1 July to 7 December 2005, and returns based on the new thresholds apply subsequent to that date.

The introduction of third party annual returns of expenditure for a political purpose will require disclosure of expenditure by persons or organisations that are involved in political commentary. Whilst in the short term this new requirement is expected to present some awareness issues, the AEC intends to mount a comprehensive awareness campaign and will monitor media advertising and related activities.

The effect of the party registration amendments is to ensure that all registered political parties, other than those who are or have been represented in Parliament, meet the current naming requirements of the Act. The re-registration process is likely to affect about 20 registered non-parliamentary parties, who must prove current compliance with the registration rules.

¹ ‘Third parties’ is a general term covering people and organisations other than registered political parties and their associated entities, candidates and Senate groups, and donors.

² Electoral matter is defined in sections 4(1) and 4(9) of the Act.

³ Associated entity is defined in section 287(1) of the Act.

Summary of disclosure scheme

A high-level summary of the disclosure scheme in place prior to these amendments is at *Table 1*. A summary of the scheme as it will be subsequent to the passage of the Amendment Bill (assuming no amendments) is at *Table 2*. A more comprehensive outline of the scheme subsequent to the amendments is at *Appendix B*.

A summary of the expected lodgement and disclosure timetable subsequent to the passage of the Amendment Bill is at *Table 3*. The proposed amendments do not change this timetable for existing returns.

Detailed information on the existing scheme is found in the various funding and disclosure handbooks available on the AEC website.

Information on the operation of the existing financial disclosure scheme is available in FAD Reports, also available on the AEC website.

Election funding scheme

The election funding administrative arrangements operated satisfactorily for election 2004, with almost \$42 million paid to eligible parties and candidates in accordance with the procedures set down in the Act.

Table 4 summarises the election funding payments for each election since the current indexed base rate of \$1.50 was set in 1995. The table does not include data for by-elections, nor does it include data for the 1998 Newcastle supplementary election.

Table 5 summarises election funding paid to independent candidates. Note that funding to endorsed candidates goes to the endorsing party.

The above tables are set out in *Appendix A*. An overview of the disclosure scheme subsequent to the passage of the Bill (providing there are no amendments) is at *Appendix B*.

Yours sincerely

Ian Campbell
Electoral Commissioner

10 February 2006

APPENDIX A – TABLES

Table 1 - FINANCIAL DISCLOSURE RETURNS		
Scheme <u>prior</u> to the <i>Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005</i>		
ANNUAL RETURNS		
Donors	Political Parties and Associated Entities	
<ul style="list-style-type: none"> ▪ Details of donations made to parties totalling \$1,500 or more ▪ Details of donations received of \$1,000 or more and applied to donations to parties totalling \$1,500 or more 	<ul style="list-style-type: none"> ▪ Total Receipts, Payments and Debts ▪ Details of amounts received of \$1,500 or more ▪ Details of debts of \$1,500 or more ▪ Details of capital contributions received by associated entities 	
ELECTION RETURNS		
Donors and Third Parties	Candidates	Broadcasters & Publishers
<ul style="list-style-type: none"> ▪ Details of donations totalling \$200 or more made to candidates ▪ Details of donations totalling \$1,000 or more to Gazetted bodies ▪ Amounts of electoral expenditure ▪ Donations received of \$1,000 or more and applied to electoral expenditure of \$1,000 or more 	<ul style="list-style-type: none"> ▪ Number and amount of donations received ▪ Details of donations received of \$200 or more ▪ Amounts of electoral expenditure ▪ Details of loans of \$1,500 or more ▪ Endorsed candidates may report through party annual returns and party thresholds 	<ul style="list-style-type: none"> ▪ Details of election advertisements over an election period
	Senate Groups	
	<ul style="list-style-type: none"> ▪ Number and amount of donations received ▪ Details of donations received of \$1,000 or more ▪ Amounts of electoral expenditure ▪ Endorsed groups (other than jointly endorsed groups) report through party annual returns and party thresholds 	

APPENDIX A – TABLES

Table 2 - FINANCIAL DISCLOSURE RETURNS		
Scheme <u>subsequent</u> to the <i>Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005</i>		
ANNUAL RETURNS		
Donors	Political Parties and Associated Entities	Third parties
<ul style="list-style-type: none"> ▪ Details of donations made to parties totalling more than \$10,000 ▪ Details of donations received of more than \$10,000 wholly or partially applied to donations to parties totalling more than \$10,000 	<ul style="list-style-type: none"> ▪ Total Receipts, Payments and Debts ▪ Details of amounts received of more than \$10,000 ▪ Details of debts of more than \$10,000 ▪ Details of capital contributions received by associated entities 	<ul style="list-style-type: none"> ▪ Details of expenditure for a political purpose of more than \$10,000 ▪ Gifts of more than \$10,000 wholly or partially used to incur expenditure for a political purpose of more than \$10,000
ELECTION RETURNS		
Donors and Third Parties	Candidates	Senate Groups
<ul style="list-style-type: none"> ▪ Details of donations totalling more than \$10,000 made to candidates ▪ Details of donations totalling more than \$10,000 or more to specified bodies ▪ Donations received of more than \$10,000 wholly or partially applied to political donations of more than \$10,000 or more 	<ul style="list-style-type: none"> ▪ Number and amount of donations received ▪ Details of donations received of more than \$10,000 ▪ Amounts of electoral expenditure ▪ Details of loans of more than \$10,000 (this disclosure is voluntary) ▪ Endorsed candidates may report through party annual returns 	<ul style="list-style-type: none"> ▪ Number and amount of donations received ▪ Details of donations received of more than \$10,000 ▪ Amounts of electoral expenditure ▪ Endorsed groups (other than jointly endorsed groups) report through party annual returns

APPENDIX A – TABLES

Table 3 – FINANCIAL DISCLOSURE TIMETABLE				
Scheme <u>subsequent</u> to the <i>Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005</i>				
Return	Lodgement Date		Period Covered	Public Release
	Annual Returns	Election Returns		
Political party	16 weeks after financial year	N/a	Financial year – 1 July to 30 June	1 st working day in February
Associated entity	16 weeks after financial year	N/a	Financial year – 1 July to 30 June	1 st working day in February
Donor	20 weeks after financial year	N/a	Financial year – 1 July to 30 June	1 st working day in February
Third party	20 weeks after financial year	N/a	Financial year – 1 July to 30 June	1 st working day in February
Donor & third party	N/a	15 weeks after election	<i>Returns of donations made to candidates and donations received - 31 days after last election to 30 days after election day</i>	24 weeks after election
Candidates	N/a	15 weeks after election	31 days after the last election contested within 4 years (House of Reps) or 7 years (Senate), or from commencement of candidacy, to 30 days after election day	24 weeks after election
Senate group	N/a	15 weeks after election	From request to AEC to be grouped until 30 days after election day	24 weeks after election

APPENDIX A – TABLES

Table 4 – Election funding distribution ⁴				
Party or candidate	Election '96 \$m	Election '98 \$m	Election '01 \$m	Election '04 \$m
Labor	12.86	13.96	14.92	16.71
Liberal	12.49	11.49	14.49	17.96
Nationals	3.00	2.32	2.85	2.97
NT CLP	0.12	0.12	0.14	0.16
Democrats	2.97	2.25	2.41	0.01
Greens⁵	0.45	0.32	1.59	3.32
Phon	-	3.04	1.71	0.56
Family First	-	-	-	0.16
Other parties	0.05	0.13	0.05	0.01
Candidates	0.22	0.19	0.40	0.58
Total⁶	32.15	33.82	38.56	41.93

Table 5 – Candidate election funding ⁷								
Amount paid to candidate	1996		1998		2001		2004	
	No.	\$ '000	No.	\$ '000	No	\$ '000	No	\$ '000
<\$10k	7	46.4	5	31.9	11	83.3	4	32.1
\$10k<\$25k			5	64.9	6	75.1	6	91.6
\$25k<\$50k	5	173.6	3	96.7	1	38.5	1	25.7
>\$50k					3	210.1	4	432.4
Total	12	220.0	13	193.5	21	398.1	15	581.9
Independent Candidates	196		183		205		176	

⁴ Columns may not add to the 'Total' figure due to rounding.

⁵ 'Australian Greens' and 'The Greens' (WA)

⁶ Columns may not add to 'Total' because of rounding errors

⁷ Columns may not add to the 'Total' figure due to rounding.

OVERVIEW OF DISCLOSURE SCHEME

The financial disclosure scheme that will be in place subsequent to the passage of the Amendment Bill through Parliament (assuming no amendments to the Bill during this process) provides for annual and election period disclosure returns to be lodged by registered political parties and other participants in the electoral process. These are made available for public inspection to inform the community about the financial dealings of those involved in the electoral process.

The disclosure requirements are:

Political Parties

Annual financial disclosure returns of registered political parties are lodged within 16 weeks after the end of the financial year. They are made publicly available on the first working day in the next February.

The returns provide, for each party, and for their State or Territory branches:

- The total of all receipts and payments of the party or branch for a financial year, and the total of all debts as at 30 June;
- The names and addresses of those people or organisations from whom more than \$10,000 was received during the financial year;
- The names and addresses of those people or organisations to whom more than \$10,000 was owed at the end of the financial year.

These returns consolidate information in respect of campaign committees, party units and endorsed Senate groups. Information in respect of endorsed candidates may also be included.

Associated entities

Annual financial disclosure returns of associated entities of political parties are lodged within 16 weeks after the end of the financial year. They are made publicly available on the first working day in the next February.

The returns provide, for each entity:

- The total of all receipts and payments of the entity for the financial year, and the total of all debts as at 30 June;
- The names and addresses of those people or organisations from whom more than \$10,000 was received during the financial year;
- The names and addresses of those people or organisations to whom more than \$10,000 was owed at the end of the financial year;
- The names and addresses of those people or organisations that contributed capital to the entity, and the amount of their contribution, in the situation where the entity made a payment to the benefit of a party out of funds generated from the capital deposit.

Candidates

Election period disclosure returns of candidates must be lodged within 15 weeks after an election and are made publicly available 24 weeks after the election. They provide:

- The number and total amount of donations received;
- The names and addresses of those people or organisations from whom donations totalling more than \$10,000 were received, with the dates the donations were received;
- The amounts spent on certain categories of electoral expenditure (e.g. electoral advertisements, campaign material, direct mailing and opinion polling).

Information for endorsed candidates is normally included in the annual returns of the endorsing party or branch. Candidates who are members of a Senate group do not report details of their election expenditure, as this must be included in the group return.

'Nil' returns are required where appropriate.

Senate groups

Election period disclosure returns of Senate groups are lodged, and become publicly available, on the same basis as candidate returns. They provide:

- The number and total amount of donations received;
- The names and addresses of those people or organisations from whom donations totalling more than \$10,000 were received, with the dates the donations were received;
- The amounts spent on certain categories of electoral expenditure (e.g. electoral advertisements, campaign material, direct mailing and opinion polling).

Information for endorsed Senate groups is included in the annual returns of the endorsing party or branch. Jointly endorsed groups must provide a return.

'Nil' returns are required where appropriate.

Donors and third parties

Donors - annual financial disclosure returns of donors are lodged within 20 weeks after the end of the financial year. They are made publicly available on the first working day in the next February. They provide:

- A list of donations totalling more than \$10,000 made to a registered political party within the financial year, with the dates the donations were made;
- A list of donations of more than \$10,000 received during the financial year that were in turn used in whole or in part to make donations totalling more than \$10,000 to registered political parties, with the dates the donations were received.

Third parties - annual financial disclosure returns of third parties are lodged within 20 weeks after the end of the financial year. They are made publicly available on the first working day in the next February. They provide:

- The amounts spent on certain categories of political expenditure (e.g. political advertising, production of electoral matter and opinion polling);
- The names and addresses of those people or organisations from whom donations totalling more than \$10,000 were received which were used in whole or in part to incur political expenditure of more than \$10,000, with the dates the donations were received.

Donors and third parties - election period disclosure returns of donors and third parties must be lodged within 15 weeks after an election and are made publicly available 24 weeks after the election. The returns provide;

- The names and addresses of candidates or Senate groups to whom donations totalling more than \$10,000 were made, with the dates the donations were made;
- The names and addresses of organisations associated with political parties and specified by the AEC by legislative instrument to whom donations totalling more than \$10,000 were made, with the dates the donations were made. (No such instruments are currently in place);
- The names and addresses of those people or organisations from whom donations totalling more than \$10,000 were received which were used in whole or in part to make donations of more than \$10,000 to a candidate, with the dates the donations were received.