

**Senate Finance and Public Administration Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Finance and Administration Portfolio**

**Australian Electoral Commission**

**Budget Estimates Hearing – May 2007**

**Question: F53**

**Outcome 2**

**Topic: Is a political party a person for the purposes of s 328?**

**Hansard Page: F&PA 53**

**Senator Brown asked:**

**Senator BOB BROWN**—For the purposes of the Electoral Act you mention there the word ‘entity’.

**Mr Dacey**—That might not be the correct legal terminology. Section 328 of the act refers to persons, and my understanding is that person includes a separate legal entity.

**Senator BOB BROWN**—Like a political party?

**Mr Dacey**—Yes.

**Senator BOB BROWN**—So if a political party is putting out advertisements it is sufficient to say that this pamphlet or video is authorised by the Australian Labor Party or the Australian Greens, for example?

**Mr Dacey**—We would need to take advice on that and get back to you as to whether a political party is, in terms of a person as defined in the law, a separate entity. Certainly we have had advice that the Australian government is a separate legal entity.

**Answer:**

These series of questions arose from a comparison between the authorisation requirements in the *Commonwealth Electoral Act 1918* (Electoral Act) and those in the *Broadcasting Services Act 1992*. The *Broadcasting Services Act 1992* is administered by the Department of Communications, Information Technology and the Arts and any questions relating to the operation of that Act should be directed to that Department.

In relation to the Electoral Act, the Australian Electoral Commission (AEC) notes that section 328 requires electoral advertisements to be authorised by a ‘person’.

A political party will not be a person for the purposes of the Electoral Act unless it has a separate legal personality, for example, if the political party is a company. In this regard, it is important to note that the registration of a political party under the Electoral Act will not, in itself, make the political party a person for the purposes of section 328.

To ensure that section 328 is complied with, a natural person, such as the party secretary may authorise an electoral advertisement on behalf of a political party.

For more information about the authorisation requirements in the Electoral Act, the AEC refers to its publication *Electoral Backgrounder No 15 – Electoral Advertising*, which can be located on the AEC's website at

[http://www.aec.gov.au/pdf/backgrounders/15/EB\\_15\\_Electoral\\_Advertising.pdf](http://www.aec.gov.au/pdf/backgrounders/15/EB_15_Electoral_Advertising.pdf)