

Electoral Commissioner

REF: IQ21-000002

Senator Andrew Bragg
Chair
Senate Select Committee on Financial Technology and Regulatory Technology
Parliament House
Canberra ACT 2600

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Dear Senator

Written questions on notice

Please find below responses to written questions on notice conveyed to the Australian Electoral Commission (AEC) on 15 March 2021. We trust this information assists the Senate Select Committee on Financial Technology and Regulatory Technology in its inquiry.

Question 1: Please outline the current process for companies to access electoral roll data and the circumstances under which it can be obtained.

Answer: Provision of Electoral Roll data to organisations is governed by section 90B of the *Commonwealth Electoral Act 1918* (“the Act”). Specifically, items 5, 6 and 7 in the table at section 90B(4) cover organisations that verify (or facilitate the verification of) the identity of persons for the purposes of the *Financial Transactions Reports Act 1988* or the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*. Under sections 91A and 91B of the Act, these organisations are permitted to use and disclose the provided data only for these verification purposes. This is the only commercial purpose permitted by the Act. Otherwise the Act only permits the use of electoral roll data for:

- electoral and parliamentary purposes
- certain health purposes, and
- prescribed federal government purposes.

Data can only be provided under items 5, 6 and 7 of the table at section 90B(4) to organisations that are listed in section 8 of the *Electoral and Referendum Regulation 2016* (“the Regulation”). There are currently six organisations listed, however only two currently receive data. Inclusion of new organisations in the Regulation must be approved by Parliament through the Minister responsible for electoral matters. Importantly, even if an organisation is listed in the Regulation and has requested the data for a permitted purpose, the Electoral Commission or the Commission’s delegate has the discretion as to whether to provide the data.

The AEC is currently reviewing its policies around how organisations will be recommended for inclusion in the Regulation. As such, the Electoral Commissioner has decided that the AEC will not be putting further organisations to the Minister for inclusion until this review is completed. It was decided that the two organisations that currently receive data can continue to do so whilst this review takes place.

Question 2: What is the rationale for having two intermediary companies providing paid access to electoral roll data?

Answer: As stated above, there are currently more than two companies listed in the Regulation but only two currently request and receive data. The AEC understands that the other companies are either no longer active or have chosen not to request this data from the AEC.

Question 3: Why are access prices for this data significantly higher in Australia than the UK?

Answer: This is not a matter for the AEC but is a commercial decision for those organisations. The AEC has not previously had any visibility of what these two organisations are charging their customers, nor do we understand what extra services, if any, this charge includes.

Question 4: What would be the implications for how the AEC operates if FinTech Australia's proposal were to be implemented?

In its submissions to the inquiry, FinTech Australia recommended that the AEC should provide access to electoral role (sic) information to all companies that pass their own security verification to facilitate Know Your Customer (KYC) checks.

Answer: As noted above in the answer to Question 1, the broad provision and use of the electoral roll is contrary to Parliament's view that the electoral roll should primarily be used for the purposes of conducting elections and referendums. In 2004 the *Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Act 2004* inserted the then new sections 90A, 90B, 91A and 91B into the Act to specifically protect and restrict access to information from the Commonwealth electoral roll. The Second Reading Speech to the Bill that became this Amending Act made it clear the new provisions were intended to cover the field in relation to access to the electoral roll. The then Minister went on to state that:

"The bill will amend the roll access provisions to improve clarity, remove contradictions and improve privacy protections. Access to roll information will be set out in a tabular form. The tables will include all information that is currently provided for in the Electoral Act. They list who is entitled to roll information, what information they are entitled to and how often they will receive it..."

While these provisions provide for the electoral roll to be used for certain purposes other than electoral, the AEC is cognisant of privacy concerns, as well as the broader issue of potential loss of confidence in the AEC or in the enrolment and the electoral process more generally if electors become concerned about how their data may be shared. It is the need to balance these factors with the requirements of the Act that led the AEC to conduct the current policy review.

Yours sincerely

Tom Rogers
21 March 2021