
The Parliament of the Commonwealth of Australia

Report on the funding of political parties and election campaigns

Joint Standing Committee on Electoral Matters

November 2011
Canberra

© Commonwealth of Australia 2011

ISBN 978-0-642-79582-3 (Printed version)

ISBN 978-0-642-79583-0 (HTML version)

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website:

<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.



Chair's foreword

Australia can be proud of its democratic system, but there is scope for improvement. In terms of political financing arrangements, the funding and disclosure system that was introduced in 1984 was a leader in its field. However, more than a quarter of a century later, Australia's political financing arrangements are in need of review and revitalising.

While there is no evidence that the funding and disclosure system is being abused, the inquiry has provided an opportunity to strengthen and provide more confidence in the system.

Transparency and accountability must remain central goals of our financing arrangements. Disclosure should continue to be a central pillar of our arrangements in Australia to provide electors with sufficient information on which to base selection of their political representatives.

It is important that any changes made in Australia to funding and disclosure arrangements at the Commonwealth level are not merely a reaction to incidents or calls for reform, but a considered and carefully designed approach to help ensure transparency and accountability.

In Australia, it is important to safeguard the integrity of our funding and disclosure system, but it is also vital not to unduly restrict the ability of individuals and groups to engage in the political arena, whether through donating to a candidate, political party or third party, or advocating on, or seeking to engage the community on, a particular issue. Australians' rights to freedom of political expression and participation must also remain a high priority. In making the recommendations in this report, the committee has sought to strike an appropriate balance between these competing concerns.

Key reforms include increasing the level and frequency of disclosure, by reducing the disclosure threshold from the current \$11 900 (indexed to CPI) to \$1 000, without indexation. The reporting requirement for political parties, associated entities and third parties, which is currently annual will initially move to six-monthly, with a view to moving to contemporaneous reporting following an investigation of options by the Australian Electoral Commission (AEC). The committee has also recommended the introduction of special reporting of single donations over \$100 000, which must be disclosed to the AEC within 14 business days of receiving the donation and made publically available soon after on the AEC website.

To improve overall transparency of the flow of money, the committee also proposes requiring greater disclosure of political expenditure. Currently, expenditure is disclosed as a block sum with no specific details.

These increased disclosure requirements will place additional administrative burdens on those with reporting obligations. To help address this, an additional stream of funding is proposed to assist Independents and political parties in meeting their increased obligations. While the provision of administrative funding does mean additional public money, the increased transparency will leave electors better armed with relevant information about the movement of money.

The committee has also made recommendations to enhance the administrative efficiency of disclosure arrangements, including the AEC enhancing its online lodgement system to assist those with reporting requirements for donations and expenditure.

The committee also recognised that effective compliance arrangements are essential for a workable funding and disclosure scheme. Offences that are straightforward matters of fact, such as the late lodgement of a return, should have administrative penalties attached, to enable the AEC to issue fines for breaches of these laws, rather than requiring criminal prosecution by the Commonwealth Director of Public Prosecutions (CDPP). However, for offences of a more serious nature, penalties should be strengthened to send a clear message to individuals, groups and the CDPP of the gravity of breaches of this nature and the need to take action on these matters.

While there may be a time in the future when overall, stricter regulation of funding, expenditure and disclosure is warranted, currently significantly enhancing the transparency of the movement of money by increasing the amount and timeliness of disclosure is best suited to the Australian context.

The key proposals for reform are set out in the Executive summary, which provides an easy comparison of the current arrangements against the committee's proposed reforms.

On behalf of the committee I thank the individuals and groups who participated in the inquiry. I also thank the members of the committee for their work and contribution to this report, and the committee secretariat for their work in preparing this report.

Daryl Melham MP
Chair



Contents

Chair's foreword	iii
Membership of the Committee	xv
Terms of reference	xvii
Resolution	xviii
List of abbreviations	xx
Executive summary	xxi
List of recommendations	xxvii

REPORT

1 Introduction	1
Scope	2
Conduct	3
Report structure	3
2 Background	7
Overview	7
The rising costs of election campaigning	9
Federal developments	11
Committee and related activities	11
Commonwealth Electoral Amendment (Political Donations and Other Measures) Bills	16
Electoral Reform Green Paper: Donations, Funding and Expenditure	19
JSCEM Roundtable on the Green Paper	21
43 rd Parliament reform agreements	22

State developments	23
New South Wales.....	24
Queensland.....	28
Victoria.....	30
Australian Capital Territory.....	32
International developments	33
Is further reform needed?	34
Conclusion	36
3 Private funding	37
Sources of private funding	37
Is change to the current scheme necessary?.....	39
Conclusion	42
Setting the disclosure threshold	43
Conclusion	49
Application of the disclosure threshold	50
Conclusion	52
Fundraising events	53
Conclusion	57
Classification of receipts	58
Conclusion	59
Frequency of reporting	60
Contemporaneous or continuous disclosure	61
Donation reports during elections.....	64
Six-monthly reporting	64
Special reporting of large donations.....	65
Conclusion	65
Different reporting obligations for donors and political parties	67
Conclusion	69
4 Options for private funding reform	71
Donation caps	71
Conclusion	75

Bans on types of donations	76
Corporate donations.....	77
Conclusion	84
Anonymous donations.....	85
Conclusion	87
Limits on donations from individuals.....	87
Conclusion	89
5 Expenditure.....	91
Background	91
Current arrangements	93
Improving the current system.....	96
Disclosure of expenditure.....	96
Conclusion	101
Campaign committees lodging returns	103
Conclusion	104
Further reform options	104
Caps on general expenditure	104
Broadcast advertising expenditure	110
Constitutional issues	114
Conclusion	117
6 Public funding	119
Background and current arrangements.....	119
The effectiveness of a public funding scheme.....	121
Conclusion	127
Election funding.....	128
Increasing the fairness of the public funding system.....	128
A higher threshold	130
Conclusion	131
A reimbursement scheme	131
Conclusion	134
Funding for new political parties.....	134
Conclusion	136

Elected candidates and funding	136
Conclusion	137
Payment of election funding	138
Conclusion	139
Administrative funding	140
Conclusion	146
7 Third parties and associated entities	147
Current arrangements	147
Improving the current scheme	150
Definition of political expenditure.....	150
An 'issue in an election'	153
Opinion polls or other research	155
Conclusion	156
Frequency of third party disclosure	157
Conclusion	158
Partisan connections of third parties	159
Conclusion	160
Disclosure threshold for third parties.....	160
Conclusion	161
Disclosure rules for donors to third parties	161
Conclusion	164
Further reform options	164
Caps on third party expenditure	165
Caps on donations to third parties.....	167
Conclusion	169
A third party registration scheme.....	170
Conclusion	172
Definition of associated entity.....	172
Conclusion	176

8	Compliance	177
	Improving the current system	179
	Administrative penalties	179
	Strengthening current penalties	182
	Conclusion	185
	Compliance review powers	186
	Conclusion	188
	Further reform options	189
	Challenges	189
	Proactive enforcement	192
	Conclusion	193
9	Relationships between federal, and state and territory arrangements	195
	Background	195
	Support for harmonisation	196
	Key issues	199
	Consensus	199
	Constitutional and federalism issues	200
	Options for reform	202
	Conclusion	206
10	Other issues	209
	Administrative body for funding and disclosure.....	209
	Conclusion	211
	Internal rules for corporate donations	212
	Conclusion	213

DISSENTING REPORTS


Dissenting report – The Hon. Bronwyn Bishop MP, The Hon. Alex Somlyay MP, Senator Scott Ryan, Mr Dan Tehan MP and Mr Darren Chester MP	215
Introduction	217
The Disclosure Threshold	218
Circumvention of Disclosure Laws	222
Changing the definition of 'gift'	224
Tax deductibility and the inconsistency of public 'funding'	225
Membership and Donations	226
Third Parties.....	227
Summary.....	229
Dissenting report – Senator Lee Rhiannon, The Australian Greens.....	231
Summary.....	232
Overview	233
Short term measures.....	235
Long term solutions.....	236

APPENDICES

Appendix A—Submissions and Exhibits	241
Appendix B—Hearings and Witnesses	245
Appendix C—Commonwealth disclosure requirements	249
Appendix D—Comparison of Commonwealth, State and Territory schemes	253
Appendix E—Comparison of international political financing schemes.....	259
Appendix F—Commonwealth Electoral Amendment (Tobacco Industry Donations) Bill 2011	263

LIST OF TABLES

Table C.1	Commonwealth donations disclosure requirements	250
Table D.1	Comparison of Commonwealth, States and Territory schemes	254
Table E.1	Comparison of international political financing schemes	260



Membership of the Committee

Chair Mr Daryl Melham MP

Deputy Chair The Hon Alex Somlyay MP

Members

The Hon Bronwyn Bishop MP	Senator Bob Brown (to 5/07/11)
Mr Darren Chester MP (from 2/06/11)	Senator Carol Brown
The Hon Alan Griffin MP	Senator Helen Polley
Ms Amanda Rishworth MP	Senator Lee Rhiannon (from 5/07/11)
Mr Dan Tehan MP (from 2/06/11)	Senator Scott Ryan
Mr Tony Windsor MP (from 25/05/11)	

Participating Members

Senator the Hon Eric Abetz	Senator Michael Forshaw (to 30/06/11)
Senator Judith Adams	Senator Mark Furner
Senator Chris Back	Senator the Hon Bill Heffernan
Senator Guy Barnett (to 30/06/11)	Senator Gary Humphries
Senator Cory Bernardi	Senator Annette Hurley (to 30/06/11)
Senator Catryna Bilyk	Senator Steve Hutchins (to 30/06/11)
Senator Simon Birmingham	Senator the Hon David Johnston
Senator the Hon Ronald Boswell	Senator Barnaby Joyce
Senator Sue Boyce	Senator Helen Kroger

Senator the Hon George Brandis	Senator Julian McGauran (to 30/06/11)
Senator David Bushby	Senator McKenzie (from 23/06/11)
Senator Doug Cameron	Senator the Hon Nick Minchin (to 30/06/11)
Senator Michaelia Cash	Senator Fiona Nash
Senator the Hon Richard Colbeck	Senator Kerry O'Brien (to 30/06/11)
Senator Helen Coonan (to 22/08/11)	Senator Stephen Parry
Senator Mathias Cormann	Senator Marise Payne
Senator Sean Edwards (from 23/06/11)	Senator Louise Pratt
Senator Alan Eggleston	Senator the Hon Michael Ronaldson
Senator the Hon John Faulkner	Senator the Hon Nigel Scullion
Senator David Fawcett (from 23/06/11)	Senator the Hon Ursula Stephens
Senator the Hon Alan Ferguson (to 30/06/11)	Senator Glenn Sterle
Senator Concetta Fierravanti-Wells	Senator the Hon Judith Troeth (to 30/06/11)
Senator Mitch Fifield	Senator Russell Trood (to 30/06/11)
Senator Mary Jo Fisher	Senator John Williams
Senator the Hon Ian Macdonald	Senator Dana Wortley (to 30/06/11)
Senator Gavin Marshall	Senator Nick Xenophon
Senator the Hon Brett Mason	

Committee Secretariat

Secretary	Mr Stephen Boyd
Inquiry Secretary	Ms Samantha Mannette
Technical Adviser	Ms Christine Wickremasinghe
Administrative Officer	Ms Natasha Petrovic



Terms of reference

On 11 May 2011 the Senate referred to the Joint Standing Committee on Electoral Matters the following matter for inquiry and report by 30 September 2011:

Options to improve the system for the funding of political parties and election campaigns, with particular reference to:

- (a) issues raised in the Government's *Electoral Reform Green Paper – Donations, Funding and Expenditure*, released in December 2008;
- (b) the role of third parties in the electoral process;
- (c) the transparency and accountability of the funding regime;
- (d) limiting the escalating cost of elections;
- (e) any relevant measures at the state and territory level and implications for the Commonwealth; and
- (f) the international practices for the funding of political parties and election campaigns, including in Canada, the United Kingdom, New Zealand and the United States of America.

On 25 May 2011 the Special Minister of State, the Hon Gary Gray AO MP, wrote to ascertain the views of the Joint Standing Committee on Electoral Matters on Senator Bob Brown's proposed amendment to the *Commonwealth Electoral Act 1918*, to make it unlawful for political parties to accept donations from manufacturers or wholesalers of tobacco products, or their agents. The committee resolved to examine this matter as part of the wider inquiry into the funding of political parties and election campaigns.

On 21 September 2011 the Senate granted the committee an extension of its reporting date until 1 December 2011. A subsequent extension was granted until 12 December 2011.



Resolution

On 11 and 12 May 2011, the Senate and the House of Representatives agreed to the following resolution:

- (1) That the following matter be referred to the Joint Standing Committee on Electoral Matters for inquiry and report by 30 September 2011:

Options to improve the system for the funding of political parties and election campaigns, with particular reference to:

- (a) issues raised in the Government's *Electoral Reform Green Paper – Donations, Funding and Expenditure*, released in December 2008;
 - (b) the role of third parties in the electoral process;
 - (c) the transparency and accountability of the funding regime;
 - (d) limiting the escalating cost of elections;
 - (e) any relevant measures at the state and territory level and implications for the Commonwealth; and
 - (f) the international practices for the funding of political parties and election campaigns, including in Canada, the United Kingdom, New Zealand and the United States of America.
- (2) That, for the purposes of this inquiry only, paragraph (3) of the resolution of appointment be amended to read:

That the committee consist of 12 members, 3 Members of the House of Representatives to be nominated by the Government Whip or Whips, 4 Members of the House of Representatives to be nominated by the Opposition Whip or Whips and 1 non-aligned Member, 2 Senators to be nominated by the Leader of the Government in the Senate, 1 Senator to be nominated by the Leader of the Opposition in the Senate and 1 Senator to be nominated by any minority group or groups or independent Senator or independent Senators.

- (3) For the purposes of this inquiry only, the resolution of appointment be amended by inserting the following paragraph:

That participating members may be appointed to the committee.
Participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of a member of the committee, but may not vote on any questions before the committee.



List of abbreviations

ACTU	Australian Council of Trade Unions
AEC	Australian Electoral Commission
ALP	Australian Labor Party
ART	Accountability Round Table
ASH	Action on Smoking and Health Australia
CFMEU	Construction, Forestry, Mining and Energy Union
CPI	Consumer Price Index
JSCEM	Joint Standing Committee on Electoral Matters
JSCER	Joint Select Committee on Electoral Reform

Executive summary

Commonwealth funding and disclosure— Summary of key features and proposed approach

Features	Current scheme	Proposed approach
Donations		
Donation caps	None	Same
Bans on donations	<p>Political parties cannot receive anonymous donations above the disclosure threshold</p> <p>Loans that exceed the disclosure threshold can only be received by political parties, candidates and Senate groups if specified details are kept, both in relation to loans from financial and non-financial institutions</p>	<p>Same</p> <p>Ban all anonymous donations above \$50</p> <p>Ban all 'gifts of foreign property'</p> <p>No bans on particular industry sectors. Concerns about specific industries such as tobacco can be addressed through current self-regulation practices under which some political parties have chosen not to accept donations from that industry</p>
Disclosure threshold	\$10 000, CPI indexed (\$11 500 for 2010-2011 financial year)	Reduce disclosure threshold to \$1 000 and remove indexation, to enhance transparency of the flow of money to political parties, candidates, Senate groups, associated entities and third parties
Applying the disclosure threshold	Applies separately to each branch of a political party	Donations to 'related political parties' should be treated as donations to the same political party for the purposes of disclosure requirements. This will combat the practice of 'donation splitting' where donations under the threshold are made to each branch of a political party, which then could total in the tens of thousands but go undisclosed

Features	Current scheme	Proposed approach
Donations (continued)		
Frequency of reporting	Annual returns and election returns	<p>Move to six-monthly reporting to improve transparency and timeliness</p> <p>Under the current system there is a considerable lag between the receipt of payment and it being disclosed to the AEC and made publically available</p> <p>Explore options for moving to contemporaneous disclosure</p> <p>Require disclosure of a single donation of over \$100 000 within 14 days of receipt, and for this information to be published on the AEC website</p>
Classification of items in returns	<p>Amounts received over the threshold must be disclosed by political parties and associated entities</p> <p>The AEC <i>requests</i> that these payments are classified into 'donations' (e.g. gifts) and 'other receipts' (e.g. membership fees, levies on MPs), but this is not a legislative requirement</p>	<p>Require political parties and associated entities to classify their receipts above the threshold as 'donations' or 'other receipts' to enhance transparency of the type of money being received</p> <p>Define the terms in the legislation</p> <p>Empower the AEC to investigate and enforce this requirement</p>
Public access to disclosure returns	<p>Returns are available for public inspection from the AEC</p> <p>Annual returns are available in a searchable format on the AEC website on the first working day in February</p> <p>Election returns are available in a searchable format on the AEC website 24 weeks after polling day</p> <p>On the form for individual donors, the following personal details are included and made available on the AEC website: Name, postal address, telephone number, email address and signature</p>	<p>Returns should continue to be available to the public</p> <p>Explore options for contemporaneous disclosure (which would likely be online through the AEC) to improve the timeliness of disclosure</p> <p>To enhance the privacy for individuals donors, reduce the details to be published on the website for individuals to: name, suburb, postcode, state and the amount donated</p>
Fundraising events	<p>The treatment of funds from fundraising events is currently unclear</p> <p>The AEC advice is that payments for attendance at a fundraiser should be disclosed by political parties or associated entities if the amount paid is in excess of the value of the services received or if the event is primarily a fundraiser</p>	<p>Amend the definition of 'gift' to include fundraising events to help improve transparency of attendees and money raised at these events</p>

Features	Current scheme	Proposed approach
Donations (continued)		
Donor and political party reporting obligations	<p>Political parties are only required to aggregate individual receipts that exceed the disclosure threshold</p> <p>Donors must aggregate donations of any value made to political parties</p>	<p>Make disclosure requirements for political parties the same as those for donors</p> <p>Require political parties to aggregate donations of any value, as donors currently do, not just values that exceed the disclosure threshold, so that the requirements align, making enforcement and identifying discrepancies more efficient</p>
Public funding		
Reimbursement	None	Introduce a reimbursement scheme for proven electoral expenditure, as one of the options for election funding once the 4% disclosure threshold is reached
Entitlement and allocation of funding	<p>Direct entitlement funding scheme with a threshold requirement of 4% of the first preference vote</p> <p>A per vote formula is applied (2010 election rate was 231.191 cents per vote for House of Representatives and Senate candidates)</p>	<p>Retain the 4% of first preference vote threshold for entitlement</p> <p>Public funding to be allocated to political parties and candidates who have obtained 4% on the basis of the <i>lesser</i> of:</p> <ul style="list-style-type: none"> • the application of the per vote formula; or • reimbursement for proven expenditure following a claim being lodged <p>In addition, members who are <i>elected</i> but do not meet the 4% threshold should be entitled to the <i>lesser</i> of:</p> <ul style="list-style-type: none"> • the per vote rate for the first preference votes received; or • reimbursement for proven expenditure following a claim being lodged
Administrative/ongoing funding	None	Introduce administrative funding for political parties registered at the Commonwealth level and Independents to assist them in meeting the increased administrative burdens that will come with the proposed reforms

Features	Current scheme	Proposed approach
Expenditure		
Disclosure of expenditure	Political parties do not disclose details of expenditure, only a total figure of 'payments' in their annual returns	Implement detailed disclosure of expenditure by political parties and associated entities Ensure the AEC is resourced to provide guidance and an efficient lodgement system to facilitate political parties and associated entities with the additional administrative demands
Expenditure caps	None	Same
Campaign committees	Not required to lodge expenditure returns	Same
Third parties		
Disclosure threshold	\$10 000, CPI indexed (\$11 500 for 2010-2011 financial year) Same as for political parties, associated entities and donors	Reduce to \$1 000 and remove indexation Keep the third party disclosure threshold in line with political parties, associated entities and donors, as having a different threshold for third parties would add an unnecessary layer of complexity to the scheme
Frequency of reporting	Annually	Move to six-monthly reporting, but consider a move to contemporaneous disclosure to complement any moves along those lines for political parties
Disclosure of donors to third parties	No donor disclosure obligations for donors to third parties, details of donations over the threshold are available on the third party's return	Donors to third parties should have the same obligations as donors to political parties and associated entities
Caps on donations to third parties	None	Same
Caps on third party expenditure	None	Explore options for restricting third party political expenditure within a reasonable period relevant to the election date, to help ensure that public debate is not dominated by high levels of spending by these groups
Bans on donations from certain donors	None	Bans on foreign donations Bans on anonymous donations above \$50
Registration of third parties	None	Same
Definitional of political expenditure	Defined in <i>Commonwealth Electoral Act</i> (Act) s. 314AEB(1)(a)	Revise the definition of political expenditure to remove the references to an 'issue in an election' and 'opinion polls', to help clarify what matters are covered by the definition and minimise the groups inadvertently captured by the latter reference

Features	Current scheme	Proposed approach
Associated entities		
Definition	'Associated entity' is defined in the Act	Clarify definition of associated entities by defining the terms 'controlled', 'significant extent' and 'benefit', to increase administrative efficiency and maintain transparency and accountability through knowing exactly which entities are 'associated' for the purposes of the Act
Compliance		
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 CDPP 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>
Administering body		
Responsibility for administering the funding and disclosure scheme	Australian Electoral Commission—Funding and Disclosure section	<p>Same</p> <p>Adequately resource the AEC to facilitate the additional administrative responsibilities that will come with the above changes</p>



List of recommendations

3 Private funding

Recommendation 1 (paragraph 3.59)

The committee recommends that the disclosure threshold be lowered to \$1 000, and CPI indexation be removed.

Recommendation 2 (paragraph 3.61)

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to require that only the name, suburb, postcode, state and the amount donated by individual donors be released on the public website by the Australian Electoral Commission.

Recommendation 3 (paragraph 3.72)

The committee recommends that donations to ‘related political parties’ be treated as donations to the same political party for the purposes of the disclosure threshold. Once the combined donations to related political parties from a single donor reaches the \$1 000 threshold, disclosure is required.

Recommendation 4 (paragraph 3.96)

The Committee recommends that the definition of ‘gift’ in the *Commonwealth Electoral Act 1918* be amended to include fundraising events.

Recommendation 5 (paragraph 3.107)

The committee recommends that the *Commonwealth Electoral Act 1918* be amended, as necessary, to include the following:

- to require political parties and associated entities to classify their receipts exceeding the disclosure threshold as 'donations' or 'other receipts';
- to include an adequate definition of 'donation' and 'other receipt'; and
- to make the requisite changes to the enforcement and investigation provisions to allow the Australian Electoral Commission to investigate and enforce these classifications.

Recommendation 6 (paragraph 3.134)

The committee recommends that the Australian Government introduce a six-monthly disclosure reporting timeframe, as outlined in the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2010.

Recommendation 7 (paragraph 3.137)

The committee recommends that if a single donation above \$100 000 is made to a political party, associated entity, third party, candidate or Senate group, then a 'Special Reporting Event' return must be lodged with the Australian Electoral Commission by the political party, associated entity, third party, candidate or Senate group and the donor within 14 days of receipt of the donation. The Australian Electoral Commission must publish details of these returns within 10 business days of lodgement.

Recommendation 8 (paragraph 3.140)

The committee recommends that the Australian Electoral Commission investigate the feasibility and requirements necessary to implement and administer a system of contemporaneous disclosure and report back to the Special Minister of State by 31 March 2012.

Recommendation 9 (paragraph 3.146)

The committee recommends that the *Commonwealth Electoral Act 1918* be amended, as necessary, to require political parties to aggregate all individual donation receipts, not just those individual receipts that exceed the disclosure threshold, in line with the current disclosure requirement for donors.

4 Options for private funding reform

Recommendation 10 (paragraph 4.74)

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to ban political parties, Independent candidates, associated entities and third parties from receiving ‘gifts of foreign property’.

Recommendation 11 (paragraph 4.90)

The committee recommends that a ban be imposed on anonymous donations above \$50 to political parties, associated entities, third parties, Independent candidates and Senate groups.

Recommendation 12 (paragraph 4.102)

The committee recommends that in addition to the measure to prohibit gifts of foreign property being implemented, methods to curb the potential for circumvention be examined and solutions devised.

5 Expenditure

Recommendation 13 (paragraph 5.51)

The committee recommends that the *Commonwealth Electoral Act 1918* be amended, as necessary, to require political parties and associated entities to disclose details of their expenditure above the applicable disclosure threshold in their six-monthly returns.

Recommendation 14 (paragraph 5.52)

The committee recommends that to complement the requirement for political parties and associated entities to disclose details of expenditure above the disclosure threshold, the Australian Electoral Commission should provide guidance and enhance its online lodgement system to help ensure that those with reporting obligations have a clear understanding of, and the administrative means by which, to meet this obligation.

6 Public funding

Recommendation 15 (paragraph 6.42)

The committee recommends that public funding to political parties and candidates be allocated on the basis of the lesser of:

- the application of the per vote formula to the first preference votes won; or
- reimbursement for proven expenditure following the lodgement of a claim,

provided they obtain four per cent of the first preference vote, as proposed in the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2010.

Recommendation 16 (paragraph 6.93)

The committee recommends that members elected with less than four per cent of the first preference vote be eligible for election funding. These members should be entitled to the lesser of:

- the application of the 'per vote' rate to the first preference votes won; or
- reimbursement for proven expenditure following the lodgement of a claim.

Recommendation 17 (paragraph 6.101)

The committee recommends that the *Commonwealth Electoral Act 1918* be amended, as necessary, to ensure the payment of election funding entitlements for eligible candidates and Senate groups can be made to the party, whether or not the party is organised on the basis of a particular state or territory.

Recommendation 18 (paragraph 6.129)

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to implement a scheme of ongoing administrative funding for registered political parties and Independents. The proposal for administrative funding is part of a broader package of public funding reforms and should complement the changes to election funding arrangements in recommendations 14, 15 and 16. The Australian Government should, in consultation with key stakeholders, develop a model for the entitlement and payment of administrative funding appropriate for application at the Commonwealth level.

7 Third parties and associated entities

Recommendation 19 (paragraph 7.46)

The committee recommends removing the reference to ‘issues in an election’ from the definition of political expenditure, by deleting section 314AEB(1)(a)(ii) of the *Commonwealth Electoral Act 1918*.

Recommendation 20 (paragraph 7.50)

The committee recommends removing the reference to opinion polls and other research from the definition of political expenditure, by deleting section 314AEB(1)(a)(v) of the *Commonwealth Electoral Act 1918*.

Recommendation 21 (paragraph 7.57)

The committee recommends that the frequency of disclosure reporting obligations for third parties under the *Commonwealth Electoral Act 1918* align with the frequency with which political party disclosure takes place, to minimise the potential for circumvention of requirements.

Recommendation 22 (paragraph 7.68)

The committee recommends that third parties be subject to the same disclosure threshold as political parties, Independent candidates, Senate groups, associated entities and donors.

Recommendation 23 (paragraph 7.82)

The committee recommends that the *Commonwealth Electoral Act 1918* be amended, as necessary, to impose a disclosure obligation on donors to third parties. Amendments should be worded so that only the name, suburb, state and postcode of individual donors are required to be made public.

Recommendation 24 (paragraph 7.105)

The committee recommends that the Australian Government investigate options for:

- restricting or capping third party political expenditure; and
- setting a reasonable period relevant to the election date around which this restriction would apply.

Recommendation 25 (paragraph 7.134)

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to improve the clarity of the definition of 'Associated Entity'. Particular steps that could be taken might include the following:

- Defining 'controlled' as used in section 287(1)(a) to include the right of a party to appoint a majority of directors, trustees or office bearers;
- Defining 'to a significant extent' as used in section 287(1)(b) to include the receipt of a political party of more than 50 per cent of the distributed funds, entitlements or benefits enjoyed and/or services provided by the associated entity in a financial year; and
- Defining 'benefit' as used in section 287(1)(b) to include the receipt of favourable, non-commercial arrangements where the party or its members ultimately receives the benefit.

8 Compliance

Recommendation 26 (paragraph 8.39)

The committee recommends that the *Commonwealth Electoral Act 1918* be amended, as necessary, to make offences classified as 'straightforward matters of fact' subject to administrative penalties issued by the Australian Electoral Commission. The issuance of an administrative penalty should be accompanied by a mechanism for internal review.

Recommendation 27 (paragraph 8.41)

The committee recommends that the penalties in relation to offences that are classified as more 'serious' should be strengthened along the lines proposed in the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2010.

Recommendation 28 (paragraph 8.50)

The committee recommends that the *Commonwealth Electoral Act 1918* be amended, as necessary, to provide the Australian Electoral Commission with the power to conduct compliance reviews and serve notices on candidates and Senate groups, in addition to federal registered political parties, their state branches and associated entities.

Recommendation 29 (paragraph 8.52)

The committee recommends that the *Commonwealth Electoral Act 1918* be amended, as necessary, to require the Australian Electoral Commission to make available on its website compliance review reports and details of final determinations on reviews.

10 Other issues**Recommendation 30** (paragraph 10.12)

The committee recommends that the funding and disclosure functions in the *Commonwealth Electoral Act 1918* continue to be exercised and administered by the Australian Electoral Commission, and that the Australian Electoral Commission receive additional resources to carry out these functions and exercise its enforcement powers.

