



Money in politics: a flood of political donations

The gaps in our Commonwealth system of regulating political finance

Briefing paper

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Summary

The Commonwealth Government has the weakest political finance laws in the country. The enormous gaps in Australia's regulatory framework make it easy for wealthy companies and industries to use money to influence decision makers. Lax disclosure rules mean that these donations can often be made while avoiding scrutiny.

The following gaps in the regulation of money in politics lead to big money having an undue influence on our electoral process:

- The high disclosure threshold and no aggregation enables multiple donations of \$14,299 to not be disclosed;
- The delay in disclosure means donations made before the Federal election in May 2019 weren't revealed until February 2020;
- Loose disclosure rules allow the source of over \$1 billion in contributions to have been hidden since 1999;
- No caps on donations mean that big money dominates – one quarter of all donations since 1999 have been made by just 5 donors;
- The lack of spending caps allows wealthy individuals or companies to spend millions on pre-election advertising blitzes for example, Clive Palmer's \$60 million ad spend during the 2019 Federal Election campaign.

Commonwealth laws

While the State and territories across Australia have implemented strong disclosure systems, donation caps and spending caps, the Commonwealth on the other hand, has a high disclosure threshold, long delays in reporting, and no regulation of donations and spending. Figure 1 shows the comparison of state and Commonwealth regulations. Queensland and NSW have the strongest regimes, and the Commonwealth has the weakest.

Figure 1: Commonwealth has weakest laws in the country

	QLD	NSW	WA	VIC	ACT	SA	Fed
Disclosure threshold	\$1000	\$1000	\$1000	\$1040	\$1000	\$5000	\$14300
Disclosure during elections	7 days	21 days	7 days	21 days	7 days	7 days	No
Non-election disclosure	7 days	Half-yearly	Quarterly	Annual	Annual	Half-yearly	Annual
Donation caps	Yes - \$4000	Yes - \$6600	No	Yes - \$4160	No	No	No
Expenditure caps	Yes - \$58,000 per seat	Yes - \$132,600 per seat	Yes - \$125,000 per seat	No	Yes - \$42,750 per seat	Yes - \$75,000 per seat	No

Sources: Commonwealth Parliamentary Library 2018, Victorian Electoral Commission 2021, WA Electoral Commission 2021, Queensland Electoral Commission 2021, NSW Electoral Commission 2021,

Disclosure

There are major gaps and delays in the disclosure of political donations and contributions.

Donations disclosures are due to be submitted in October each year, but are only made public in February the following year. This means that there is a long delay after elections until voters find out who was funding the campaign. For example, donations to the May 2019 election were only made publicly available in February 2020.

Only donations over the threshold of \$14,300 need to be disclosed. The lack of aggregation means that donors can make multiple donations of \$14,200 and not disclose their contributions.

The limited categorisation of disclosures means that the source of over \$1 billion in contributions was hidden from public view from 1999-2019 (figure 2).

The current disclosure system is not properly enforced. The Australian Electoral Commission lacks the capacity and resourcing to monitor compliance, and there is no National Integrity Commission established to investigate serious breaches.

Figure 2: hidden money 1999-2019

Party income \$m	Donations \$m	Other receipts \$m	Subscriptions \$m	Explained \$m	Hidden money \$m	Hidden money %
3054.43	482.92	497.05	48.15	956.1	1070.22	35.00

Source: AEC Annual Disclosure 1998/1999 – 2018/2019

Donations and spending

There is no limit on what political parties, associated entities and third parties can spend in federal elections. This enables individual and corporations with greater wealth to have an undue influence on elections.

In the lead up to the 2010 election the mining industry spent \$22 million on an effective campaign against the proposed Minerals Resources Rent Tax and former Prime Minister Kevin Rudd.¹ In the lead up to the 2019 election, Clive Palmer spent \$60 million on ads promoting the United Australia Party and opposing the Labor opposition.²

There is also no limit to what donors can give to political parties, associated entities or third parties.

The 2019 election saw the two largest individual donations in history, with Clive Palmer donating \$83.5 million to the United Australia Party, and Sugalena donating \$4.1 million to the Liberal Party.³

Unlimited donations means that individual donors can have more influence. Donations over \$1 million made up 30% of donations since 1999, but only 0.6% of donors (figure 3). One quarter of all donations since 1999 have been made by 5 donors (figure 4).

Figure 3: Donations over \$1m make up 30% of donations

ALL	No of Donations	Constant \$	%
\$10m and Above	3	112,353,208	9.3
\$1m and Above	102	242,228,943	20.1
\$100K and Above	1,789	392,120,911	32.5
\$10K and Above	15,426	459,720,930	38.1
Total	17,320	1,206,423,992	100.0

Source: AEC Annual Disclosure 1998/1999 – 2018/2019

¹ SMH, 2011, *A snip at \$22m to get rid of PM*, <https://www.smh.com.au/business/a-snip-at-22m-to-get-rid-of-pm-20110201-1acgj.html>

² The Guardian, 2019, *Clive Palmer's \$60m election ad blitz appears to have failed to win a single seat*, <https://www.theguardian.com/australia-news/2019/may/19/clive-palmers-60m-ad-blitz-appears-to-have-failed-to-win-a-single-seat>

³ AEC Periodic Disclosures 2019

Figure 4: Biggest 5 donors made 25% donations 1999-2019

Donor	Number of Donations	\$ Constant
Minerology	40	101,168,063
Cormack	39	61,381,227
ALP Holdings	145	56,809,206
John Curtin House	50	47,634,050
SDA Union	318	31,246,533
Total	592	298,239,078

Source: AEC Annual Disclosure 1998/1999 – 2018/2019

Reforms needed

Caps on electoral expenditure

1. Caps on all electoral expenditure covering political parties, associated entities and third parties similar to *Electoral Funding Act 2018 (NSW)*
 - a. Level set through review and tied to donations caps and public funding
 - b. Finance or Attorney Generals' Department to purchase and distribute advertising space from commercial broadcasters and major newspapers during each election year, with limits also applied to the amount of advertising space available for each party, candidate and third-party campaigners

Donations caps

1. Phase in to set donation cap at \$2000 per annum per candidate and \$5000 per party, from a single person or entity (aggregated);
 - a. An exclusion for membership, limited to \$1000; and
 - b. Private funding capped at around 50% of total party funding.

Donations disclosure regulations

1. A reduction in the reporting threshold for donations, with individual donations over \$1,000 and aggregated donations of \$3,000 over 3 years to political parties, candidates, associated entities, third parties and political campaigners being required to be disclosed;
2. A broadening of the definition of 'donation' to include income from party fundraisers, corporate sponsorship of business forums, membership fees over \$1,000 per year, and any gift that is spent on electoral expenditure (see section 5 of the *Electoral Funding Act 2018 (NSW)*);
3. Real time disclosure of donations, plus quarterly reports providing categorisation and aggregates of donations;
4. Related companies to be categorised accordingly, and aggregated for any donation or expenditure caps (see for example section 9(8) and section 24(6) of the *Electoral Funding Act 2018 (NSW)*).

Enforcement

1. Monitoring and compliance through a strengthened and appropriately resourced division within the Australia Electoral Commission.
 - a. A single dedicated campaign account to facilitate auditing and enforcement;
2. The establishment of a National Integrity Commission to investigate serious or systemic breaches.

About The Centre for Public Integrity

The Centre for Public Integrity is an independent think tank dedicated to preventing corruption, protecting the integrity of our accountability institutions, and eliminating undue influence of money in politics in Australia. Board members of the Centre are the Hon Tony Fitzgerald AC QC, the Hon Stephen Charles AO QC, the Hon Anthony Whealy QC, Professor George Williams AO, Professor Joo Cheong Tham and Geoffrey Watson SC. More information at www.publicintegrity.org.au.