



Australian Electoral Commission Submission

Postal Services Modernisation

April 2023

Classification: OFFICIAL

Introduction

The Australian Electoral Commission (AEC) is responsible for maintaining an impartial and independent electoral system for eligible voters. Federal electoral events are the largest peacetime logistical operation in Australia, and are highly complex to deliver. As voting is compulsory in Australia, the AEC, as required by the *Commonwealth Electoral Act 1918* offers a variety of voter services including postal voting. To deliver the franchise – that is, an Australian citizen’s right to vote – the AEC is reliant on an effective, consistent, and reliable postal service. The AEC also delivers hundreds of industrial elections and protected action ballots each year, almost all of which are entirely delivered by post. In addition to electoral event delivery, the AEC is responsible for the management of the Commonwealth electoral roll which involves regular use of the postal service, as required by our legislation to correspond with electors regarding their enrolment. This submission focuses on Australia Post letter delivery services and seeks to provide information on the AEC’s current and future use of these services to inform deliberations regarding the postal services modernisation.

Background

The *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* prescribe a range of circumstances where the AEC must use the postal service, during and outside of electoral events. References from the *Commonwealth Electoral Act 1918* are provided below:

- Section 188 requires postal votes to be sent **by post** or other means (such as a courier), excluding electronic means.
- Section 245 requires non-voter penalty notices to be sent **by post**, including a second penalty notice if a response is not received.
- Section 387A recognises an offence under section 245 (compulsory voting) being served if a notice is **delivered by mail** to the person’s last known address.
- Section 140 requires written notices relating to the registration of political parties to be distributed **by post**.
- Sections 103A and 103B require written notice to be provided to any elector being enrolled, or having their enrolment updated through the direct enrolment program. This is predominately undertaken by sending hundreds of thousands of letters to electors every year **by post**.

Further, the *Fair Work (Registered Organisations) Act 2009* prescribes the following for elections, amalgamations, and withdrawal of amalgamations, related to the 95 federally registered organisations:

- Section 65 requires postal votes of members of organisations who propose to amalgamate to be sent **by post**, along with a copy of the proposal unless the organisation seeks an exemption for the election to be conducted in-person.
- Section 102 requires postal votes of members of organisations who propose to withdraw from an organisation **to be sent** to the member, along with a copy of the proposal, unless the organisation seeks an exemption for the election to be conducted in-person.
- Section 144 requires all federally registered organisations to ensure their Constitution (Rules) to provide for election of office holders to be **by post**.

OFFICIAL

For context, the AEC conducts between 750 and 1,000 elections/ballots for registered organisations per year. The AEC has to take steps to ensure postal voting periods for these events are a minimum of 28 days in order that voters are not disenfranchised. Event timelines will be significantly impacted should speed of postal delivery decline further.

Finally, the AEC is required to elect the Staff-Elected Director to the Board of the Australian Broadcasting Corporation (ABC) using **postal voting** under the *Australian Broadcasting Corporation Act 1983*. The AEC is also legislatively required to elect representatives to the Torres Strait Regional Authority Council under the *Aboriginal and Torres Strait Islander Commission Act 1989* which prescribes that the AEC must provide **postal voting services** in the election.

In addition to legislative requirements to use the postal service, the AEC uses Australia Post services for:

- Distribution of the Official Guide to Australian households using the **unaddressed mail service**. This is a comprehensive pamphlet that provides electors with information they need to participate in a federal electoral event. For the 2022 federal election, 11.3 million Official Guides were distributed to households. Of the electors surveyed, seven in ten who recalled receiving the Official Guide said they had read it, this equates to 5.9 million voters receiving and reading the guide, and illustrates its importance as a source of voter information.

The Official Guide complements digital communications and will continue to be distributed for the foreseeable future. For the 2022 federal election, the online version of the Official Guide was downloaded online 75,000 times, compared to 52,267 downloads for the 2019 federal election (45 percent increase).

- Distribution of multi-voter notices to electors, using **regular and priority services**. There are strict deadlines associated with the AEC's regulatory functions, in the case of multi-voters, referrals must be submitted to the Australian Federal Police within 6 months of polling day.
- Industrial elections and protected action ballots, using **regular and express services** for dissemination of replacement postal vote packs to voters who have misplaced or damaged their original pack.
- Distribution of enrolment related communication, using **regular services**.

The AEC currently utilises all delivery speeds and letter services offered by Australia Post (regular, priority and express). The delivery speed is chosen based on the type of correspondence, when it needs to be delivered and when the AEC requires a response. It is expected the AEC's use of Australia Post's letter services will not diminish over the next 5 years.

Enrolment related communication

The AEC sends up to 6 million letters for enrolment purposes each non-election year. Whilst electronic communication can and is used for some enrolment services, only 43 percent of electors have provided the AEC or our data partners with their email address. Given the current low provision of electronic contact details and other barriers associated with reliance on digital communication, a move to digital only communication would present significant

challenges to maintaining the integrity of the electoral roll and maximising voter franchise.

Postal voting

As Australia has a compulsory voting system, the AEC offers a variety of voter services to assist electors with casting their vote. An elector is eligible for a postal vote if they live more than 8km from a polling place, are travelling at the time of the election, are in hospital, are unable to leave their workplace to vote, or are in prison, as some examples. Silent electors are also primarily serviced through postal communication and postal voting. Millions of electors rely on the priority letter service and network of street posting boxes to make their vote count. A reduction in service levels could lead to elector disenfranchisement.

At the 2022 federal election, the AEC sent approximately 2.7 million postal votes using the priority letter service, and electors returned approximately 2.38 million using a reply-paid envelope provided by the AEC. These figures represented a significant increase from the 2019 federal election, when the AEC sent approximately 1.5 million postal votes and electors returned approximately 1.23 million postal votes. Although this spike in postal voting can partially be attributed to the COVID-19 pandemic, the AEC does forecast a perpetual rise in postal voting, as indicated by rises in postal voting between the 2013, 2016 and 2019 federal elections.

Electors can apply for a postal vote as soon as the writ for an election has been issued to the AEC. The AEC must accept postal vote applications up to 6pm, three days prior to polling day (the Wednesday prior to polling day), which leaves only the Thursday prior to polling day to lodge the postal vote packs with Australia Post retail outlets for delivery by the Friday before polling day. Electors must complete their ballot papers by 6pm on polling day, which means there is no capacity for flexibility in these legislated deadlines. Electors are required to return their completed postal vote to the AEC no later than thirteen days following polling day, or their vote cannot be admitted to the count.

Postal voting is a fundamental service offering for eligible electors with a legitimate inability to readily access a polling place. Postal votes cannot be distributed to electors by electronic means; therefore, the AEC is reliant on a reliable and consistent postal service to deliver the franchise to almost 15 percent of all electors.

Industrial Elections and Protected Action Ballots

Through the AEC's Industrial Elections and Ballots Program and in accordance with provisions in the *Fair Work Act 2009*, the AEC is required to conduct elections for office holders within organisations registered with the Fair Work Commission as well as protected action ballots. The AEC delivers industrial elections and protected action ballots consistently throughout the electoral cycle. Currently the AEC operates on a model of postal voting only for all protected action ballots and industrial elections; in person voting is by exception only. In the 2021-22 financial year, the AEC conducted 342 industrial elections and 481 protected action ballots. For all events, ballot papers and other supporting materials are produced and posted to all eligible electors.

The AEC conducts industrial elections for organisations across Australia, including in regional and remote areas and relies on postal voting to enfranchise all eligible electors. Production and postal delivery of physical ballot papers to and from electors is a necessity. In particular, the AEC has a high reliance on Australia Post's daily mail delivery service offering and would be impacted significantly both financially and operationally should the daily service be reduced, and prices increase. For example, the AEC may need to negotiate

longer ballot open periods to allow for mail to be delivered and returned, consequently requiring negotiation with stakeholders including the Fair Work Commission to ensure organisations' rules allow for mail delivery limitations. The distribution of postal ballot papers to eligible voters in a timely manner contributes to delivering a high-quality service, which the AEC is committed to upholding into the future.

Yes/No Pamphlet

Section 11 of the *Referendum (Machinery Provisions) Act 1984* requires the AEC to coordinate the production and distribution of a pamphlet (referendum booklet) with the arguments for and against the proposed law to change the Constitution. The content of this pamphlet is provided by relevant committees from Parliament that represent both the Yes and No cases. The Electoral Commissioner must print the referendum booklet containing the Yes and No cases together with a statement showing the proposed alterations to the Constitution and post it to all addresses on the electoral roll, not later than 14 days before voting day.

The AEC plans to distribute the pamphlet to all Australian households using the **unaddressed mail service**. This is a legislated product and for a 2023 referendum, it is estimated approximately 12 million Yes/No printed pamphlets would need to be distributed to households in an extremely tight timeframe. A delayed service may reduce the likelihood of voters receiving the pamphlet before they cast their vote.

Postal Services Modernisation Discussion Paper

Relaxing letter delivery frequency requirements

The AEC acknowledges the decline in letter sending, and that 97 per cent of letters are sent by government departments and businesses. The AEC's use of the postal service complements digital communications and is necessary for enfranchising electors who are unable to vote at a polling place. As indicated earlier in this submission, the AEC is deeply concerned about the impacts of relaxed delivery frequency in the context of postal voting both for federal electoral events and industrial elections and ballots, particularly where we have a legislated requirement to provide these services. A variety of reliable and accessible voter services is foundational to Australia's compulsory voting system and a relaxation in letter delivery frequency could impact enfranchisement if electors do not receive their ballot papers in time to vote, or if the AEC does not receive their completed postal vote in time for inclusion in the count.

Letter pricing arrangements

If letter pricing arrangements increase, the cost of elections will increase, resulting in budgetary impacts for the Australian government. Without legislative amendments and a change in the AEC's delivery model, any price increase will directly impact the cost of running an electoral event. The AEC recognises the need to find solutions to ensure the long-term financial viability of Australia Post, and would appreciate early communication of any proposed price increases to support forecasting and budgetary arrangements.

Deregulating the priority letter service

Deregulation of the priority letter service is a matter for government. If this were to occur, the AEC would encourage close consultation with Australia Post customers to inform the timing, as it could have disruptive effects if it were to be implemented prior to or during an electoral event. The AEC relies extensively on the priority letter service for the distribution of postal votes. If the priority letter service were unavailable, even temporarily, and the AEC used express post services, it is expected the cost would be up to five times the amount paid to use the current priority letter service. Based on projected volumes for a 2023 referendum, for instance, the exclusive use of express post services could cost the Australian taxpayer in the vicinity of an additional \$36 million.

Conclusion

A reduction in postal services will negatively impact all Australian electoral management bodies and may adversely influence electoral integrity and trust in the electoral process if voter services are impacted as a consequence. The AEC is deeply concerned by the prospect of relaxed letter delivery frequency and increasing prices, noting legislative requirements to communicate by post, and the inability and impracticality of readily digitising. The AEC greatly values the service offering provided by Australia Post and does not expect usage of existing services to diminish in the next five years. Preparations for a referendum in 2023 are underway, as are preparations for a federal election in 2024/25. Throughout 2023 and beyond the AEC will also deliver hundreds of industrial elections, protected action ballots and potentially some by-elections. Millions of electors rely on the postal service to have their say and it is fundamental that they can trust and rely on this critical service offering, and the broader electoral system is not impacted as a result of the changes proposed in modernising the postal service. For many electors participating in federal events and industrial elections, postal voting is their only means of casting a vote and participating in the democratic process.