

Compliance Investigation Report

Media Entertainment & Arts Alliance

2013–14 Annual Disclosure Return

October 2015



Released under the Freedom of Information Act 1982



AEC

Australian Electoral Commission

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Purpose of this report

This report provides Ms Susan Clarkson, the financial controller of the associated entity the Media Entertainment & Arts Alliance (the Entity), with the Australian Electoral Commission's (the AEC) opinion as to whether the 2013–14 annual disclosure return she lodged for the Entity complied with the obligations under Part XX, Division 5A of the *Commonwealth Electoral Act 1918* (the Act).

Associated entity

The 2013–14 annual disclosure return lodged by Ms Clarkson identifies the Entity as an associated entity of the following registered political parties:

- Australian Labor Party (N.S.W. Branch)
- Australian Labor Party (South Australian Branch).

Disclosure obligations

Registered political parties and their associated entities are required under the provisions of the Act to lodge annual disclosure returns.

Under Part XX, Division 5A of the Act, s.314AEA applies to annual returns by associated entities and requires the financial controller of an associated entity to report after the end of each financial year:

- the total amount received by, or on behalf of, the entity
- the total amount paid by, or on behalf of, the entity
- the total outstanding amount of all debts incurred by or on behalf of, the entity.

Subsection 314AEA(5) of the Act provides for ss.314AC and 314AE to apply to a return lodged by an associated entity in the same way as they apply to a return for a registered political party.

Section 314AC of the Act provides that if the sum of all amounts received by, or on behalf of, the entity from a person or organisation during a financial year is more than the threshold, the return must include the particulars of that sum. The threshold for the financial year 2013–14 was \$12 400.

Section 314AE of the Act provides that if the sum of all outstanding debts incurred by, or on behalf of, the entity to a person or an organisation during a financial year is more than the threshold, the return must include the particulars of that sum.

Extracts of the texts of these provisions of the Act are reproduced in *Attachment A* to this report.

Conduct of the investigation

The AEC has authority under s.316(2A) of the Act to review records and gather relevant information to assess whether these disclosure obligations have been met. Section 316(2A) requires the financial controller of an associated entity to produce the documents requested in a notice from the AEC within the period and in the manner specified in the notice.

As part of this process, the AEC issued one notice to Ms Clarkson under s.316(2A):

- the notice required Ms Clarkson to provide financial records and other documents in relation to the Entity's financial operations for 2013–14.

A copy of the notice issued under s.316(2A) of the Act is provided at *Attachment B*.

Scope of the investigation

The AEC's investigation was limited to those financial records and documents which were considered to be relevant to determine the completeness and accuracy of information reported in the Entity's 2013–14 annual disclosure return in accordance with the requirements of s.314AEA(5) and s.314AC of the Act - i.e. the particulars of all amounts received that were more than \$12 400.

The AEC does not have authority under Part XX of the Act to examine any other aspects of the financial operations of the Entity such as the existence or effectiveness of internal controls.

Stakeholder engagement

The AEC's general practice, prior to commencing an investigation, is for the AEC to contact the relevant officer of the associated entity to discuss the scope of the investigation. This contact may, in some instances, involve face to face meetings.

Prior to commencement of this compliance investigation, staff of the AEC contacted Ms Clarkson by telephone to discuss the scope of the investigation process.

It is also the AEC's practice prior to finalising an investigation, to discuss with the relevant officer of the associated entity its opinion on compliance issues. Where there are any errors and omissions the AEC will discuss with the relevant officer how they might have occurred.

The objective of such discussions is to encourage the associated entity to examine its internal processes and systems in order to improve the accuracy of future annual disclosure returns and thereby improve compliance with Part XX of the Act.

Draft Report

On 25 September 2015 the AEC provided Ms Clarkson with a draft of the report for her consideration and comment. Ms Clarkson was asked to provide her comments by 2 October 2015. Ms Clarkson emailed the AEC on 29 September 2015 stating that she would submit the required amendment to the annual disclosure by 2 October 2015. On the same day, Ms Clarkson separately emailed the AEC to advise of her comments on the content of the draft report. Her comments were taken into account and there was no material effect on the content of the report. The AEC then proceeded to finalise the report.

The AEC's opinion

After examining the financial records and other documentation provided by Ms Clarkson for the investigation, the AEC identified the issue detailed below relevant to compliance with disclosure obligations under Part XX of the Act.

Accuracy in reporting – amendment required

Receipts of more than \$12 400

As previously stated, s.314AC of the Act provides that if the sum of all amounts received by, or on behalf of, the entity from a person or organisation during a financial year is more than the threshold, the return must include the particulars of that sum. To comply with this provision, the details of any amount above the disclosure threshold received from any external source must be disclosed in the return regardless of the nature of the receipt. These details include reporting the particulars of the amount, name, and address of the person or organisation from whom the funds were received.

The Entity's 2013–14 disclosure return reported the particulars of 29 individual receipts totalling \$1 107 838 that were more than \$12 400. During the investigation, the AEC identified a further 14 additional receipts totalling \$2 290 871 which were also required to be reported. The table below lists details of the 14 additional receipts that, in the AEC's opinion, require reporting in the Entity's 2013–14 annual disclosure return. None of these receipts were deemed to be a donation.

At the time of providing the documentation requested in the s.316(2A) notice, Ms Clarkson provided details for the first eight of the 14 receipts listed in the table below which she self-identified as being omitted from the Entity's 2013–14 annual disclosure return.

On 29 September 2015, in response to the draft report issued on 25 September 2015, Ms Clarkson commented that those eight receipts were not disclosed initially as they were received on behalf of another organisation in error. On reviewing the information required to be disclosed, Ms Clarkson advised that she realised that all receipts over the threshold were required to be disclosed; even if they were received in error.

After further consultation with Ms Clarkson, she agreed that the other six receipts in the table would also be required to be included in an amendment to the Entity's 2013–14 annual disclosure return. These receipts appear to have been inadvertently omitted due to a misinterpretation of the reporting requirements of the Act.

Required amendment – Part 3: Amounts of more than \$12 400 received

Received from	Address	\$ Amount
ABC	700 Harris Street Ultimo NSW 2007	19 521
Bayer Australia Ltd	875 Pacific Highway Pymble NSW 2007	35 800
Code Control Pty Ltd	Level 3 365 Queen Street Melbourne VIC 3000	20 116
Coles	L5 M1/800 Toorak Rd Hawthorn East VIC 3123	33 000
Media Super	Level 14 Casselden Place 2 Lonsdale Place Melbourne Vic 3000	89 585
Network Ten	1 Saunders St Pyrmont NSW 2009	22 000

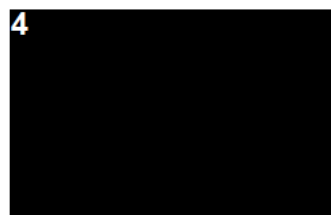
Queensland University Technology	GPO Box 2334 Brisbane QLD 4001	18 700
Special Broadcasting Services	14 Herbert St Artarmon NSW 2064	22 000
International Federation of Journalists	245 Chalmers Street Redfern NSW 2016	567 041
Eventbrite	3 rd Floor 41 Stewart Street Richmond VIC 3121	67 512
South Australian Film Corporation	226 Fullerton Road Glenside SA 5065	13 261
ME Bank	GPO Box 1345 Melbourne VIC 3001	592 000
ME Bank	GPO Box 1345 Melbourne VIC 3001	170 256
Equity Trust	245 Chalmers Street Redfern NSW 2016	620 079
Total		2 290 871

Conclusion

Based on the records examined, it is the AEC's opinion that an amendment to the Entity's 2013–14 annual disclosure return was required in order to include particulars of the additional 14 receipts identified above in compliance with the provisions of ss.314AEA(5) and 314AC of the Act.

In view of the subsequent lodgement of the amendment to the entity's 2013–14 annual disclosure return by Ms Clarkson on 2 October 2015, the AEC is now of the opinion that the return (as amended) now accurately sets out the information required to be disclosed by an associated entity under the provisions of ss.314AEA(5) and 314AC of the Act.

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Tim Courtney

A/g First Assistant Commissioner
Australian Electoral Commission

15th October 2015

Extracts from the *Commonwealth Electoral Act 1918*

314AA Interpretation

- (1) In this Division:

amount includes the value of a gift, loan or bequest.

314AEA Annual returns by associated entities

- (1) If an entity is an associated entity at any time during a financial year, the entity's financial controller must furnish a return to the Electoral Commission, in the approved form, within 16 weeks after the end of the financial year, setting out:
- (a) the total amount received by, or on behalf of, the associated entity during the financial year, together with the details required by section 314AC; and
 - (b) the total amount paid by, or on behalf of, the entity during the financial year; and
 - (c) if the entity is an associated entity at the end of the financial year—the total outstanding amount, as at the end of the financial year, of all debts incurred by, or on behalf of, the entity, together with the details required by section 314AE.
- (2) Amounts received or paid at a time when the entity was not an associated entity are not to be counted for the purposes of paragraphs (1)(a) and (b).
- (3) If any amount required to be set out under paragraph (1)(b):
- (a) was paid to or for the benefit of one or more registered political parties; and
 - (b) was paid out of funds generated from capital of the associated entity;
- the return must also set out the following details about each person who contributed to that capital after the commencement of this section:
- (c) the name and address of the person;
 - (d) the total amount of the person's contributions to that capital, up to the end of the financial year.
- (4) Subsection (3) does not apply to contributions that have been set out in a previous return under this section.
- (5) Sections 314AC and 314AE apply for the purposes of paragraphs (1)(a), (b) and (c) of this section to a return for an associated entity in the same way as they apply for the purposes of paragraphs 314AB(2)(a), (b) and (c) to a return for a registered political party.

314AC Amounts received

- (1) If the sum of all amounts received by, or on behalf of, the party from a person or organisation during a financial year is more than \$10,000, the return must include the particulars of that sum.
- Note: The dollar amount mentioned in this subsection is indexed under section 321A.
- (2) In calculating the sum, an amount of \$10,000 or less need not be counted.
- Note: The dollar amount mentioned in this subsection is indexed under section 321A.
- (3) The particulars of the sum required to be furnished under subsection (1) are the amount of the sum and:
- (a) if the sum was received from an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
 - (b) if the sum was purportedly paid out of a trust fund or out of the funds of a foundation:
 - (i) the names and addresses of the trustees of the fund or of the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or

- (ba) if the sum was received as a result of a loan—the information required to be kept under subsection 306A(3), or the name of the financial institution, as the case requires; or
- (c) in any other case—the name and address of the person or organisation.

314AE Outstanding amounts

- (1) If the sum of all outstanding debts incurred by, or on behalf of, the party to a person or an organisation during a financial year is more than \$10,000, the return must include the particulars of that sum.

Note: The dollar amount mentioned in this subsection is indexed under section 321A.

- (2) The particulars of a sum required to be furnished under subsection (1) are the amount of the sum and:
 - (a) if the sum was owed to an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
 - (b) if the sum was purportedly incurred as a debt to a trust fund or to a foundation:
 - (i) the names and addresses of the trustees of the fund or of the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or
 - (c) in any other case—the name and address of the person or organisation.

316 Investigation etc.

- (1) In this section:

authorised officer means a person authorised by the Electoral Commission under subsection (2).

prescribed person means a person whose name is included in a list in a report mentioned in subsection 17(2A).

- (2) The Electoral Commission may, by instrument in writing signed by the Electoral Commissioner on behalf of the Electoral Commission, authorize a person or a person included in a class of persons to perform duties under this section.
- (2A) An authorised officer may, for the purpose of finding out whether a prescribed person, the financial controller of an associated entity or the agent of a registered political party has complied with this Part, by notice served personally or by post on:
 - (a) the agent or any officer of the political party; or
 - (aa) the financial controller of the associated entity or any officer of the associated entity; or
 - (b) the prescribed person or, if the prescribed person is a body corporate, any of its officers; as the case may be, require the agent, financial controller, person or officer:
 - (c) to produce, within the period and in the manner specified in the notice, the documents or other things referred to in the notice; or
 - (d) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, either orally or in writing, and to produce the documents or other things referred to in the notice.

COMMONWEALTH ELECTORAL ACT 1918 – SECTION 316(2A)**NOTICE TO PRODUCE DOCUMENTS
DISCLOSURE RETURN 2013–14**

To: Ms Susan Clarkson
Director, Finance
Media Entertainment & Arts Alliance
PO Box 723
STRAWBERRY HILLS NSW 2012

I, Seema Srivastava, an authorised officer within the meaning of s.316 of the *Commonwealth Electoral Act 1918* (the Act), for the purpose of finding out whether you, as the financial controller of the Media Entertainment & Arts Alliance (the Entity), have complied with Part XX of the Act, hereby require you, pursuant to s.316(2A) of the Act, to produce the information referred to below within the period and in the manner specified in this notice.

Information to be produced in relation to Financial Year ending 30 June 2014

1. Reports from the Entity's accounting system in electronic format listed in Attachment A. (Attachment A to this notice lists the reports, the file format required and instructions on how to download and provide the data).
2. Bank statements for each bank account showing the closing balance as at 30 June 2014.
3. The working documents clearly demonstrating how the individually disclosed receipt figure/s (i.e. amounts above the threshold of \$12,400) shown in Part 3 of the Entity's 2013–14 annual disclosure return were derived.
4. Any other document or record forming part of the Entity's accounting records not covered in Attachment A but which was used in the compilation of Part 3 of the disclosure return. Wherever possible these documents and records are to be provided in electronic format.
5. A completed and signed *Document Checklist* provided at Attachment B.

Timing and manner of production

You are required to produce the documents referred to in this notice to:

Attention: Warren Kelly
Compliance Section
Funding and Disclosure Branch
Australian Electoral Commission
50 Marcus Clarke Street
CANBERRA ACT 2600

by no later than 5:00pm Tuesday 16 June 2015.

Refusal or failure to comply with this notice

It is an offence for you to refuse or fail to comply with this notice to the fullest extent capable: s.316(5) and (5A). It is also an offence to supply false or misleading evidence in purported compliance with this notice—s.316(6).

Dated: 19 May 2015

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Seema Srivastava
Assistant Commissioner
Funding and Disclosure Branch

An authorised officer for the purposes of section 316 of the Act.

Attachment A

TECHNICAL SPECIFICATION FOR COMPUTER DATA – EXCEL FORMAT

You informed us that the Entity uses *Greentree* as its financial accounting management system and that information extracted from that system will be produced in Microsoft Excel electronic format.

The steps below provide guidance on how to prepare the data in electronic format and recommend the preferred delivery methods.

Step 1: Required reports from the accounting system

- a. Trial Balance Report as at 30 June 2014
(This report is required to list the account number, account name, the applicable balance amounts for all active and inactive accounts and sub-accounts, including those with nil balances).
- b. All Receipts [Extract] of all bank accounts for the period 1 July 2013 to 30 June 2014
(This report/extract is required to list details of the account number, date, amount and particulars of all cash and cheque receipts deposited into each bank account).
- c. Bank Deposits [Extract] for all receipt amounts greater than \$12,400
(This report/extract is required to list details of the account number, date, amount and particulars of all cash and cheque receipts deposited into each bank account for deposits greater than \$12,400 for the period 1 July 2013 to 30 June 2014).

Important: Before extracting reports from the accounting system, please ensure that all fields, especially the particulars/memo/description field, are sufficiently expanded to display the full content of those fields.

Step 2: Save the extracts/reports

- a. Copy the data to CD-ROM or DVD
(We do not recommend copying the data to USB sticks/thumb drives or attaching it to email since these media are less secure)
- b. Encrypt the data.
This is an optional step, but strongly recommended by AEC.
- c. If you do not have your own encryption software:
 - save the extracts/reports in a location of your choice prior to encrypting the data (e.g. your local desktop)
 - open encryption procedure manual at <http://www.aec.gov.au/encryption>
 - follow the instructions in the encryption document which provides details of how to save, encrypt, burn and password protect the data

- d. Please ensure the password/pass-phrase used to encrypt the data is NOT transported with the CD ROM/DVD.

At the time of despatch please email the password to us at: fad@aec.gov.au
Alternatively, we will contact you to obtain the password once the data has been received.

Step 3: Deliver the data

To ensure the secure delivery of the data, it is recommended that the data is either:

- delivered by 'safe hands' courier; or
- posted via *Registered Mail*.

AEC's postal address

or

AEC's physical address

Compliance Section
Funding and Disclosure Branch
Australian Electoral Commission
PO Box 6172
KINGSTON ACT 2604

50 Marcus Clarke Street
CANBERRA ACT 2600

Enquiries: for further assistance please contact Warren Kelly on (02) 6271 4416 or by email at fad@aec.gov.au.

REDACTION CODES

- 1 Personal Information (name) redacted.
- 2 Personal Information (date of birth) redacted.
- 3 Personal Information (photograph) redacted
- 4 Personal Information (facsimile of signature) redacted.
- 5 Personal Information (facsimile of manuscript initialling) redacted.
- 6 Personal Information (Individual's address) redacted.
- 7 Personal Information (individual's telephone number) redacted.
- 8 Personal Information (individual's opinion) redacted.
- 9 Personal Information (opinion about individual) redacted.
- 10 Personal Information (employment history) redacted.
- 11 Personal Information (qualifications) redacted.
- 12 Personal Information (health) redacted.
- 13 Business information (Bank Account details) redacted.
- 14 Business information (Billing Account details) redacted.
- 15 Legal Professional Communication redacted.
- 16 Deliberative material redacted.
- 17 Irrelevant material redacted.

Released under the Freedom of Information Act 1982