

July 2025

Investigation Report

Rugby Australia Ltd

Foreword

The financial disclosure provisions contained in Part VIIIA of the *Referendum (Machinery Provisions) Act 1984* (Referendum Act) are similar to those in Part XX of the *Commonwealth Electoral Act 1918* (Electoral Act) with the common objective being to ensure disclosure. This is to enable voters to inform themselves of the financial dealings of entities engaged in the referendum and electoral process.

The Australian Electoral Commission (AEC) has a long standing practice of accepting disclosure returns at any time. Once disclosure has been achieved the AEC will generally not pursue the matter any further, as the intent of the Referendum Act or Electoral Act has, in the AEC's view, been achieved.

Disclosure of referendum expenditure and gifts

Under section 109E of the Referendum Act, a person or entity who was a *referendum entity* at any time during the *referendum expenditure period*, must provide a return to the AEC setting out:

- total *referendum expenditure* incurred;
- the total value of donations received for referendum campaigning;
- the total number of donors;
- details of donations received from a single source that total more than the disclosure threshold; and
- a signed statement of compliance with foreign donations restrictions.

The return must be provided to the AEC before the end of 15 weeks after the voting day for the referendum. It is an offence to fail to lodge a return.

In relation to the 2023 Referendum (Indigenous Voice to Parliament):

- a *referendum entity* is any person or entity who incurred *referendum expenditure* over the disclosure threshold (\$15,200) within the *referendum expenditure period* 11 March 2023 – 14 October 2023.
- The due date that returns must be provided to the AEC was 29 January 2024.
- *Referendum matter* is matter communicated or intended to be communicated for the dominant purpose of influencing voters in a referendum.
- *Referendum expenditure* is expenditure incurred for the dominant purpose of creating or communicating referendum matter.

The matter

Whether the entity known as Rugby Australia Ltd – ACN: 002 898 544 (Rugby Australia), for the purposes of Part VIIIA of the Referendum Act, was a referendum entity for the 2023 Referendum and therefore has an obligation to lodge a disclosure return in accordance with s 109E of the Referendum Act.

When and how the matter was raised

The matter was identified by the AEC through routine media monitoring processes in May 2023. Rugby Australia had published a full-page advertisement in both The Sydney Morning Herald and The Australian Financial Review endorsing the Indigenous Voice to Parliament (the advertisements). Rugby Australia did not lodge a disclosure return by the prescribed due date of 29 January 2024.

Why the investigation was conducted

The referendum expenditure incurred by Rugby Australia was estimated to be close to, or in excess of, the \$15,200 disclosure threshold defining referendum entities. In relation to the 2023 Referendum, the failure of a referendum entity to lodge a return on or before 29 January 2024 may amount to a contravention of s 109E of the Referendum Act.

Legislation

Part VIIIA of the *Referendum (Machinery Provisions) Act 1984*.

AEC process

The AEC considered information from the following sources:

- The advertisements
- Media articles
- Information on Rugby Australia's website
- Emails sent from Rugby Australia to the AEC in response to informal enquires by the AEC
- Company information purchased through the Australian Securities and Investment Commission website
- Information and documents received from Rugby Australia in response to a notice issued by a delegate of the Electoral Commissioner under s 109N of the Referendum Act
- Information and documents received from Nine Entertainment Co. Pty Ltd in response to a notice issued by a delegate of the Electoral Commissioner under s 109N of the Referendum Act.

Considerations

Disclosures required under Part VIIIA of the Referendum Act underpin the integrity of the Commonwealth referendum process and provides transparency to voters.

Section 109N of the Referendum Act permits the Electoral Commissioner, where the AEC has reason to believe that a person has information or a document that is relevant to assessing compliance with Part VIIIA of the Referendum Act, by written notice, to require the production of any such information or documents by that person.

A delegate of the Electoral Commissioner issued notices to the company secretary of the following entities requiring the production of documents and information relating to the advertisements:

- Rugby Australia Ltd – dated 3 June 2024
- Nine Entertainment Co. Pty Ltd – dated 18 November 2024

In the interests of natural justice, persons responding to the s 109N notices and any other further queries were provided a reasonable period of time to provide a response.

Returns lodged during the investigation

On 30 September 2024 Rugby Australia lodged a referendum entity return disclosing total referendum expenditure of \$22,000. The return was amended on 23 January 2025 to correct the omission of \$11,000 in total gifts received for referendum campaigning from one donor.

Conclusion

Based on the evidence gathered during the course of the investigation, the AEC has concluded that the disclosure return lodged by Rugby Australia (as amended on 23 January 2025) provides the relevant disclosure in the context of the requirements of Part VIIIA of the Referendum Act.

The AEC has decided in this case that it will not be seeking pecuniary penalties for Rugby Australia's non-compliance with the disclosure requirements, nor will it be taking further enforcement action. Rugby Australia has not engaged in political activity of this nature in the past, and appears unlikely to do so in the future. The fact that Rugby Australia has now lodged an accurate return and disclosure has been achieved has also been taken into account.

A warning letter in relation to non-compliance has been issued, and the AEC considers that Rugby Australia is on notice about its obligations to lodge disclosure returns if campaigning in future electoral or referendum events.

This matter is considered closed.