

Submission to the
Joint Standing Committee on
Electoral Matters
Inquiry into and report on all aspects of
the conduct of the 2013 Federal
Election and matters related thereto

Pirate Party Australia

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Introduction

Pirate Party Australia thanks the Joint Standing Committee on Electoral Matters for the opportunity to submit to the inquiry into the 2013 Federal Election. The Pirate Party has advocated a range of electoral reforms for the Senate in this submission which will make elections fairer, more efficient, and the outcomes more certain.

About Pirate Party Australia

Pirate Party Australia is a political party registered under the *Commonwealth Electoral Act 1918* since January 2013. The Pirate Party campaigns for intellectual property reform, civil liberties and governmental transparency. Globally, Pirate Parties have been elected to all levels of government, including two Members of the European Parliament, three Members of the Icelandic Parliament, 45 state seats in Germany, and many local government positions.

1 Issues

There are limited mechanisms for gaining political traction in Australia due to a number of issues:

- The system itself has limited representation available.
- The cost of running an election campaign is extremely high.
- Minor parties have limited access to major funding streams such as corporations or unions.

1.1 Group voting tickets (GVTs)

The exploitation of the GVT system by micro-parties is a symptom of the larger problem of disproportionate representation in the current Senate system. Due to the fact that the amount of seats available in the Senate is divided into state and territory electorates, the threshold for attaining even a single seat is approximately 14%, which is a very onerous threshold for small and emerging parties to meet. As it is virtually impossible to meet the 14% threshold on primary votes alone, the GVT is an attractive option for smaller parties to accumulate the quota needed.

1.2 High cost of campaigns

Pirate Party Australia, as an example, is fully funded by contributions from the public and members. The Pirate Party used the crowdfunding website Pozible to raise \$10,000 for its WA Senate election campaign. It is, however, very difficult to manage even a very small campaign with less than \$100,000 due to the very limited availability of discussion platforms such as candidate debates or television airtime.

Australia is not a single-party state, and therefore all registered parties should be treated equally and fairly.

2 Recommendations

Pirate Party Australia makes the following recommendations:

2.1 Introduce a “no candidate” box for all ballots

By introducing the ability for the voter to truly express their wishes, the nation can finally statistically determine how many voters made an active decision to spoil their ballot, as opposed to accidentally creating an informal vote through filling out their ballot incorrectly.

If this box is placed as the very first group on the Senate ballot, it may also assist in lowering the impact of the donkey vote, as, if a voter fills the boxes from left to right, the very first box is the one that annuls their vote.

2.1.1 Alternative: Introduce a variant of Robson Rotation or similar shuffling technique for ballots

Another mechanism traditionally used in Australia for lowering the propensity for the donkey vote to have any impact is Robson Rotation. This introduces difficulty however, as traditionally elections that use Robson Rotation do not have “above the line” voting and therefore do not have to answer the question of whether an above the line vote follows the candidate order as defined in a Group Voting Ticket or whether it follows the printed ballot. In a situation where the above the line votes are not GVT-based and follow optional preferential, a similar question is raised.

Pirate Party Australia believes that implementing the prior recommendation of a “no candidate” box is less onerous both economically and logically.

2.1.2 Alternative: Utilise an electronic vote-creation mechanism to implement fair Robson Rotation

Electronic voting has been implemented in countries like the United States, where the fully electronic, non-verifiable, closed-source nature of the voting machines has caused contention and called the legitimacy of elections into question.

By contrast, we propose utilising open-source, accessible machines to help voters enter their votes. Once a vote is entered and accepted as valid by the voter, a human-readable, and also computer readable, ballot would be produced.

The purpose of this, outside of any other reasons for adopting any form of electronic voting, is to allow the columns of candidates to be selected randomly for each individual ballot, rather than relying on a printing mechanism that makes the Robson Rotation, mentioned earlier, only a half measure towards removing the bias due to ordering.

2.2 Conditionally abolish the Group Voting Ticket (GVT) and replace with optional preferential voting

The GVT is an anomalous and opaque quirk of the Australian electoral system that in the Pirate Party’s opinion should be abolished *only* if other concessions are made to allow legitimate minor parties to have their voice heard and be given a real chance of gaining a seat in an election.

The fact that preference harvesting is an issue in the Australian political landscape demonstrates the difficulty that minor parties face when contesting elections. The high thresholds for election to the Senate encourage parties to preference one another in order to gain a tactical advantage rather than to promote the election of candidates that reflect the positions of those parties. This causes general voter disaffection when a candidate is elected with minimal actual voter support.

Pirate Party Australia advocates the replacement of the GVT system with optional preferential voting which will firstly empower voters to determine their own preferences (unlike “above the line” voting currently), and secondly not require them to number each candidate (unlike “below the line” voting currently).

This optional, preferential system could be implemented as a mix of above the line and below the line voting, where a number above the line translates into several votes below the line, at the same number and decided in order. For example:

Party A (5)	Party B (1)	Party C	Party D
Cand A.a	Cand B.a	Cand C.a (3)	Cand D.a (6)
Cand A.b	Cand B.b	Cand C.b (2)	Cand D.b
Cand A.c	Cand B.c	Cand C.c (4)	Cand D.c

This would expand out to:

1. B.a,
2. B.b,
3. B.c,
4. C.b,
5. C.a,
6. C.c,
7. A.a,
8. A.b,
9. A.c,
10. D.a,
11. (no more preferences)

Some minimum amount of preferences might be mandated, however that could be counter-productive. A voter who might otherwise spoil their vote should be able to vote for just the candidates they would accept, without being forced to choose an ordering for candidates who they find equally distasteful.

However, if no minimum number of preferences is required, one may reintroduce a problem that STV was invented to solve, which is unnecessary and expensive run-off elections to resolve deadlocks.

2.3 Provide equal advertising time for all registered parties

A minimum amount of advertising time and space, across multiple media, should be guaranteed. This direct government assistance would have several benefits:

1. All parties would be able to focus on communicating their policies, rather than raising funds.
2. In reducing the reliance of political parties on donations, legitimate civil interests, as opposed to opportunistic, corporate interests will become relatively better represented.

3. Australia would be seen world-wide as a country that considers the right to political communication as a positive right, to be encouraged, rather than merely as a right that protects the people from government interference.

2.4 Cap on electoral spending and fairer funding model

The funding model for parties, post-election is currently to pay them a set amount per first preference vote they receive, once an initial threshold is reached. This is counter to the preferential system we have devised.

The Pirate Party proposes the removal of the 4% funding threshold and instead providing funding according to how many first preference votes are achieved, with a mathematically reduced amount (perhaps halved) for each subsequent preference vote. These payments would not have a minimum threshold.

The mechanism that is being suggested here is to ensure anyone whose policies are good enough to be taken seriously by even a relatively small section of the electorate (considerably less than 4%) will be able to recoup a significant amount of their expenses.

The Party also recommends a cap on overall spending on an election to alleviate a growing trend towards American-style elections where only the very wealthy are able to reasonably contest an election.

2.5 Allow the use of images in lieu of party abbreviations on ballots

Many voters confused the Liberal Democrats for the Liberals in NSW. Trying to institute legislation to control which words may and may not appear in the names of parties is fraught with danger and is ultimately censorship.

A better option that solves the problem is allowing each party to provide a small but legible image to be placed next to each candidate and/or above the line. In this way, the Liberals can provide a small version of their logo which all of their voters should be easily able to recognise at a glance, lowering the possibility of confusion.

If the electronic vote-creation system suggested earlier were to be adopted, then this suggestion would be trivial to implement.

2.6 Release the Senate counting software 'EasyCount' into the public domain

As per s 273a of the *Electoral Act*, Senate elections can be counted by computer systems. The software used to determine the results of these important elections is not available for public scrutiny, and as such, puts the legitimacy of our electoral system at risk.

When a concerned member of the public made a freedom of information request to the AEC to request access to the source code, they were informed that the code was exempt as a trade secret and 'commercially valuable information'.¹ This is a slap in the face to rational supporters of an open and transparent democracy where one can be certain that their vote is being counted accurately.

The transparency argument notwithstanding, this leads to an unfair market issue. The AEC argues that by providing the source code, they would be limiting their profitability as others could use their software for the purpose of running their own services.

The software was created on behalf of the taxpayer using taxpayer dollars, so it is owned by the state, and therefore its people. The source code is entirely owned by the AEC by their own admission, so there are no third-party copyright issues to consider for the release of this source code.

A taxpayer funded vote counting service being used for commercial gain gives the state an unfair advantage in the electoral services market.

There is a significant public interest argument for the release of the EasyCount source code into the public domain for the purposes of public scrutiny and utility.

2.7 Remove requirement to list place of printing from electoral materials

The requirement to have a printer address on each piece of electoral material that may be printed poses a problem for a modern, digital political party that wishes to distribute their assets in a decentralised manner and allow people to print and distribute them however they choose.

It also poses a privacy issue. If one chooses to print a flyer at their place of living, they are now required to publish a printing address.

¹https://www.righttoknow.org.au/request/software_by_which_senate_counts

Where an electoral material is printed is simply not relevant to fair elections and adds a pointless piece of bureaucracy to an already complex Electoral Act.

2.8 Empower an independent statutory body to handle future inquiries into electoral matters

It is difficult to believe that all of our recommendations will be accepted in good faith, given the conflict of interest present due to the fact that those considering the recommendations may be the ones who are potentially better off supporting the status quo.

For this reason, we recommend that future inquiries into electoral matters be handled by an independent statutory authority, such as the Australian Law Reform Commission.