

November 2024

Referendum Compliance Review Report

Qantas Airways Limited

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Purpose of this report

The referendum disclosure scheme is established under Part VIIIA of the *Referendum (Machinery Provisions) Act 1984* (Referendum Act).

Qantas Airways Limited (Qantas) lodged both a referendum entity and a referendum organisation donor disclosure return.

Pursuant to s 109N(2) of the Referendum Act, this report provides the relevant person of Qantas with the Australian Electoral Commission's (AEC) assessment of the level of compliance of the 2023 referendum entity and referendum donor disclosure returns lodged on behalf of Qantas with disclosure obligations under Part VIIIA of the Referendum Act, specifically sections 109E, 109F and 109G.

Disclosure obligations

A person or entity (relevant person) must provide a disclosure return if the person or entity incurred referendum expenditure during a referendum expenditure period that exceeds the disclosure threshold.

Subsection 109E(4) of the Referendum Act requires referendum entities to furnish a return within 15 weeks after the voting day for the referendum.

The return must disclose:

- Referendum expenditure (s 109E of the Referendum Act)
 - total referendum expenditure incurred greater than the disclosure threshold.
- Donations received (s 109F of the Referendum Act)
 - total value of donations received to incur or reimburse for referendum expenditure;
 - total number of donors providing donations to incur or reimburse for referendum expenditure; and
 - details of donations received totalling more than the disclosure threshold and used (wholly or partly) to incur or reimburse for referendum expenditure.

A donor must provide a disclosure return if the donor made one or more donations totalling more than \$15,200 to a referendum entity during the referendum period, and they intend for the donation to be used for the dominant purpose of incurring referendum expenditure or creating or communicating referendum matter.

Subsection 109G of the Referendum Act requires donors to furnish a return within 15 weeks after the end of the referendum expenditure period.

The return must disclose:

- details of donations made to a referendum entity totalling more than the disclosure threshold during the referendum expenditure period.

For the 2023 referendum, the disclosure threshold was for sums in excess of \$15,200.

Section 109J of the Referendum Act restricts referendum entities from receiving gifts from foreign donors. This section further restricts gifts from foreign donors to referendum entities for the purpose of incurring referendum expenditure.

The Referendum (Machinery Provisions) Act is available in full [here](#).

Conduct of the review

A delegate of the Electoral Commissioner has authority under s 109N(2) to require the production of information and documents for the purpose of assessing compliance with the disclosure obligations required of referendum entities under Part VIIIA of the Referendum Act.

Subsection 109N(2) of the Referendum Act permits the Electoral Commissioner to require the person to give to the Commissioner, within the period and in the manner and form specified in the notice any such information or documents for the purposes of considering whether the disclosure obligations under the Referendum Act have been complied with.

As part of this process, a delegate of the Electoral Commissioner of the AEC served a notice on the senior legal counsel (relevant person) of the referendum entity under s 109N(2) requiring the referendum entity to provide its financial records and other documents in relation to its financial operations relevant to the 2023 referendum.

Scope of the review

The records which were requested by the AEC from Qantas were limited to those which enabled the AEC to assess the following aspects of compliance with its disclosure obligations under Part VIIIA of the Referendum Act:

- the timeliness of lodgement of the disclosure return.
- that Qantas has not received foreign donations restricted by s 109J of the Referendum Act.
- the completeness and accuracy of the following information disclosed in Qantas' disclosure returns for the 2023 referendum:
 - total referendum expenditure
 - donations received totalling more than the disclosure threshold used for referendum campaigning
 - total number of donors

- details of donations received from a single source that total more than \$15,200
- details of donations made to a referendum entity totalling more than \$15,200

With exception to assessing the controls in place to identify and appropriately manage potential donations received from foreign donors, the AEC did not examine other aspects of the financial operations of Qantas such as the existence or effectiveness of internal controls.

Stakeholder engagement

The AEC's general practice is to communicate with the relevant person of the referendum entity by phone, email and/or face to face meetings as appropriate to cover the following topics:

- financial reports and documentation available from the referendum entity's accounting system
- compliance issues arising from the AEC review of the financial reports and documentation provided by the referendum entity
- required and suggested amendments to the referendum disclosure return which arise from the compliance review
- potential enhancements in the referendum entity's understanding of disclosure obligations and accounting processes to improve future compliance.

During the review, Qantas provided documentation to the AEC as requested and within set timeframes.

A draft compliance review report was issued by a delegate of the Electoral Commissioner at the AEC on 1 November 2024. Qantas was provided with an opportunity to comment on the draft report by 15 November 2024. No comment was provided, and a request for amendment was lodged on 7 November 2024.

Review outcomes

1. Timely lodgement

Subsection 109E(4) of the Referendum Act requires the referendum entity to lodge a disclosure return with the AEC within 15 weeks after the voting day for the 2023 referendum. Subsection 109G(2) of the Referendum Act requires the referendum donor to lodge a disclosure return with the AEC within 15 weeks after the end of the referendum expenditure period. As lodgement for both disclosure returns occurred on the due date of 29 January 2024, the returns complied with the requirements under ss 109E(4) and 109G(2) to lodge a return for the referendum entity within 15 weeks after voting day, and for the referendum donor within 15 weeks after the end of the referendum expenditure period.

2. Foreign donations

Under s 109J of the Referendum Act, referendum entities are restricted from:

- Receiving gifts of \$100 or more where:
 - the recipient knows the donor is a foreign donor; and
 - the recipient knows that the foreign donor intends the gift to be used to incur referendum expenditure, or for the dominant purpose of creating or communicating referendum matter.

If a referendum entity receives a donation from a foreign donor in contravention of the restrictions in the Referendum Act, the Referendum Act provides six weeks from the gift being made for it, or an equivalent amount, to be returned to the donor or transferred to the Commonwealth.

Enquiries were made of Qantas to determine if effective controls exist to ensure foreign donations are identified and treated correctly for the purposes of this division. After examining the information provided by Qantas for the review, the delegate of the Electoral Commissioner at the AEC identified no issues relating to compliance with foreign donation provisions under s 109J of the Referendum Act. Further, there were no foreign donations in contravention of the Referendum Act in the 2023 referendum disclosure return.

3. Accuracy in reporting – amendments

After examining the documents provided by Qantas for the review, a delegate of the Electoral Commissioner at the AEC identified one issue relating to compliance with disclosure obligations under s 109E of the Referendum Act. The issue is discussed in detail below.

Total Referendum Expenditure

Section 109E of the Referendum Act requires a referendum entity to disclose the total amount of referendum expenditure incurred by or with the authority of the relevant person during the 2023 referendum expenditure period. An amendment to total referendum expenditure is required in order to ensure compliance with the Referendum Act. The relevant amendment is set out below.

Part 1: Total Referendum Expenditure – amendment	
Total disclosed in return	\$107,296
Amended total	\$68,885

Conclusion

A delegate of the Electoral Commissioner for the purposes of s 109N(2) of the Referendum Act has assessed the 2023 referendum disclosure return for Qantas lodged with the AEC on 29 November 2024 complied with the requirement under s 109E(4) and s 109G of the Referendum Act to lodge a return for the referendum entity and referendum donor within 15 weeks after the voting day for the referendum.

However, in view of the discrepancies identified, Qantas did not comply with the provisions of s 109E of the Referendum Act.

In view of the lodgement on 7 November 2024, of an amendment to Qantas' 2023 referendum disclosure return, a delegate of the Electoral Commissioner of the AEC has assessed that the disclosure return (as amended) accurately includes the information required to be disclosed under the provisions of s 109E of the Referendum Act.

The delegate has assessed Qantas' compliance with foreign donation requirements under s 109J of the Referendum Act in relation to the 2023 referendum. No issues have been identified.

Joanne Reid
Assistant Commissioner
Australian Electoral Commission
22 November 2024