



DISCLOSURE HANDBOOK

for

BROADCASTERS & PUBLISHERS

NT ELECTORAL COMMISSION OFFICES

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NTEC – Summary of disclosure provisions as at March 2016

As at June 2012 no political funding is provided for in the NT. Certain groups and individuals must disclose as outlined below.

Note: disclosure amounts are inclusive of GST. The onus is on the person disclosing to get it right.

Who reports?	What is reported?	Reporting period/due date for lodgement
Candidates	<ul style="list-style-type: none"> • Details of each gift ≥\$200 • All persons/organisations making gifts • Loans of ≥\$1500 • Details of all expenditures by category 	<p><i>Independent candidate</i> – commences day candidature announced or day nominated, whichever is the earlier</p> <p><i>Newly endorsed party candidate</i> – commences from the date of endorsement</p> <p><i>Candidate from the previous election nominating again</i> – commences 30 days after the previous polling day</p> <p>Ends 30 days after polling day</p> <p>Due date - within 15 weeks of polling day</p>
Registered political parties	<ul style="list-style-type: none"> • Total amounts received and paid during year • Loans by individual persons or parties of ≥\$1500 • In-kind gifts of goods, assets and services <p>Anonymous donations of ≥\$1000 & loans ≥\$1500 are illegal</p>	<p>Due date - 16 weeks after financial year end</p> <p>Public inspection is available from 1 March following the due date at NTEC office/on website</p>
Associated entities	<ul style="list-style-type: none"> • Total amounts received and paid during year. • From whom or on whose behalf payments of ≥\$1500 were received • From whom or on whose behalf liabilities totalling ≥\$1500 were incurred <p>Organisation/individual contributing capital and the amount</p>	<p>Reporting is by financial year (July – June)</p> <p>Due date - 16 weeks after end financial year</p> <p>Public inspection is available from 1 March following the due date at NTEC office/on website</p>
Donors to parties and candidates	<p>Donations outside elections:</p> <ul style="list-style-type: none"> • Direct or indirect donations of ≥\$1500 • Donations of ≥\$1000 used in whole or part to make party donations of ≥\$1500 <p>Donations during the election period:</p> <ul style="list-style-type: none"> • Donations totalling ≥\$200 to a candidate or ≥\$1000 to parties and other organisations. 	<p>Annual returns – lodged within 20 weeks after the end of the financial year where total donations are \$1500 or more.</p> <p>Election returns - by 15 weeks after polling day</p>
Broadcasters and Publishers	<ul style="list-style-type: none"> • Details of all electoral advertisement broadcast and published • Free/below-market rate ads are classified as donations requiring separate reporting if valued at >\$1000. 	<p>8 weeks after polling day</p>

Note: Forms and handbooks are available on the NTEC website. For advice phone 8999 5000

1 INTRODUCTION

1.1 Purpose

This handbook is intended as a reference for broadcasters and publishers on the financial disclosure provisions of the Northern Territory *Electoral Act 2004*. While it refers to different aspects of the disclosure scheme, the provisions of the Act are the final authority.

1.2 Background

The disclosure scheme was introduced in the 2004 amendments to the *Electoral Act*. As from 1 July 2004, broadcasters and publishers are required to disclose electoral advertisements (see Glossary) which they run at the time of Northern Territory Legislative Assembly elections.

Essential features of the scheme are:

- broadcasters and publishers must lodge returns listing details of electoral advertisements following a Northern Territory Legislative Assembly election
- separate returns must be completed for each station or publication within the group
- in addition to campaign advertisements for political parties and candidates, advertisements placed by government agencies and persons who, while not directly seeking election themselves, comment on the election, also need to be disclosed
- publishers do not need to lodge returns where their charges for electoral advertisements do not total more than \$1000 and
- returns do **not** need to be completed for the Northern Territory Electoral Commission (NTEC) for federal and local government elections.

1.3 Advice

Information and advice may be available from the NTEC:

Northern Territory Electoral Commission
GPO Box 2419
Darwin NT 0801

Phone enquiries: (08) 8999 5000 or 1800 **MYVOTE**

Fax enquiries: (08) 8999 7630

E-mail enquiries: ntec@nt.gov.au

Note: The NTEC does not offer legal advice. If you have any doubts concerning compliance issues, it is recommended that you obtain private legal advice.

2 ELECTORAL ADVERTISEMENTS

2.1 Period covered

- Electoral advertisements broadcast or published during the election period from the issue of the writ until the return of the writ must be disclosed, irrespective of when the booking or payment for the advertisement was made.

Example:

- If an advertisement is run during the election period, the charge made for it must be included in the return even where that advertising had been booked and paid for prior to the election period.

2.2 Electoral advertisements

As well as advertisements placed on behalf of political parties and candidates campaigning for election to the Northern Territory Legislative Assembly, advertisements placed by others may also need to be disclosed where they are commenting on an election issue, parties or candidates. Where a person or organisation runs an advertisement stating their position on an election issue and/or advocating that electors vote in a certain manner, then this also is an electoral advertisement which must be disclosed on the return form.

An electoral advertisement means an advertisement containing electoral matter whether or not consideration was given for its publication or broadcast. Electoral matter is matter that is intended or likely to affect voting at an election. A guide on what does and does not constitute electoral advertisements is given below. If, however, you are unsure as to whether an advertisement should be disclosed, please contact the NTEC at the address listed in the introduction to this handbook. Advertisements placed by government agencies will need to be disclosed if they contain electoral matter.

Advertisements which *MUST be disclosed* on the return form include:

- campaign advertisements by political parties and candidates
- advertisements by other persons or organisations directly or indirectly advocating a vote for a political party or a candidate
- advertisements by persons or organisations promoting a point of view on a topic that is an election issue:

Examples:

- a group of medical professionals commenting on health policies
- a union or employer organisation commenting on industrial relations policies
- a group promoting a policy on environmental matters even where it is not the same as the platform of any political party contesting the election;
- election news items, policy speeches etc for which payment to broadcast or publish is received.

Advertisements and other items which are not required to be disclosed in the return form to the NTEC include:

- normal editorials, feature articles and news items
- broadcasting and reporting of campaign launches and policy statements
- advertisements relating to a federal or local government election and
- advertisements placed by the NTEC.

2.3 Summary of reporting obligations for broadcasters and publishers

What is reported?

Broadcasters and publishers must lodge a return for each TV/radio station listing:

- Details of all electoral advertisement broadcast during a Legislative Assembly election and by-election
- Details of all electoral advertisements published during a Legislative Assembly election and by-election

Details of advertisements for parties or candidates broadcast or published at no charge or below commercial rates are regarded as donations and separate reporting is required.

Reporting period/due date for lodgement

Return is due eight **(8) weeks after polling day.**

NOTE: A return is not required if the total for all advertisements broadcast or published is less than \$1000

The return should show sufficient information regarding each ad placement to allow NTEC to follow up for checking back against candidate and party returns.

3 BROADCASTERS

3.1 Disclosure obligations

A return for each separate television and/or radio station listing details of all electoral advertisements broadcast during a Legislative Assembly election period must be lodged with the NTEC following territory elections and by-elections.

A return does not need to be lodged if no electoral advertisements were broadcast or they were only broadcast as part of a re-broadcasting or re-transmission license. In such instances the NTEC would nevertheless appreciate advice that the station does not have any outstanding disclosure obligation. This will prevent unnecessary follow up action by the NTEC.

3.2 Responsibility for lodging the return

An appropriate person within the business is required to sign and date a declaration that the information disclosed in the return and any attachment is true and complete. This would normally be the person holding a position equivalent to the General Manager or Advertising Manager.

There may be cases where, after all reasonable attempts, the person responsible for lodging the return is unable to obtain all the necessary information. In such cases, the return, when lodged, needs to be accompanied by a statement setting out:

- what information may be missing
- what attempts were made to gain that information and
- why it could not be obtained and
- the name, address and phone number of each person who is believed to hold that information.

The NTEC will then seek that information directly.

3.3 Completing the return

A separate return must be completed for each television and radio station owned by the business. A consolidated return for the broadcasting group as a whole cannot be accepted. Where charges for advertisements are made on a group basis, these must be apportioned to each station within the group.

Details requested on the return must be provided in full for each electoral advertisement broadcast over the election period. The option exists for broadcasters to attach time sheets and schedules to the return. If this option is taken, the information in column 1 should be cross referenced with the attachment to the return thereby removing the need to list broadcast dates and times in columns 4 and 5.

Details required are listed in the table below:

Column No.	Details required
1	The identification number of each advertisement as a cross reference to time sheets/schedules (where attached)
2	The name of the person or organisation who placed the advertisement (e.g. this would often be an advertising agency but may also be the candidate, a campaign worker, a party official or employee)
3	The name and full contact address of the person or organisation on whose behalf the advertisement was placed (e.g. the political party, candidate or other participant in the election campaign)
4	The dates on which the advertisement was broadcast
5	The time period(s) between which the advertisement was broadcast (e.g. 9am to 12 noon, 4pm to 6pm, 24 hour)
6	The price charged for each advertisement and
7	Whether the price charged was made in line with normal commercial practice (<i>discounts given for bulk bookings, pre-bookings and to regular customers are considered to be normal commercial practice, however, discounts which were not given strictly on commercial grounds may need to be separately disclosed as election donations</i>)

3.4 Advertisements broadcast at less than normal commercial rate

Broadcasting advertisements for political parties or candidates at no charge or at a rate below what would have applied on purely commercial grounds is a political donation. Donations totalling \$200 or more to a candidate at an election or \$1500 or more to a political party in a financial year must be separately disclosed.

Please contact the NTEC at the address shown in the introduction to this handbook if you have made donations to candidates or political parties. You will be forwarded the appropriate handbook and donor return form.

3.5 Deadline for lodging the return

The return must reach the NTEC's Darwin office within **8 weeks** after polling day.

4 PUBLISHERS

4.1 Disclosure obligations

A return for each separate publication listing details of all electoral advertisements published during a Legislative Assembly election period must be lodged with the NTEC following Territory elections and by-elections.

A return does not need to be lodged if the total charges for the publication for electoral advertisements are less than \$1000. In such instances the NTEC would nevertheless appreciate advice that there are no disclosure obligations to prevent unnecessary follow up action.

4.2 Responsibility for lodging the return

An appropriate person within the business is required to sign and date a declaration that the information disclosed in the return and any attachment is true and complete. This would normally be the person holding a position equivalent to the General Manager or Advertising Manager.

There may be cases where, after all reasonable attempts, the person responsible for lodging the return is unable to obtain all the necessary information. In such cases, the return, when lodged, needs to be accompanied by a statement setting out:

- what information may be missing
- what attempts were made to gain that information and
- why it could not be obtained and
- the name, address and phone number of each person who is believed to hold that information.

The NTEC will then seek that information directly.

4.3 Completing the return

Complete a separate return for each newspaper, magazine and journal published by the business. A consolidated return for the publishing group as a whole cannot be accepted. Apportion charges for advertisements made on a group basis to each publication within the group.

Show the following details in full for each electoral advertisement published during the election period:

Column No.	Details required
1	The name of the person or organisation who placed the advertisement (e.g. often an advertising agency but may also be the candidate, a campaign worker, a party official or employee)
2	The name and full contact address of the person or organisation on whose behalf the advertisement was placed (e.g. the political party, candidate or other participant in the election campaign)
3	Each date on which the advertisement was published
4	The page number upon which the advertisement appeared on each occasion
5	The space occupied by the advertisement each time it appeared in the journal (e.g. column dimensions, full page, ½ page)
6	The price charged for each advertisement
7	Indicate whether the price charged was made in line with normal commercial practice (<i>discounts given for bulk placement, pre-bookings and to regular customers are considered to be normal commercial practice; discounts which were not given on strict commercial grounds may need to be disclosed as election donations</i>).

4.4 Advertisements published at less than normal commercial rate

Publishing advertisements for political parties or candidates at no charge or at a rate below what would have applied on purely commercial grounds is a political donation. Donations totalling \$200 or more to a candidate at an election or \$1500 or more to a political party in a financial year must be separately disclosed.

Please contact the NTEC at the address shown in the introduction to this handbook if you have made donations to candidates or political parties. You will be forwarded the appropriate handbook and donor return form.

4.5 Rate cards

Publishers may attach to the return an advertising rate card covering the election period.

4.6 Deadline for lodging the return

The return must reach the NTEC's Darwin office within **8 weeks** after polling day.

5 GENERAL

5.1 Record keeping

The principle of disclosure requires minimum standards of record keeping so as to enable the return to be completed accurately. Broadcasters and publishers need to maintain records of the relevant details plus adequate documentation concerning the placement of all electoral advertisements in order for the return to be properly completed.

The Act requires that these records must then be retained for a minimum period of **four years** from polling day for the election concerned.

5.2 Public inspection of election returns

There is a range of financial disclosure returns that must be lodged with the NTEC under the provisions of the Act after an election. Returns must be completed by candidates, broadcasters and publishers and other participants in the election. These returns, including broadcaster and publisher returns, become available for public inspection at the NTEC's Darwin office at the start of the 25th week after polling day.

Copies of returns are available from the NTEC's Darwin office and on the NTEC website upon payment of the fee determined by the NTEC. Please check to confirm current pricing and availability.

6 OFFENCES

The Act contains penalty provisions for offences against the disclosure provisions. These penalties are available (through the courts) to the NTEC where other reasonable avenues to resolve matters have been exhausted. The offences include:

Offence	Penalties	
	Natural person	Body corporate
Failure to lodge a disclosure return by the due date	200 penalty units or 12 months imprisonment	1000 penalty units
Lodging an incomplete disclosure return		
Including false or misleading information in a disclosure return		
Providing false or misleading information to an agent for inclusion in a disclosure return		
Failure to retain records for 4 years from polling day		
Contravening an investigation notice without a reasonable excuse		
Knowingly providing false or misleading information in relation to an investigation		

Note: There is an annual review of the monetary value of the penalty unit – *Penalty Units Act 2009* refers.

GLOSSARY

Term	Description
Broadcaster	The ABC, SBS and any holder of a licence within the meaning of the <i>Broadcasting Services Act 1992</i> or a provider of a broadcasting service under a class licence under that Act.
Candidate	A person standing for election to the NT Legislative Assembly.
Donation (gift)	A disposition of property or provision of a service for which no payment, or an inadequate payment, is made. For example, a discount given on an electoral advertisement which was not made on commercial grounds would be considered a donation. Donations of \$200 or more to a candidate or \$1500 or more to a political party must be disclosed to the NTEC on the appropriate return.
Election period	The period from the issue of the writ to the return of the writ inclusive. Electoral advertisements broadcast or published during the election period must be disclosed in a return lodged with the NTEC.
Electoral advertisement	An advertisement which is intended or likely to affect voting in an election. It includes campaign advertisements run during the election period for political parties and candidates plus advertisements run by persons or organisations stating their position on an election issue and/or advocating that electors vote in a certain manner. Electoral advertisements must be disclosed in a return lodged with the NTEC. Advertising by government agencies that contains electoral matter must also be disclosed. See Part 2.2 of this handbook for examples of electoral advertisements.
Electoral matter	Matter that is in printed or electronic form that is intended or likely to affect voting at an election. It includes but is not limited to matter that contains an express or implicit reference or comment on the election, the performance of the Government or the opposition, the performance of an MLA or former MLA, the performance of a political party in the election or an issue submitted to, or otherwise before, the electors in relation to the election.
Journal	A newspaper, magazine or other periodical, whether published for sale or distribution without charge.

Term	Description
Public inspection	Copies of all election disclosure returns become available for inspection by the public at the NTEC's Darwin office at the start of the 25th week after polling day.
Political party	A political party registered with the NTEC.
Return form	A form in which a person with a disclosure obligation sets out the information required to be disclosed. For example, the Act requires that disclosures of electoral advertisements be made on the prescribed form. Forms to be used by broadcasters and publishers are available from the NTEC; examples are provided in this handbook and can be downloaded from the NTEC's website.