Election donations: lessons from the US

It might seem an unlikely place to go for advice, but the US disclosure system is more transparent and much more timely than Australia’s, writes Brian Costar

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IN THE New York Times this week journalists Michael Luo and Griff Palmer gave us [1] an insight into the fundraising feats of Barack Obama and John McCain as we head into the last few weeks of the presidential campaign.

All the wonder, of course, has been at the huge sums that Senator Obama has been able to raise over the internet from small donors. What Luo and Griff point out, however, is that both candidates are receiving healthy amounts of cash in large donations.

The most generous donors to both sides come from within the securities and investment industries. (Haven’t they just gone bust?) Senator McCain gets most of the rest of his war chest from the real estate and gas and fuel industries, whereas Obama does best from lawyers, retirees and the entertainment industry. “Gordon V. Smith, a Maryland home builder, and his wife, Helen, gave $67,800 each to Mr McCain this year and attended a fund-raiser at the Ritz-Carlton in Tysons Corner,” report Luo and Palmer. “A dozen employees at Goldman Sachs wrote checks of $25,000 or more to Mr Obama.”

But aren’t donations in excess of $2300 illegal under US campaign finance law? Not if the donations are directed to what are called “joint fund-raising committees.” These devices allow candidates to claim they are fundraising not just for themselves but also for the federal party campaign (maximum donation $28,500) and other candidates of their parties. This allows for single donations of as much as $70,000 to remain within the law.

This year $300 million has been raised by the two candidates through joint committees. Election watchers have warned that by exploiting this loophole the bad old days of unaccountable and untraceable “soft money” have returned.

Australians can become very sanctimonious about the huge amounts Americans raise and spend on elections. But when the dollars are expressed per voter we are up there among the big spenders. What’s worse, we have very weak donation disclosure laws compared to the United States. The crucial difference is that US voters will have a very good idea about who gave what to whom before election day on 4 November. Australian voters, meanwhile, will have to wait until early February 2009 to find out the source of political donations to parties in the six months prior to last year’s federal election.

Of course, thanks to changes made by the Howard government in 2006, only if the single donation exceeded $10,900 – or, via our own little loophole, only if it exceeded nearly $100,000 if the donor was alert enough to make donations to all state, territory and federal divisions of their favourite party, which are treated as separate legal entities in each jurisdiction.

This lack of transparency results from a permissive regime in which the political parties don’t have to reveal donations for the previous financial year until October. The Australian Electoral Commission then has about four months to process the returns for publication. Because the 2007 election was held in November and the relevant financial year ended on
30 June 2008, donations gathered between 1 July 2007 and 30 June 2008 will not be made public until February 2009.

Setting aside arguments about whether large and strategic donations can improperly buy influence, surely it is not unreasonable to expect that voters should know as much as possible about candidates and parties – including who is funding them – before polling day. Imagine the outcry if parties were allowed to keep their policies confidential until after the election.

These matters should be addressed in the federal government’s much-anticipated Green Paper on campaign funding and disclosure. The indications are that Labor will propose twice-yearly reporting – a very small improvement to the current system. Yet a much more timely and transparent solution to the problem is technically simple and there are functioning examples of effective disclosure regimes in the United States that could easily be adapted to Australian conditions.

Probably the best is the system used by the [2] NY City Campaign Finance Board. Candidates must progressively report donations via the internet using a software package, which the board provides free of charge. The submissions are then displayed on the board’s web page, almost in real time, for all to see.

The Australian Electoral Commission told a recent hearing of federal parliament’s Joint Standing Committee on Electoral Matters that it was aware of the New York model “and could consider its use” – with the defensive rider that it had fears about software and implementation. “[T]he adoption of such a model is not just as simple as obtaining the software used by that board for use by the AEC and those with reporting obligation,” said the commission. “What is important is the interaction with other AEC systems and secure internet gateways to enable communications to be received by the AEC. They would all require significant development and associated costs.”

Regardless of the Commission’s resistance to change, the larger question remains: is the government prepared to introduce a genuinely transparent campaign disclosure scheme? It certainly said so when in opposition.

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