# Suiting Themselves: Major parties, electoral databases and privacy

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The potential benefits and pitfalls of information technology are on display in the databases used by Australia's major political parties. The use of such technologies, which contain a host of information about voters and their policy preferences, are a potentially useful conduit between citizens and their elected representatives. Instead, their development has been veiled in secrecy, and their operation puts vast public resources to use for partisan ends, invades the privacy of constituents seeking help from their Member of Parliament (MP), and tilts electoral politics further yet towards the minority of swinging voters. With reform it is possible to avoid the major pitfalls associated with the use of electoral databases. However, a number of aspects of the Australian party system will likely prevent serious consideration of the role of databases. Both major parties gain benefit from information technology at the expense of minor parties, independents and other challengers. The major political parties will inevitably attempt to skew any new system to their own advantage. The development of electoral databases provides a significant example of members of parliament acting as gatekeepers for the rules under which they operate. For legitimate database usage to occur, the privacy of voters needs to be better protected.

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The authors have obtained the information contained in this article firstly through previous employment in MP offices. Both authors saw the operation of party databases first hand in their parliamentary employment. Such observational study has been supplemented by information gathered on party databases from operation manuals and through conversations with staffers and MPs alike.

### Introduction

The rise of e-government has been conjoined by a rise in professional campaigning techniques. Both are altering the relationship between citizens and their elected representatives. The rise of the 'electoral-professional' party was first identified by Panebianco (1988, 264). The increased role of information technology in campaigning is a crucial part of this process. The professionalisation of American campaigns regularly includes the hiring of consultants for web-site design and database management, the focus of a burgeoning business area (Shea and Burton 2001, 208). The effect on representative democracy of such developments, which theoretically may provide a more efficient means of communication between voters and their representatives, raises some important questions.

Australian political parties have begun to adopt both the professionalisation of campaigning and, more recently, the information technology developed for political parties overseas. This article uses party databases as an example of information technology in the professionalisation of politics, and analyses some disturbing ramifications for democracy in the use of this technology. These databases contain information about every voter on the Australian Electoral Roll. While the development of political databases follows the logic of Panebianco's electoralprofessional model, as well as a series of increasingly professional practices in Australia referred to by Simms (1996), a comparative lack of resources<sup>2</sup> precludes Australia's major parties from hiring large numbers of full-time political campaigners. Australian parties instead rely on the resources provided by the parliament to members for the operation of their offices and the funding of their national and local campaigns. Such resources include electorate office staff and equipment. Both Australian political parties have thus developed relatively decentralised databases incorporated into the offices of individual MPs, fitting within the 'franchise model' of party introduced by Carty (2002).

This article briefly outlines the design and operation of electoral databases as a follow-up to the introduction of their form and use in van Onselen and Errington (2004).<sup>3</sup> It also explores the way in which databases invade voter privacy. A range of options for tighter rules governing their use, and greater public access to the information stored are outlined in this paper. As noted by the Victorian Privacy Commissioner, a properly regulated system of databases has the potential to enhance democracy and the capacity of local MPs to better represent their constituents (Chadwick, 2005: 8), however, only if appropriate oversight is instituted.

Whilst Australian major parties enjoy a substantial resource advantage over competing minor parties, their campaign resources are substantially lower than those of political parties in the United

States (Corrado 2000).

In previous writings the authors have detailed the operation and design principles of the databases (van Onselen & Errington, 2004). It is from such introductory knowledge of usage that this article has been written.

### Political Databases: How and Why

Databases located in the electoral offices of Members of Parliament allow many of the details from the letters and phone calls from voters to MPs to be recorded and contribute to a sophisticated national database aimed primarily at winning elections. Both of Australia's major political parties maintain such databases, which store information about every Australian voter. The Coalition database is named 'Feedback' and the ALP database is called 'Electrac'. Direct mail is one end product of a complex modern political information campaign. Targeted political communication in marginal seats complements the national political campaigns that are dominated today by the party leaders.

Stephen Mills (1986) first addressed the trend towards more professionalised campaigning amongst major parties in Australia in his pioneering book 'The New Machine Men'. Mills analysed new direct mail techniques being learned from overseas, the increased role of focus groups and polling in political strategy, and the value of media activity centred around a common campaign theme or message. The Liberal Deputy Federal Director at the time, Lynton Crosby later described this new strategy:

... targeting has become the key to electoral activity. Focusing on the seats that are critical, focusing on the people within those seats who are critical, and focusing on the critical issues within those seats (Crosby 1996, 160)

Mann and Ornstein (2000) have more recently written in the United States about the trend towards permanent campaigning, whereby the parties no longer partake in pure public policy between campaigns, but rather look to utilise the public policy process and the period in-between campaigns to maximise electoral advantage.

Political databases allow major party MPs and candidates to compile information about electors for the purpose of communicating targeted political messages. MPs allocate electorate office staff (funded by the state) or volunteers to collate and log information about electors in individual member's electorate offices. The Australian Electoral Commission (AEC) provides an electronic copy of the electoral roll to political parties and MPs, updating the data electronically each month. They are allowed to use that roll for 'any purpose in connection with an election ...'4 (amongst other purposes permitted in the Commonwealth Electoral Act 1918). The AEC information includes the name, address, age and occupation (an optional entry on enrolment forms) of each elector. The information provided by the AEC is installed into each party's database software. The databases use electronic White Pages to incorporate telephone numbers where available. These raw data are supplemented on the databases with additional fields in relation to voting

Section 91A(2) Commonwealth Electoral Act 1918 (C'th). The Act bans the use of Electoral Commission data for commercial purposes, which raises questions about the legality of selling software that relies on that data for its fundamental purpose.

preferences and issues of interest, which are 'tagged' against each constituent when such information is obtained.

Identifying voting preferences and issues of interest is a valuable albeit time-consuming practice for political parties. Effective database management results in any contact by a constituent with an electorate office being logged into the system. Contact can be made by telephone, in writing or in person. Electorate officers are trained to open the database system whilst talking with a constituent. Door knocking, telephone canvassing and letters to the editor are additional methods by which information is gathered. Voter preferences recorded in the databases include swinging voter status, minor party or independent leaning, as well as strong or weak Liberal or Labor voter leanings. Each major party has between 2,000 and 5,000 voters tagged as swinging voters in individual member electorates.<sup>5</sup> This information is most valuably utilised in marginal seats.

The information can be used for a number of purposes. Party organisations upload data from all electorates to track key issues and voting trends for use in qualitative polling, advertising and strategy formation. For example, party focus groups are formed from database information identifying swinging voters. For individual MPs, the most important use is direct mail-outs targeted at the swinging voters. Electors can also be tagged as troublesome, so the electorate officer knows to be wary in their dealings. Strongly Labor or Liberal Party identifying voters can be targeted for political donations. Political parties would not be permitted to collect and collate this information were they not exempted from privacy laws, as will be discussed.

# Party Structure and Party Theory: Databases Strengthen Major Parties

In a social climate conducive to partisan de-alignment, Australia's major political parties have shown remarkable resilience (Bean 1996, 136). One reason for this resilience has been the preparedness of the major parties to adapt their organisation, strategy and policies in the face of the changing social environment. Voter tracking systems, such as databases, are a key to that adaptability.

Weller and Young (2000: 157) point out that whilst the external facade of major parties appears unchanged, the 'dynamics and activities of the parties have changed'. They note that major parties remain open to the importation of new technologies from overseas and the international trade of campaign techniques. Party databases are an example of this information exchange. Another example of adaptability is the evolving role of the major party Senators in their duty roles, to be discussed in this section.

<sup>&</sup>lt;sup>5</sup> These figures have been obtained from internal party audit reports of database management. The figures pertain only to seats housing an incumbent MP.

Norris refers to the 'post-modern campaign,' where increasingly professional political parties must grapple with a diverse electorate and media. Norris is sanguine about this environment, highlighting the opportunities for new political voices to be heard (2000, 177–9). The stability of the Australian party system, however, suggests that the professionalism of Australian political parties is more than a match for the myriad identities and issues confronting contemporary governments.

While they provide an incumbency advantage over opposition candidates contesting seats, the incumbency advantage to both majors compared with minor parties attempting to enter the lower house contest is enormous. Minor parties, represented only in the Senate, lack the critical mass of parliamentary resources to run systems as complex as Electrac and Feedback. Major party senators play an important role in the management of databases. Lower House electorates not held by a major party, particularly with respect to marginal seats, are allocated to senators for database management. The senatorial offices are thereafter responsible for maintaining a party presence in those seats in-between elections. This includes updating database information for prospective candidates closer to elections. Major parties term such assistance 'duty senatorship'. As senate representatives of minor parties are not as secure in their parliamentary tenure as senators of major parties, and because they are the only parliamentary representatives of the party, they do not function in this manner.

Major parties maintain representation in various lower house seats at varying tiers of government (state or federal). The number of parties in each parliament is governed in large part by the electoral system. The Lower House of the Federal Parliament and all State Parliaments, with the exception of Tasmania, operate under a single member preferential system. Single member contests means a candidate must secure over 50% of the two-party vote after preferences have been distributed. Minor parties and independents, generally securing less than 10% of the first preference vote, are eliminated early as preferences get distributed such that one candidate can reach the 50% plus one vote requirement. This effect is evidenced by the fact only one minor party candidate and a handful of independents have ever been elected to the federal lower house since federation, though minor party first preference votes in the House have steadily increased in recent decades. Minor parties are generally only represented in Upper Houses, under proportional representation, where there are far more achievable quotas.

<sup>&</sup>lt;sup>6</sup> For a more thorough detailing of electoral systems in Australia see: <a href="http://www.elections.uwa.edu.au">http://www.elections.uwa.edu.au</a> (accessed 2<sup>nd</sup> April, 2004).

<sup>&</sup>lt;sup>7</sup> The capacity to exhaust preferences, as occurs in some states, does vary this analysis, however the principles are the same.

<sup>&</sup>lt;sup>8</sup> An Australian Green in the post 2001 by-election of Cunningham in NSW.

<sup>&</sup>lt;sup>9</sup> For example, the federal Senate requires candidates to achieve 14.29% of the vote (usually much less before preferences). Legislative Council representation in NSW only requires 4.55% of the final vote, with candidates being elected with less than 1% of the first preference vote.

In this light, the goal of the ALP and the Liberal Party is to ensure that they maintain their position as one of the two largest parties in the system (preferably, of course, winning government in the process). They maintain the resource and distribution structure to operate databases effectively. That is, collate the information, update it, and generally function effectively. Given that minor parties have substantially lower resource bases, particularly in a localised sense, and that they suffer from electoral system disadvantage, they are unable to operate the IT advantage of party database software in such a way as to assist with breaking into the lower house contest in a consistent manner.

Major political parties distinguish themselves from smaller parties both in terms of their success in securing parliamentary representation, and in the size and structure of their party organisations. Whilst by international standards party membership in Australia is comparatively low, nevertheless the two major parties enjoy substantial organisational advantage over minor parties. The decentralised structure of database usage referred to previously falls within a 'party franchise' structure of major party operation, first introduced by Carty (2002).

Theories outlining the internal structure of political parties, and how they respond to the electorate, have been many and varied. Understandably, they have also evolved as the structures of political parties have evolved. Traditional models have focused on a hierarchical interpretation. Duverger (1964) developed the cadre party type. Cadre parties have power concentrated at the top and the leadership directs its members with little difficulty. The mass party phenomenon saw power formally delivered to the bottom of the hierarchical tree (for example, with regard to party pre-selections), however in practice the professional leadership still has significant authority (as previously discussed with reference to Panebianco). Equally, Kirchheimer's (1996) catchall party aims to have an adaptive appeal in order to succeed in the media and campaign environment.

Cartel parties are parties, generally major parties, that are integrated into the state apparatus, colluding to maintain their position vis-à-vis the electorate and to exclude new parties from breaking into the system (Mair & Katz 1997, 107–8).

The franchise model, however, is perhaps the most appropriate approach to understanding the party structure and operation of major political parties in Australia. Weller and Young (2000: 163) identified that exposure to liability has made political parties 'almost government franchises'. Weller and Young were searching for reasons behind major parties becoming agents of the status quo. Carty identifies the fractured structure of modern political parties. Modern parties have multiple levels of autonomy. For example, in the federal Liberal Party policy is developed by the cabinet, however, pre-selection power for lower house contests is largely centred on the local branches. Whilst branches can have an input into the policy approach parliamentarians develop, it is limited and largely indirect.

Franchise systems exist to maximise the efficiencies of scale and standardization with the advantages of local participation in the operation and delivery of the organization's product (Carty, 2002: 4)

Franchise systems can vary in their structure. They can be centralised, decentralised or federalised (Carty, 2002: 5). As with business franchises, a contract spelling out rules and regulations is required to minimise conflict. For political parties this is represented by the party constitutions, state or federal. The purpose of a franchise structure is to improve the allocation of tasks. The central body of the party is responsible for polling, focus group activity, oversight of database management and advertising and strategic decision-making. The local level of the party franchise is responsible for the mobilization of personnel to assist in campaigning and the input of information into party databases, as outlined. It is also the role of the local level party to deliver the product to the electorate — in the case of parties the individual MPs at elections. The local party must develop a working organisation to facilitate this process. For their part, the central arm of the party can assist in this process, however only from afar.

In expansive systems, there will be a range of intermediary organizational units, some responsive to the centre's interests, others to the local franchises, designed both to carry out specialized functions and to mitigate the inherent tensions between the centre and the individual franchises that reflect their mutual but competing interests. (Carty, 2002: 4–5)

In Australia, the role of major party Senators is central to this conduit role identified by Carty under franchise party arrangements, particularly with respect to database usage. Senators are central party figures. Their party backgrounds clearly place them in that category (see van Onselen, 2004). However, their duty roles place them in local electorates, assisting marginal lower house MPs or candidates and maintaining database records across seats not held by the party.

## **Databases and Privacy**

Australians have grown used to the fact that governments collect and store all manner of information about citizens. The debate has shifted from how much information should be kept to concerns about the regulation of the way both government and corporations manage personal information. By comparison, public discussion of political databases (managed by political parties rather than the government) has been restricted for a number of reasons. Getting politicians to discuss their party's database on the record is very difficult. They may be paranoid about revealing their campaign secrets to other political parties. The need to maintain secrecy for technological advantage coupled with the risky ethical implications of much database activities has, which might stir up public calls for reform, results in a low level of public comment by those that operate the technology.

The use of political databases raises ethical and legal questions with regard to the handling of information by political parties. Beauchamp and Bowie (1993: 442) discuss moral considerations in the collection, presentation and use of information through business. A number of the avenues explored in this regard can equally be examined in a political context, namely through the use of political databases. Beauchamp and Bowie identify three commonplace associated problems: 'withholding vital information, distorting truth, and bluffing' (1993: 442). Political parties are not required to disclose information they have stored on a constituent in a party database to the constituent in question. The second and third concerns of distorting truth and bluffing are also issues with respect to databases.

Party databases do not have a system of logging usage by the staffer or MP operating the system. It is difficult to trace the source of information logged. Information entered may therefore be inaccurate without the natural justice for a constituent to correct the record or reprimand the person responsible for the entry.

On the final point of bluffing, our research has indicated that major parties use bluffing when compiling information for the database. Voters are generally wary about providing detailed information to political parties, and political parties recognise that sentiment. As a consequence some local MPs and senior staffers direct those persons operating databases not to inform constituents that information is being compiled about them. The Feedback manual for example expressly states '(e)nsure that constituents cannot read the computer screen if Feedback is open'. Further, staffers and volunteers conducting telephone canvassing with the purpose of collecting information on voters for entry into databases are sometimes instructed not to inform voters from where they are calling. They therefore bluff if asked about their role and fail to identify themselves appropriately. Moreover they obscure the consequences of answering the questions put in the telephone call.

Commonwealth privacy legislation is designed to prevent the misuse of personal information by private organisations (Privacy Amendment [Private Sector] Act 2000 [C'th]). The objective of privacy legislation more generally includes the aim of balancing two public interests: a free flow of information and respect for the individual's privacy (Chadwick, 2005: 4). The *Privacy Amendment [Private Sector]* Act 2000 [C'th] aims, amongst other things, to prevent the collection of information without individual consent. At first reading it would appear this legislation would protect constituents from database collections against their will. Political parties, however, are exempt from the privacy legislation according to Section 7C of the federal Act. It provides that an act done or a practice engaged in by a political representative is exempt if the act is done or the practice is engaged in, for any purpose in connection with: an election under an electoral law; a referendum, or; participation by the political representative in another aspect of the political process. Naturally any information collection by political parties falls within this very broad definition. Were the database not controlled by a political party, the collection, logging and use of information as described above would contravene the Privacy Amendment (Private Sector) Act 2000.

Paradoxically, because political parties are private organisations, and therefore non-government organisations, they are exempt from Freedom of Information (FOI) requests that can only be made to government or quasi government organisations. Under FOI individuals have enforceable rights to seek access to personal information held about them and to seek its correction in the event it is inaccurate (Chadwick, 2005: 7). Political parties can therefore log information about voters without their consent, yet they cannot be made to disclose what information has in fact been logged, nor can they be made to correct it in the event it is inaccurate. Clearly this state of affairs prevents the checks and balances on which our representative democracy prides itself.

All citizens must be free to take their concerns about government policy to their local MP confident in the knowledge that their private details will not be used for partisan advantage. The personal details of electors should not be available to the central offices of political parties. We should all have the right to know what our elected representatives have on file about us. One option would be for constituents to be able to submit Freedom of Information requests on party databases to see what information is held about them. This would force MPs to account for their entries, and would act as a check on inaccurate entries. Defamation laws should apply to such entries as opposed to privilege as exists in Parliament. This again would force MPs and their staff to be aware of the nature of what they compile. This issue again impinges upon the question of whether MPs are public or private entities.

It is not clear whether reversal of the privacy exemptions for political parties or continued exemption with improved regulatory arrangements is the best strategy for reform. Following 2004 media reports on the databases used by major parties, the Australian Democrats privacy spokesperson, Senator Natasha Stott Despoja, announced that the Democrats would seek to remove the political party exemption from privacy provisions (Australian Associated Press. 18 August 2004). The Attorney General's office announced that it would oppose amendments to the Privacy Act stipulated by the Democrats, pointing out in support of this stance that countries within the European Union exempt political parties from privacy legislation, thereby allowing parties to effectively communicate with their electors, an essential part of representative democracy (Reported in the Australian Financial Review, 18 August 2004). While the Attorney General's office is correct in identifying the democratic role of political parties as an argument in favour of their exemption from privacy laws, that exemption presents a strong case for regulating the method of collection and storage of any resulting information. Were political parties included in the legislative bans on collecting private information without consent, they would be required to inform voters they were recording information and thereby seek consent.

In February 2005 the Victorian Privacy Commissioner made a submission to the *Victorian Parliament's Scrutiny of Acts and Regulations Committee* on its inquiry into 'Victorian electronic democracy'. It referred to the issue of political party databases and their associated impact on e-democracy (Chadwick, 2005: 4-8).

Properly regulated databases have the potential to enhance representative democracy by improving the level and quality of information flowing between representatives and their constituents. However, questions concerning database usage remain. The Commissioner noted that '(i)t is a fact that information about a person's political beliefs, opinions and associations can be sensitive' (Chadwick, 2005: 8). He also noted:

It is not compulsory to engage in political debate or activities or to disclose one's political opinions and affiliations. People have a right to privacy in relation to this information about themselves, and can expect a significant measure of control over when and to whom such information may be disclosed (2005: 8).

However, constituents lose some of that control over whom and when they disclose information when political parties partake in distortion and bluffing as previously identified. Just as push polling is considered an invasive and inappropriate form of political campaigning, parties arranging telephone canvassing of unsuspecting voters whereby information as to voting intentions is collected and stored without consent is also unacceptable political practice. Whilst, as noted by the Victorian Privacy Commissioner, it is not compulsory for people to disclose their political opinions, compilation of database information often misleads people into such disclosure. Many people would consider it reasonable to provide such details in the context of an anonymous opinion poll for the purposes of more general voting trends. However, were they informed that the collector of the information was not an independent polling agency, and that it was a political party, voters might be less inclined to divulge the information. The responsibility to disclose the purpose of data collection surely falls at the feet of the political party using the invasive technique of calling people's homes. Even the Prime Minister's telephone messaging campaign tool used at the 2004 federal election firstly informed voters of his purpose for calling.

Making the system more accountable would not be difficult, given the sophistication of the existing technology. For example, whoever enters the information on an individual constituent could have their staff details recorded against the entry. This would apply to new entries and to amending previous entries. This practice, widely used in the private sector, would enhance accountability. Similarly, quarantining information within the offices of each constituent office such that they were not able to forward voter information to third parties would not be technologically difficult. Aggregated information could still be forwarded to the central party and used to support candidates in a different tier of government without breaching the privacy of individuals in the process.

#### Conclusion

The advent of electoral databases is an aspect of political campaigning that requires more public scrutiny. With the major political parties having no interest in the reform of party databases, only a groundswell of public interest in the issue of handling of private information by political parties will encourage parliament to act. Exclusion from privacy laws, due to party status as a private not public organisation, combined with private organisation protection from freedom of information searches, is a situation lacking the sort of check and balance the wider Australian political system prides itself on. The fact that voting is compulsory, when combined with the free exchange of voter data between political parties and the AEC, means that voter information is being put in the hands of political parties whether citizens like it or not.

In this article we noted a range of problems and possible solutions surrounding the way in which the major parties operate their electoral databases. When enrolling to vote, citizens should at the very least be informed about the existence of party-run electoral databases, and at least be afforded the opportunity to choose whether such information is forwarded to the MPs who represent them. Given the furore over the Australia Card proposal in the 1980s, if informed of the paradox of public access to information obtained by private organisations without public scrutiny, citizens might well be alarmed at the unfettered access to personal information that political parties have.

Much more study is needed into this highly secretive aspect of party practice in Australia, however it must be said that with adequate safeguards, training and guidelines, political databases have the potential to enhance representative democracy, improve the MPs' ability to better reflect his/her constituency, and thus make politicians more in tune with public sentiment. These areas of positive consideration have been outlined. Each of these is potentially very positive for the political landscape in Australia; however at present the dark side of the technology is at the forefront of database operations.

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