

Research among permitted participants at the EU referendum

Justin Fisher (Brunel University London) & Bettina Rottweiler (Brunel University London)

August 25th 2016

Introduction

On 23rd June 2016 there was a referendum to determine if the UK should remain in or leave the European Union. Campaigners at the referendum wishing to spend more than £10,000 were required to register with the Electoral Commission. Once registered as permitted participants, campaigners were required to comply with the rules on spending, donations and loans under the relevant legislation.

From amongst registered campaigners, lead campaigners were designated. A designated lead campaigner is the lead campaign group for one side of the debate and it acts as lead group on behalf of those campaigning for that outcome. The Commission designated a lead campaigner for each outcome at the referendum based on the statutory test set out in the relevant legislation.

The Electoral Commission has a statutory responsibility to report on the administration of elections and referendums. Its commissions research to support the statutory function of election reporting and aims to provide an authoritative, accessible and independent record of the administration of elections and referendums. The research programme to evaluate the administration of the referendum includes a study of permitted participants at the EU referendum. Professor Justin Fisher from Brunel University London was commissioned as an independent evaluator to conduct this study and analyse feedback of those regulated by the Commission.

The analysis of this feedback is intended to feed into the Commission's reports on the administration of the referendum, complementing other studies that will also be conducted following the poll and are part of the Commission's EU referendum research programme.

Executive Summary

- The registration process was straightforward
- The process of designation requires more verification
- Designation should take place at least a month before the controlled campaign period
- The benefits of designation are not always easily realisable
- Locally-held data make verification of permissible donations and loans difficult in a national referendum
- PEF Online is not favoured by participants, largely (but not exclusively) on the grounds of difficulty of use
- Expenditure rules were straightforward in terms of compliance
- There is widespread support for transparency
- The large number of registered participants presented a significant challenge in respect of the enforceability of meaningful spending limits
- The legislation and spending limits for permitted participants and non-registered groups should be re-visited
- Consideration should be given to an earlier deadline for registering as a participant
- The Working Together rules were poorly understood
- Guidance from the Electoral Commission was generally good
- There was broad satisfaction with the administration of the referendum
- The regulations favour those with prior electoral experience in respect of ease of compliance
- In general, those groups that are routinely regulated were better able to comply with the regulations

Methodology

This report features two sets of data. First, the results of a questionnaire survey sent to all registered participants as supplied by the Commission (113) immediately after the referendum in June 2016. These comprised 58 groups registered on the Remain side and 55 registered as Leave campaigners. Questions were designed by the Electoral Commission and Professor Fisher. Data reported here are derived from the 48 valid responses received by 10th August 2016. These comprise of 18 Remain campaigners and 30 from the Leave side. Second, eight lengthy qualitative interviews were conducted with nine registered participants. The sample of participants was selected by the Electoral Commission and Professor Fisher and in addition to the two designated campaigns (The In Campaign Ltd and Vote Leave Ltd), included a range of participants chosen on the basis of side supported, type of group, and size based on information reported in financial returns (Go Movement Ltd, Grassroots Out Ltd, We Are Europe, Trade Union and Socialist Coalition, Scientists for Europe Ltd, GMB, and Priscilla Nwikpo).¹

For each survey question, top line responses are detailed below (Tables 1-13). These are then disaggregated by three different characteristics of the participants: Leave or Remain; Entity Type: Individual (16 cases, 10 responses), Company (40 cases, 14 responses), Unincorporated Association (26 cases, 15 responses), Charitable Incorporated Organisation (3 cases, 1 response), Trade Union (10 cases, 3 responses), Registered Political Party (17 cases, 5 responses) Body Incorporated by Royal Charter (1 case, 0 responses); and Size. The last contains two categories: Small is defined as those groups who to date (August 2016) have reported less than £10,000 in donations (84 cases, 35 responses), Medium/Large is defined as groups who have reported donations in excess of £10,000 (29 cases, 13 responses). These analyses can be found in Tables 1A, 2B etc. The small numbers make further disaggregation unwise. Indeed, for all groups, the patterns observed should be regarded only as being indicative on account of the number of responses. That being so, variations between groups are only discussed when patterns are particularly clear. We do not disaggregate responses to Tables 3 and 4, as these are multiple response questions, and the numbers would be far too small to produce meaningful analyses.

Results

The Registration Process

The registration process was seen as being straightforward. Two thirds of respondents found it to be easy, with only 14% seeing the process as being difficult in any way (Table 1). There was marginal variation by participant type. Remain and Medium/Large groups were slightly more likely to find the process to be easy (Table 1A). One interviewee described the process as being easier than registering a new political party. This ease of registration is

¹ The following were also approached for interview but did not respond: Leave.EU Group Ltd, Adecco (UK) Ltd, Clientearth, the National Union of Rail, Maritime and Transport Workers, WAGTV Ltd and the Social Market Foundation.

likely to have been aided by the fact that there was a high level of awareness of the need to register either before deciding to campaign or when respondents decided to campaign. Table 2 shows that fully 71% of respondents were aware of the need to register either before or when they decided to campaign. And, while some 23% only became aware after they decided to campaign, this may be partly explained by the unusually high number of registered participants in this referendum – a point which was raised by one of the designated campaign groups, who argued that an earlier deadline should have applied for registration and that in general, there were too many registered participants. It's also worth noting that those groups for whom regulatory oversight is well established (charities, trade unions and parties) were all aware of the need to register once they decided to campaign (Table 2A). Indeed, this pattern between 'regulated' and 'non-regulated' groups is repeated in a number of areas. A further explanation in respect of the high level of awareness can be found in Table 3, which shows that most campaigners (92%) were already aware of the rules on campaign finance or were advised by those who had this knowledge.

Table 4 summarises the principal reasons why campaigners registered. Respondents were most likely to indicate that their campaign spending would exceed the non-registered campaigner limit of £10,000, while significant proportions identified the positive campaigning aspects associated with registration – legitimacy (38%) and promotion (30%). Of interest is also the fact that some 21% thought registration was a requirement to undertake any form of campaigning.

Table 1. Ease of Registration

<i>How did you find the process for registering as a referendum campaigner?</i>	<i>%</i>
Very easy	35
Fairly easy	31
Neither easy nor difficult	19
Fairly difficult	8
Very difficult	6
Don't know	0

Table 1A. Ease of Registration by Participant Type

<i>How did you find the process for registering as a referendum campaigner?</i>			
<i>%</i>	<i>Easy</i>	<i>Neither easy nor difficult</i>	<i>Difficult</i>
Remain	72	17	11
Leave	63	20	17
Individual	60	20	20
Company	64	14	21
Unincorp. Assoc.	71	21	7
Charitable Incorp. Org.	0	100	0
Trade Union	67	0	33
Regist. Political Party	80	20	0
Small	63	20	17
Medium/Large	77	15	8

Table 2. Awareness of requirement to register

<i>When did you become aware of the requirement to register as a campaigner with the Electoral Commission? Please tick only the most important.</i>		%
I/we was/were aware before deciding to campaign		48
I/we became aware when I/we decided to start the campaign		23
I/we became aware after we decided to campaign		23
Don't know		0
Other		6

Table 2A. Awareness of Requirement to Register by Participant Type

<i>When did you become aware of the requirement to register as a campaigner with the Electoral Commission? Please tick only the most important.</i>				
%	I/we was/were aware before deciding to campaign	I/we became aware when I/we decided to start the campaign	I/we became aware after we decided to campaign	Other
Remain	6	67	22	6
Leave	7	37	23	33
Individual	10	20	40	30
Company	0	57	29	14
Unincorp. Assoc.	0	36	21	43
Charitable Incorp. Org.	100	0	0	0
Trade Union	0	100	0	0
Regist. Political Party	20	80	0	0
Small	9	54	14	23
Medium/Large	0	31	46	23

Table 3. Means of becoming aware of the requirement to register

<i>How did you become aware of the requirement to register with the Electoral Commission? Please tick all that apply.</i>		%
I/we already knew the rules on political and campaign finance		44
I/we was/were advised by people who know the rules on political and campaign finance		48
The Electoral Commission contacted me/us directly		2
Don't know		0
Other		8

Note: Percentages will not add up to 100 as respondents could tick as many reasons as applied

Table 4. Reasons for Registration

<i>Can you please tell us why you registered as a campaigner? From the list below, please list the THREE most important reasons.</i>	<i>%</i>
I/we thought I had to in order to campaign	21
I/we thought/knew our campaign would exceed the £10,000 threshold	67
I/we wanted to apply for designation as lead campaigner	15
I/we thought it would help promote our campaign	30
I/we thought it would add legitimacy to our campaign	38
I/we wanted to make use of benefits which came with being registered in respect of access to the electoral register	17
I/we wanted to make use of benefits which came with being registered in respect of appointing agents for the count	13
I/we wanted to make use of benefits which came with being registered in respect of access to polling stations	0
I/we wanted to make use of benefits which came with being registered in respect of attendance at postal vote opening sessions	2
Other	17

Note: Percentages will not add up to 100 as respondents listed up to three reasons for registration

Designation

The interviews with the larger participant groups revealed both strengths and weaknesses in respect of the designation process. The criteria applied to designation and the tests used were largely considered to be robust. However, there were some concerns expressed about how the process was conducted.

Process

First, it was suggested that the ‘paper only’ exercise could lead to inappropriate outcomes as there was no means of verifying the accuracy of all claims in the designation application. The proposal was made that as an additional stage in the process, applicants’ headquarters should be visited and the teams interviewed.

Second, it was argued that the Commission’s decision-making - either intentionally or unintentionally – favoured the establishment group on the Leave side. Interestingly, this point was made by more than one interviewee and by participants on both sides (Remain and Leave).

Third, there was criticism of the process of application. One large group that applied for designation argued that the online form was badly designed: *“the way it’s designed, is almost done in Word, by the looks of things, and so when you put text into the box they provide you immediately start going on to continuous pages, and then the formatting goes bizarre.”* Moreover, it was argued that there was also a lack of clarity in respect of the deadline for

applications, such that there was confusion in respect of which day was the deadline.

Fourth, both designated groups argued that there was a lack of clarity in respect of what was required in respect of content and the level of detail in the application, leading both to be unclear about what information was actually necessary. This led to the suggestion - from both sides - that the application process was likely to favour those participants with previous experience.

Timing

A second area of concern related to the timing of the designation. Although the Commission brought designation forward prior to the controlled campaign period, the competition for designation on the Leave side created significant problems in terms of attracting donors and commencing processes such as printing. Thus, donors were less willing to contribute until they knew which group was officially designated and there was a significant risk in generating a data network, printing leaflets or booking poster sites before designation, as if unsuccessful, this would have accounted for a significant proportion of the spending limit of a non-designated participant. By way of contrast, where there was no contest for designation (as was the case on the Remain side), the group that was to be designated could engage in a significant level of pre-campaign preparations much earlier on. Of course, the timing of this, though mitigated by the process being brought forward by the Commission, was a function of the Government's timetable, over which the Commission had no control. But, it does suggest that designation may need to take place even earlier in any future referendum.

Overlap

A third area of concern was the overlap of the campaign period with the various elections in May. This led to significant uncertainty in respect of putting out messages during the election campaigns, which might have fallen foul of election rules, meaning that one designated group could not respond to election campaigning by an anti-EU party.

Benefits

In terms of the benefits of designation, the experience was mixed. The existence of the mail out, broadcasts and grant was welcomed by both sides. However, some problems were experienced. First, and in part due to a lack of experience in organising campaigns, there were some concerns in respect of the mail out and the approach taken by the Royal Mail. Campaigns were not advised of specific Royal Mail requirements and as a result, one designated campaign incurred significant additional logistical costs. In any future referendum, it would seem sensible for there to be more clarity in respect of Royal Mail's requirements.

Secondly, the distribution of the grant in instalments created problems for the designated groups. Despite the guidance being very good, one side, for example, had to request bespoke receipts from its supplier to satisfy requirements for payment of the second instalment. They argued that as the

designated campaign, they should receive the grant in one lump sum, since as a national campaign; it was guaranteed that the money would be spent.

Thirdly, one designated campaigner felt that the asset recovery in respect of the grant was not sufficiently well highlighted, such that they had not anticipated having to have computers and the like recovered by the Electoral Commission after the referendum. The group accepted that this was in the Terms and Conditions, but questioned whether or not it had been flagged sufficiently well.

Finally, designated participants found it extremely difficult to take advantage of the free use of public premises. This aspect was run by local authorities who were often unaware of their responsibilities, took too long to respond, or were only able to supply unsuitable rooms. As one designated group put it: *“The reality is, you will have spent a good couple of days wrestling with whoever it is that pops out of the [...] Community Centre in Stoke, or whatever it is, who will have gone through a sort of like, ‘I’m afraid we don’t take political events,’ or, ‘I’m terribly sorry, I only work Tuesday and Wednesday afternoons, and it’s going to take me a week and a half to get back to you to tell you whether we’ve got availability.’”* This would suggest that as with some other aspects of the legislation, the rules governing elections, which generally work well, do not always translate easily to referendums.

Overall, opinion was divided in respect of whether it would be preferable to receive the grant as it is or more in terms of in-kind benefits. One group argued that the grant constituted a small proportion of their expenditure, so the issue was not important; the other argued that the cash was very important due to designation occurring only just before the campaign period.

Donations and Loans

The ease with which campaigners were able to comply with rules on donations and loans was mixed. Certainly, the experience of using PEF Online was often far from positive. Thus, while 61% of respondents used PEF Online for some or all of their returns, fully 38% did not and 36% found it difficult to use (Tables 5 and 6). Leave campaigns were less likely to use PEF Online than Remain campaigns (Table 5A) and were also more likely to find it difficult to use. Similarly political parties were amongst the entities least likely to use PEF online, and of those who did use it, none found it ‘Easy’ (Table 6E). Amongst interviewees there was significant dissatisfaction. One said they simply did not have the time to learn how to use the system, while two others were particularly critical: typical descriptions were that it appeared like it was *“designed in 1998”* and that it felt like *“it’s written for a compliance officer who’s been in post for twenty years at one of the political parties.”* As a general point, the system was far better understood by those with previous experience of campaigning, while those who have not previously been involved in election or referendum campaigns found it most challenging.

There was also variation in respect of reporting more generally. 45% of respondents found recording and reporting of donations to be easy, and 61% also found meeting the pre-poll reporting deadlines to be straightforward

(Table 6), though two large campaign groups (one of which was designated) argued that pre-poll reporting was a significant distraction from campaigning, and that in temporary organisations like campaign groups, was difficult to accomplish. In general, the ‘regulated’ groups (trade unions, charities and registered political parties) experienced least difficulty (Tables 6A & 6B).

However, a significant proportion (22%) experienced difficulties with verification of the permissibility of donors or lenders (Table 6) – particularly Individuals, Companies and Medium/Large campaigners (Table 6C). This last point was a significant problem for large and small campaigns alike in the interviews. Serious concerns were raised in respect of the participants’ ability to acquire the appropriate data from local authorities to verify the permissibility of donations. Local authorities store the data in a variety of formats and are not always equally helpful. Thus, whereas political parties will have large data sets built up over time to partially deal with such issues, referendum participants had no such advantage. What is very clear from the responses is that for verification purposes, consideration should be given to creating a nationally held database of all those on the electoral register.

Two other issues were raised in the interviews. First, there were some additional problems in verifying the permissibility of corporate donors from Gibraltar as the forms of companies differed compared with those in the United Kingdom. Secondly, concern was raised in respect of the Commission’s ruling on the use of campaign staff charge cards. One campaigner alleged that the Commission had deemed that these arrangements constituted loans from the bank, despite the fact that the credit terms were actually shorter than for many suppliers. The bank concerned was apparently most unhappy to be classified as a political loaner, when the arrangement had been made on a commercial basis.

Table 5. Use of PEF Online

<i>Did you submit any returns online (via PEF online)?</i>	<i>%</i>
Yes – all	46
Yes – some	15
No	38
Don’t know	2

Table 5A. Use of PEF Online by Participant Type

<i>Did you submit any returns online (via PEF online)?</i>			
%	Yes - all	Yes - some	No
Remain	56	17	28
Leave	41	14	45
Individual	60	20	20
Company	43	7	50
Unincorp. Assoc.	31	31	39
Charitable Incorp. Org.	100	0	0
Trade Union	67	0	33
Regist. Political Party	40	0	60
Small	46	17	37
Medium/Large	50	8	42

Table 6. Ease of compliance with rules on donations and loans

As you will be aware, campaigners are required to record and report certain donations and loans. How easy or difficult would you say it was to comply with the rules when doing the following:

%	Very easy	Fairly easy	Neither easy nor difficult	Fairly difficult	Very difficult	Don't know/ Didn't have to
Recording and reporting donations	17	28	26	6	6	17
Recording and reporting loans	9	21	17	9	4	40
Verifying the permissibility of donors/lenders	11	17	20	22	0	30
Meeting the four pre-poll reporting deadlines	25	36	14	16	5	5
Using PEF Online to submit returns	15	15	13	18	18	21

Table 6A. Ease of Compliance with Rules on Donations and Loans by Participant Type

<i>Recording and reporting donations</i>				
%	Easy	Neither easy nor difficult	Difficult	Don't know/ didn't have to
Remain	50	22	0	28
Leave	41	28	21	10
Individual	33	11	33	22
Company	36	43	14	7
Unincorp. Assoc.	64	14	7	14
Charitable Incorp. Org.	0	100	0	0
Trade Union	67	0	0	33
Regist. Political Party	20	40	0	40
Small	38	29	9	24
Medium/Large	62	15	23	0

Table 6B. Ease of Compliance with Rules on Donations and Loans by Participant Type

<i>Recording and reporting loans</i>				
%	Easy	Neither easy nor difficult	Difficult	Don't know/I didn't have to
Remain	39	17	6	39
Leave	24	17	17	41
Individual	11	22	33	33
Company	36	14	14	36
Unincorp. Assoc.	29	14	7	50
Charitable Incorp. Org.	0	100	0	0
Trade Union	67	0	0	33
Regist. Political Party	20	20	0	60
Small	24	24	9	44
Medium/Large	46	0	23	31

Table 6C. Ease of Compliance with Rules on Donations and Loans by Participant Type

<i>Verifying the permissibility of donors/lenders</i>				
%	Easy	Neither easy nor difficult	Difficult	Don't know/I didn't have to
Remain	28	22	17	33
Leave	29	18	25	29
Individual	13	13	25	50
Company	21	14	50	14
Unincorp. Assoc.	36	29	7	29
Charitable Incorp. Org.	0	100	0	0
Trade Union	67	0	0	33
Regist. Political Party	20	20	0	60
Small	30	27	6	36
Medium/Large	23	0	62	15

Table 6D. Ease of Compliance with Rules on Donations and Loans by Participant Type

<i>Meeting the four pre-poll reporting deadlines (NOT APPLICABLE FOR POLITICAL PARTIES)</i>				
%	Easy	Neither easy nor difficult	Difficult	Don't know/I didn't have to
Remain	75	6	19	0
Leave	54	18	21	7
Individual	44	11	44	0
Company	79	14	7	0
Unincorp. Assoc.	62	8	31	0
Charitable Incorp. Org.	0	100	0	0
Trade Union	100	0	0	0
Regist. Political Party	0	33	0	67
Small	53	16	25	6
Medium/Large	83	8	8	0

Table 6E. Ease of Compliance with Rules on Donations and Loans by Participant Type
Using PEF Online to submit returns (PLEASE ONLY ANSWER IF YOU HAVE USED PEF ONLINE)

%	Easy	Neither easy nor difficult	Difficult	Don't know/I didn't have to
Remain	44	13	25	19
Leave	22	13	44	22
Individual	44	0	44	11
Company	25	17	33	25
Unincorp. Assoc.	18	9	46	27
Charitable Incorp. Org.	0	100	0	0
Trade Union	100	0	0	0
Regist. Political Party	0	33	33	33
Small	33	15	41	11
Medium/Large	25	8	25	42

Expenditure

Compliance with reporting rules on expenditure did not cause major difficulties overall. Only 17% found it difficult to record the necessary information and 15% experienced some difficulty with the provision of supporting evidence such as receipts in excess of £200. Similarly, only a tiny proportion (6%) experienced difficulty in meeting the expenditure deadlines (Table 7), though Leave participants found it marginally more difficult than Remain campaigners (Table 7C).

However, interviews with the larger campaign groups revealed some difficulties not captured by the survey. Firstly, there were concerns in respect of the rules on capital assets. The comparison was made with political parties, who will already have assets like computers, meaning that significant expenditure counts against the spending limit, which would not be the case for a party.

Secondly, it was considered odd that while political parties would have to charge staff costs to their campaign expenditure, the same was not true for referendum campaigners. This presented a significant issue for campaigners because the temporary nature of the referendum campaign (a participant group ceases to exist after the poll, unlike a party) meant that it could be difficult to attract staff, but easier to attract contractors (whose costs would count against the expenditure limit). This forced campaigners to try and put contractors on the payroll.

Thirdly, one designated group argued that staff campaign costs should be estimated using a sample rather than being required to record every receipt. The effect of having to account for every receipt (rather than sampling) meant that there were some additional 'close down' costs, which could have been avoided.

A final point was the observation by different campaign groups that the legislation does not adequately reflect the nature of more modern campaigning – especially digital campaigning. For all that, the general view

was that Commission staff were very helpful, making it much easier to comply than would otherwise have been the case.

Table 7. Ease of compliance with rules on expenditure

<i>Campaigners are also required to record and report expenditure for the referendum campaign via a campaign expenditure return. How easy or difficult was it/ is it likely to be to comply with the rules with regards to the following:</i>						
%	Very easy	Fairly easy	Neither easy nor difficult	Fairly difficult	Very difficult	Don't know/ Didn't have to
Recording the necessary information	15	21	28	17	0	19
Providing receipts and name/address of suppliers for spending over £200	9	28	28	13	2	21
Meeting the deadline for reporting campaign expenditure	19	30	23	6	0	21

Table 7A. Ease of Compliance with rules on Expenditure by Participant Type

<i>Recording the necessary information</i>				
%	Easy	Neither easy nor difficult	Difficult	Don't know/ I didn't have to
Remain	44	28	17	11
Leave	31	28	17	24
Individual	33	33	22	11
Company	29	14	29	29
Unincorp. Assoc.	43	36	7	14
Charitable Incorp. Org.	0	100	0	0
Trade Union	67	0	33	0
Regist. Political Party	20	40	0	40
Small	38	29	12	21
Medium/Large	31	23	31	15

Table 7B. Ease of Compliance with rules on Expenditure by Participant Type

<i>Providing receipts and name/address of suppliers for spending over £200</i>				
%	Easy	Neither easy nor difficult	Difficult	Don't know/ I didn't have to
Remain	39	28	17	17
Leave	35	28	14	24
Individual	33	33	11	22
Company	29	14	36	21
Unincorp. Assoc.	43	36	0	21
Charitable Incorp. Org.	0	100	0	0
Trade Union	67	0	33	0
Regist. Political Party	20	40	0	40
Small	32	29	12	27
Medium/Large	46	23	23	8

Table 7C. Ease of Compliance with rules on Expenditure by Participant Type

<i>Meeting the deadline for reporting campaign expenditure</i>				
%	Easy	Neither easy nor difficult	Difficult	Don't know/I didn't have to
Remain	61	22	0	17
Leave	41	24	10	24
Individual	33	33	11	22
Company	57	14	7	21
Unincorp. Assoc.	43	29	7	21
Charitable Incorp. Org.	0	100	0	0
Trade Union	100	0	0	0
Regist. Political Party	40	20	0	40
Small	41	24	9	27
Medium/Large	70	23	0	8

Attitudes towards rules on donations, loans and campaign expenditure

Generally speaking, there was support for the reporting rules in respect of donations, loans and expenditure. Although some significant minorities felt that the requirements to declare donations and loans (20%) and expenditure (24%) were too onerous (particularly Leave campaigners – Tables 8A and 8B), significant majorities (80%) were of the view that such rules were necessary for transparency (Table 8). This view was not, however shared by one designated campaigner who argued that the rules were “...ridiculous. I think they're ill thought-through, non-purposive, contradictory. [And] ‘...written by people who have never campaigned.’”

However, there was significant disquiet in respect of whether the rules on campaign spending had ensured a fair campaign. Fully 42% were of the view that they had not (Table 8) – a view shared in particular by Leave and Medium/Large participants (Table 8E). The qualitative interviews highlighted some clear concerns with existing rules. In part, this related to the booklet *Why the Government believes that voting to remain in the European Union is the best decision for the UK*, which was distributed just before the controlled campaign period. While some campaigners thought it reasonable for Government to take a position, there was concern on both sides about the booklet, and was described variously as “propaganda”, “almost an abuse” and “outrageous”. Critics were clear that they felt the Electoral Commission should have stopped the booklet’s distribution, though one vocal critic said there would have been less of an objection had the booklet been distributed some months before the campaign.

Interviews were also asked about the appropriateness of spending limits of various types of participant. While some campaigners deemed them to be appropriate, the largest campaign groups (both designated and non-designated) saw the limits for designated groups as being far too low and unrealistic given the demands of modern campaigning. They pointed out that the limits were low relative to the Scottish referendum on independence and political parties’ national campaign spending limits. They argued that parties

have considerable sunken resources, such as databases, whereas referendum campaigns must develop these from scratch, costing a great deal of money, which counted against their spending limit – especially if designation took place close to the controlled period. One participant argued that the low limit for designated campaigns should be raised significantly, but that staff costs should be included as an expense. Relatedly, another interviewee questioned why political parties were able to spend money in the referendum campaign at all, arguing that if they wanted to participate, they should do so as part of one of the designated campaigns.

The most serious concern related to the spending limits of non-designated participant. One designated group argued that the large number of non-designated participants rendered the spending limits to be “*meaningless*”. The proliferation of registered participants meant that donors could give to multiple different organisations on the same side meaning that in effect that there was donor coordination. The view was that this was unwelcome and that the legislation should either prohibit multiple donations or that the Commission should have the power to investigate such ‘coordination’. Indeed, there was a claim that two large groups had each tried to register “...*something like 15 or 17 different organisations during the course of the campaign, all of which to try and build the number of £700,000 limits that they had, so that they could spend.*”

A further criticism was made in respect of the spending limits for non-registered campaigners. The claim was that digital campaigning had lowered costs considerably and so the spending limit of £10,000 could quite easily hide significant levels of online, but non-transparent, campaigning activity. The suggestion was therefore made that the limit for non-registered campaigners should be reduced to as low as £1,000. In sum, what was very clear from the interviews was that the spending limits set out in the legislation for non-designated groups had not anticipated either the number of participants in this referendum or developments in digital communications. As a consequence, there is a case to be made to re-examine the spending limits of non-designated and non-registered participants.

Table 8. Attitudes towards rules on donations, loans and campaign expenditure

<i>To what extent do you agree or disagree with the following statements about the rules on donations and loans for campaigners at the referendum?</i>						
%	Strongly agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree	Don't know
The existing requirements on donations and loans are too onerous for an organisation like mine	9	11	31	33	11	4
The existing requirements on campaign expenditure are too onerous for an organisation like mine	11	13	29	33	9	4
Generally speaking, rules on donations and loans are necessary to ensure transparency	49	31	13	4	0	2
Generally speaking, rules on campaign expenditure are necessary to ensure transparency	47	33	13	2	2	2
The rules and limits on campaign spending ensured a fair campaign	13	18	18	11	31	9

Table 8A. Attitudes towards rules on Donations, Loans and Campaign Expenditures by Participant Type

<i>The existing requirements on donations and loans are too onerous for an organisation like mine</i>			
%	Agree	Neither agree nor disagree	Disagree
Remain	7	27	67
Leave	29	36	36
Individual	25	38	38
Company	14	21	64
Unincorp. Assoc.	31	23	46
Charitable Incorp. Org.	0	100	0
Trade Union	50	0	50
Regist. Political Party	0	100	0
Small	17	37	47
Medium/Large	31	23	46

Table 8B. Attitudes towards rules on Donations, Loans and Campaign Expenditures by Participant Type

<i>The existing requirements on campaign expenditure are too onerous for an organisation like mine</i>			
%	Agree	Neither agree nor disagree	Disagree
Remain	13	25	63
Leave	33	33	33
Individual	25	38	38
Company	31	8	62
Unincorp. Assoc.	23	39	39
Charitable Incorp. Org.	0	100	0
Trade Union	33	0	67
Regist. Political Party	25	75	0
Small	23	36	42
Medium/Large	33	17	50

Table 8C. Attitudes towards rules on Donations, Loans and Campaign Expenditures by Participant Type

<i>Generally speaking, rules on donations and loans are necessary to ensure transparency</i>			
%	Agree	Neither agree nor disagree	Disagree
Remain	94	6	0
Leave	75	18	7
Individual	63	25	13
Company	100	0	0
Unincorp. Assoc.	77	23	0
Charitable Incorp. Org.	0	100	0
Trade Union	100	0	0
Regist. Political Party	75	0	25
Small	84	13	3
Medium/Large	77	15	8

Table 8D. Attitudes towards rules on Donations, Loans and Campaign Expenditures by Participant Type

<i>Generally speaking, rules on campaign expenditure are necessary to ensure transparency</i>			
%	Agree	Neither agree nor disagree	Disagree
Remain	88	13	0
Leave	79	14	7
Individual	50	38	13
Company	93	0	7
Unincorp. Assoc.	85	15	0
Charitable Incorp. Org.	0	100	0
Trade Union	100	0	0
Regist. Political Party	100	0	0
Small	87	13	0
Medium/Large	69	15	15

Table 8E. Attitudes towards rules on Donations, Loans and Campaign Expenditures by Participant Type

<i>The rules and limits on campaign spending ensured a fair campaign</i>			
%	Agree	Neither agree nor disagree	Disagree
Remain	57	7	36
Leave	22	26	52
Individual	43	29	29
Company	14	29	57
Unincorp. Assoc.	42	17	42
Charitable Incorp. Org.	0	0	100
Trade Union	100	0	0
Regist. Political Party	0	0	100
Small	46	21	32
Medium/Large	8	15	77

Working Together

The Working Together rules proved to be the most challenging for participants. Relatively few campaigners worked together formally with others and significant proportions decided not to work together after initially considering the option. This latter point applied to 42% of participants who considered working with the designated campaigner, most notably amongst Remain and Small campaign groups (Tables 9 and 9A). Overall, 79% did not work with the lead campaigner and 72% did not work with other campaigners (Table 9). Leave campaigners, Medium/Large groups and Registered Political Parties were notably less likely to work with other non-designated campaigners (Table 9B).

This reluctance to working together is partly explained by the perceived complexity of the rules. Fully 56% found the rules difficult to understand while only 16% found the rules to be easy (Table 10). Particular difficulties were noted on the Leave side (Table 10A). Equally, only 19% found it straightforward to comply with the rules (Table 10). One interviewee said the rules were only easy to understand once the Electoral Commission had offered its interpretation.

The interviews with campaigners confirmed the difficulties with the regulations, with participants arguing that the Working Together rules effectively blocked official coordination as they presented too much of a risk in respect of compliance. For example, one designated group said: *“We ended up having to send our Legal Director along to each meeting to make sure that, and report back to the responsible person, that there was no coordination happening.”* They also argued that it was illogical that where a designated campaign worked with another group, then 100% of the costs counted against their expenditure limit, while if two non-designated campaign worked together, the costs were split 50:50. Moreover, in compliance terms, there was a concern from a designated group that they would not know if a non-designated group had claimed to have worked with them until after the non-designated group had submitted its return.

In sum, the rules were very challenging for designated participants in particular, as it was very difficult for them to control the activities of other groups. In effect, the complexity of the rules and the uncertainty about compliance meant that formal coordination was minimized and actively discouraged. This issue would appear to be related to the concerns over spending limits, and may be a function of the large number of permitted participants. Suffice to say, the rules, though well intentioned, would appear to be creating some unintended consequences as well as unforeseen behaviour. For example, one interviewee suggested that there was coordination amongst Leave campaigns through the use by more than one participant of a company that managed fundraising, designed the campaign websites and provided strategic campaign advice. The company concerned was not, apparently, itself a registered participant.

Table 9. Propensity to work with other campaigns

<i>Did you explore the possibility of working with a designated campaigner or other registered campaigners?</i>				
<i>%</i>	<i>Yes and we conducted most activities together</i>	<i>Yes and we conducted some activities together</i>	<i>Yes but we didn't work together in the end</i>	<i>No</i>
Working with designated campaigner	5	16	42	37
Working with other non-designated campaigners	0	29	23	49

Table 9A. Propensity to Work with Other Campaigns by Participant Type

<i>Working with designated campaigner (NOT APPLICABLE FOR DESIGNATED CAMPAIGNERS)</i>				
<i>%</i>	<i>Yes and we conducted most activities together</i>	<i>Yes and we conducted some activities together</i>	<i>Yes but we didn't work together in the end</i>	<i>no</i>
Remain	0	7	57	36
Leave	8	21	33	38
Individual	29	14	0	57
Company	0	17	50	33
Unincorp. Assoc.	0	27	46	27
Charitable Incorp. Org.	0	0	100	0
Trade Union	0	0	67	33
Regist. Political Party	0	0	33	67
Small	7	14	48	31
Medium/Large	0	22	22	56

Table 9B. Propensity to Work with Other Campaigns by Participant Type

<i>Working with other non-designated campaigners</i>				
%	Yes and we conducted most activities together	Yes and we conducted some activities together	Yes but we didn't work together in the end	no
Remain	0	40	27	33
Leave	0	20	20	60
Individual	0	20	20	60
Company	0	29	29	43
Unincorp. Assoc.	0	30	20	50
Charitable Incorp. Org.	0	0	100	0
Trade Union	0	33	0	67
Regist. Political Party	0	0	0	100
Small	0	33	29	38
Medium/Large	0	18	9	72

Table 10. Attitudes towards the Working Together rules

<i>To what extent do you agree or disagree with the statements below about the 'Working together rules'?</i>						
%	Strongly agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree	Don't know
It was easy to understand when "working together" rules covered me	3	13	9	28	28	19
It was straightforward, in order to comply with regulations, to manage the financial side of the campaign	3	16	19	22	22	19

Table 10A. Attitudes towards the Working Together Rules by Participant Type

<i>It was easy to understand when "working together" rules covered me</i>				
%	Agree	Neither agree nor disagree	Disagree	Don't know
Remain	33	7	47	13
Leave	0	12	65	24
Individual	20	40	20	20
Company	8	0	75	17
Unincorp. Assoc.	11	11	56	22
Charitable Incorp. Org.	0	0	100	0
Trade Union	50	0	50	0
Regist. Political Party	0	0	50	50
Small	17	13	54	17
Medium/Large	13	0	63	25

Table 10B. Attitudes towards the Working Together Rules by Participant Type

<i>It was straightforward, in order to comply with regulations, to manage the financial side of the campaign</i>				
%	Agree	Neither agree nor disagree	Disagree	Don't know
Remain	29	14	43	14
Leave	11	22	44	22
Individual	33	50	0	17
Company	8	17	59	17
Unincorp. Assoc.	13	13	50	25
Charitable Incorp. Org.	0	0	100	0
Trade Union	50	0	50	0
Regist. Political Party	0	0	50	50
Small	21	21	42	17
Medium/Large	13	13	50	25

Guidance

Overall, there was clear satisfaction with most aspects of the guidance supplied by the Electoral Commission. Some 59% found the guidance documents to be useful (though 22% did not), 63% found the regular campaign updates to be useful and 69% found the direct advice from Commission staff to be clear and helpful (Table 11). There was some variation by participant type, however. Leave campaigners were less likely to find the Electoral Commission guidance, the regular campaign updates, or the direct advice from Commission staff to be useful (Tables 11A, 11D & 11E).

Guidance was seen as being useful across all three areas (Registration and Designation; Spending, and Donations & Loans), but reflecting the difficulty that respondents experienced with the Working Together rules, the guidance on spending was regarded as being least helpful. Thus, while 80% found the registration and designation guidance materials to be useful, this was only true of 68% in respect of the materials on spending (Table 12). There was some variation by participant type. Leave campaigners and Medium/Large groups were less likely to find the materials on spending, and donations and loans to be helpful (Tables 12B & 12C). Of note is also the variation between more routinely regulated groups (charities, trade unions and political parties) and other entities. The former were much more likely to find Electoral Commission guidance useful in all three areas (Tables 12A, 12B & 12C – see also Table 11A).

Overall, these positive points in respect of the Electoral Commission were echoed by interviewees, who praised both the comprehensiveness of the guidance and the quality of advice provided when sought. One interviewee said: *“I think if it hadn't been for the Electoral Commission being as helpful as they were, we would have struggled awfully”* and pointing out that it was very helpful to be able to show drafts of returns to the Commission before actually submitting them. Moreover, once established, the designated campaigns were positive about the single point of contact in the Commission.

There were, however still some concerns in respect of guidance. A large minority (28%) did not regard the guidance as being published in good time and there were significant concerns in respect of the ease of navigation of the Commission’s website. Fully 48% found it difficult to navigate compared with only 28% who found it easy (Table 11), a point repeatedly reflected in the interviews. One said: *“It shouldn’t be that to get to designation guidance you have to open a PDF, and in that PDF there’s a link to another PDF, and in that PDF there’s a link to the guidance. I mean, I could never find the guidance; I always had to go back to emails and find the guidance where I’d been sent it, rather than trying to find it quickly on the internet.”* Again, negative attitudes were more likely to be voiced by Leave campaigners (Tables 11B & 11C).

Interviewees also expressed frustration at the time it took the Commission to appoint a contact person and the length of time taken to respond to queries. These, it was argued, should be dealt with within a maximum of 48 hours. Indeed, some of the advice also attracted criticism, with the suggestion from more than one participant that Commission was defensive, avoided being definitive, and was primarily concerned with ‘avoiding blame’. Interviewees – particularly those without experience in campaigns – would have preferred definitive responses, with less scope for interpretation.

Table 11. Attitudes towards Electoral Commission guidance

<i>To what extent do you agree or disagree with the following statements about the Electoral Commission guidance?</i>					
<i>%</i>	<i>Strongly agree</i>	<i>Tend to agree</i>	<i>Neither agree nor disagree</i>	<i>Tend to disagree</i>	<i>Strongly disagree</i>
The guidance documents were useful	22	37	20	20	2
The website was easy to navigate to find the guidance documents I needed	8	20	25	30	18
The guidance was published in sufficient time to prepare for the referendum	18	28	26	13	15
The regular campaign updates (newsletters) were useful	14	49	30	5	3
Direct advice or guidance via telephone or email was clear and helpful	43	26	14	9	9

Table 11A. Attitudes towards Electoral Commission Guidance by Participant Type

<i>The guidance documents were useful</i>			
%	Agree	Neither agree nor disagree	Disagree
Remain	75	13	13
Leave	48	24	28
Individual	33	44	22
Company	71	0	29
Unincorp. Assoc.	60	10	30
Charitable Incorp. Org.	0	100	0
Trade Union	100	0	0
Regist. Political Party	33	67	0
Small	60	27	13
Medium/Large	55	0	46

Table 11B. Attitudes towards Electoral Commission Guidance by Participant Type

<i>The website was easy to navigate to find the guidance documents I needed</i>			
%	Agree	Neither agree nor disagree	Disagree
Remain	31	31	38
Leave	25	21	54
Individual	13	25	63
Company	21	14	64
Unincorp. Assoc.	30	40	30
Charitable Incorp. Org.	0	0	100
Trade Union	67	0	33
Regist. Political Party	33	67	0
Small	28	31	41
Medium/Large	27	9	64

Table 11C. Attitudes towards Electoral Commission Guidance by Participant Type

<i>The guidance was published in sufficient time to prepare for the referendum</i>			
%	Agree	Neither agree nor disagree	Disagree
Remain	56	25	19
Leave	39	26	35
Individual	25	38	38
Company	43	29	29
Unincorp. Assoc.	44	22	33
Charitable Incorp. Org.	0	0	100
Trade Union	100	0	0
Regist. Political Party	67	33	0
Small	52	28	21
Medium/Large	30	20	50

Table 11D. Attitudes towards Electoral Commission Guidance by Participant Type

<i>The regular campaign updates (newsletters) were useful</i>			
%	Agree	Neither agree nor disagree	Disagree
Remain	81	19	0
Leave	48	38	14
Individual	25	63	13
Company	79	14	7
Unincorp. Assoc.	43	43	14
Charitable Incorp. Org.	100	0	0
Trade Union	100	0	0
Regist. Political Party	67	33	0
Small	67	33	0
Medium/Large	50	20	30

Table 11E. Attitudes towards Electoral Commission Guidance by Participant Type

<i>Direct advice or guidance via telephone or email was clear and helpful</i>			
%	Agree	Neither agree nor disagree	Disagree
Remain	92	0	8
Leave	55	23	23
Individual	43	29	29
Company	82	0	18
Unincorp. Assoc.	70	20	10
Charitable Incorp. Org.	100	0	0
Trade Union	100	0	0
Regist. Political Party	33	33	33
Small	68	20	12
Medium/Large	70	0	30

Table 12. Attitudes towards Electoral Commission guidance materials

<i>Please indicate how helpful you found the following Electoral Commission guidance materials</i>				
%	Very useful	Fairly useful	Not very useful	Not at all useful
Registration and Designation (Registration, Designation, Timetable and Reporting Deadlines)	29	51	12	7
Spending (Spending, Working together and Spending rules – how your organisation may be affected)	22	46	27	5
Donations and Loans (Donations and Loans, Pre-poll Reporting and Permissibility)	31	47	19	3

Table 12A. Attitudes towards Electoral Commission Guidance Materials by Participant Type

<i>Registration and Designation (Registration, Designation, Timetable and Reporting Deadlines)</i>		
%	Useful	Not useful
Remain	88	13
Leave	76	24
Individual	63	38
Company	86	14
Unincorp. Assoc.	73	27
Charitable Incorp. Org.	100	0
Trade Union	100	0
Regist. Political Party	100	0
Small	83	17
Medium/Large	73	27

Table 12B. Attitudes towards Electoral Commission Guidance Materials by Participant Type

<i>Spending (Spending, Working together and Spending rules – how your organisation may be affected)</i>		
%	Useful	Not useful
Remain	80	20
Leave	59	41
Individual	17	83
Company	72	29
Unincorp. Assoc.	78	22
Charitable Incorp. Org.	100	0
Trade Union	67	33
Regist. Political Party	100	0
Small	78	22
Medium/Large	40	60

Table 12C. Attitudes towards Electoral Commission Guidance Materials by Participant Type

<i>Donations and Loans (Donations and Loans, Pre-poll Reporting and Permissibility)</i>		
%	Useful	Not useful
Remain	93	7
Leave	67	33
Individual	33	67
Company	79	21
Unincorp. Assoc.	89	11
Charitable Incorp. Org.	100	0
Trade Union	100	0
Regist. Political Party	100	0
Small	89	12
Medium/Large	50	50

The Administration of the Referendum

There was a good level of satisfaction with the administration of the referendum, both in the survey and in the interviews. Amongst those who expressed an opinion, there was more confidence in the application of the statutory tests for designation than not, though a fairly significant proportion were not well disposed (Table 13). This was more likely to be the case amongst Leave campaigners (Table 13A). One registered participant, for example, entered into lengthy correspondence with the Electoral Commission in respect of whether the Commission was obliged to designate a group on the Leave side, given that the underlying ideological differences between the various groups were so apparently irreconcilable. Another, on the same side, argued that it would have been better to designate more than one Leave group and split the various benefits that were available.

Equally, while a majority thought the referendum was well run (Table 13), there remained a significant number who did not, with Leave campaigners being less likely to think this was the case (Table 13C). The area of least dissatisfaction was in respect of the verification and count processes, where only a tiny proportion of respondents thought the processes to have been badly conducted (Table 13).

Table 13. Attitudes towards the administration of the referendum

<i>Below are some general statements about the administration of the referendum. To what extent do you agree or disagree with each of them?</i>						
<i>%</i>	<i>Strongly agree</i>	<i>Tend to agree</i>	<i>Neither agree nor disagree</i>	<i>Tend to disagree</i>	<i>Strongly disagree</i>	<i>Don't know</i>
The Commission applied the statutory tests for designation correctly	14	23	14	7	12	30
The verification and count processes were well run	12	40	16	2	0	30
Overall the referendum was well run	12	44	12	2	19	12

Table 13A. Attitudes towards the Administration of the Referendum by Participant Type

<i>The Commission applied the statutory tests for designation correctly</i>				
%	Agree	Neither agree nor disagree	Disagree	Don't know
Remain	44	6	0	50
Leave	33	19	30	19
Individual	33	0	11	56
Company	36	7	36	21
Unincorp. Assoc.	28	28	9	36
Charitable Incorp. Org.	0	100	0	0
Trade Union	100	0	0	0
Regist. Political Party	25	25	25	25
Small	38	13	19	31
Medium/Large	36	18	18	27

Table 13B. Attitudes towards the Administration of the Referendum by Participant Type

<i>The verification and count processes were well run</i>				
%	Agree	Neither agree nor disagree	Disagree	Don't know
Remain	38	19	0	44
Leave	60	15	4	22
Individual	33	33	11	22
Company	71	7	0	21
Unincorp. Assoc.	46	0	0	55
Charitable Incorp. Org.	0	100	0	0
Trade Union	67	33	0	0
Regist. Political Party	25	25	0	50
Small	44	22	3	31
Medium/Large	73	0	0	27

Table 13C. Attitudes towards the Administration of the Referendum by Participant Type

<i>Overall the referendum was well run</i>				
%	Agree	Neither agree nor disagree	Disagree	Don't know
Remain	63	0	13	25
Leave	52	19	26	4
Individual	44	11	22	22
Company	57	14	21	7
Unincorp. Assoc.	73	0	18	9
Charitable Incorp. Org.	0	0	100	0
Trade Union	100	0	0	0
Regist. Political Party	0	50	25	25
Small	53	9	22	16
Medium/Large	64	18	18	0

General Observations

Overall, there are a number of observations from the interviews that are worthy of note. Firstly, it is very clear that there is a significant advantage in terms of understanding compliance if the participant has participated in previous campaigns (usually party political ones). Thus, the lack of prior experience was a significant disadvantage for many in respect of compliance, navigating the website and using PEF Online, and we observe in the survey more familiarity and ease with compliance amongst those groups that are subject to routine regulation.

Secondly, and relatedly, it was clear from the interviews that there was some considerable uncertainty in respect of a number of regulations – particularly in terms of designation and working together. Thus, some of the claims made by interviewees may be factually incorrect, but reflect their uncertainty of participants.

Thirdly, and to reinforce the points made above, aspects of the legislation do not appear suitable where there are so many registered participants and where digital-only campaigning can be conducted at a low cost. There is a potential contradiction, here. Lowering the spending limit for unregistered participants could increase the number of registered ones, since more would presumably be required to register in order to participate. However, the issue is more one of the high spending limit for non-designated campaigners, and the lack of a deadline to register as a permitted participant in advance of the poll.

Finally, the designation competition on the Leave side created significant difficulties and it would seem prudent in any future referendum to complete the designation process at least a month before the controlled period.