

Inquiry into the impact of social media
on elections and electoral
administration

**Submission from the Victorian
Electoral Commission**

September 2020



Acknowledgement of Country

The VEC pays respect to Victoria's traditional owners and their elders past and present who have been custodians of this country for many thousands of years. Their living culture and their role in the life of Victoria is acknowledged by the VEC.

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Introduction

Social media is an integral aspect of how Victorians discuss, debate, communicate and inform each other of electoral matters. Over the past 10 to 15 years, social media has overtaken traditional news media as the primary source of information sharing and news consumption for some age groups.¹ According to the Australian Election Study, voters are increasingly using online sources and social media to access electoral information and engage in politics.² The Victorian Electoral Commission (VEC) has had to adapt to the multitudinous issues and challenges that this has presented.

It's no secret that alongside the ability for open and direct discussions with peers, candidates and elected representatives (something denied through the one-way communication of traditional media), some Victorians and those outside Victoria are using social media platforms to spread disinformation around election events, potentially jeopardising the democratic process.

And similar to the traditional media landscape, social media is largely controlled by a small number of very large foreign multinationals: Facebook, Google, Snapchat and Twitter, with emerging rivals such as TikTok not far behind in its share of Victorians' screen time. What these platforms have in common is that they are generally free and easy to use; enable and encourage a proliferation of commentary on political matters; collect a vast amount of data about their users; and sell that data to advertisers so that paid advertising can be targeted to highly specific demographics. Another common feature is a general resistance to regulation, as has been seen in Australia.

As of 1 September 2020, Facebook and Google are threatening to remove all news sharing from their platforms in response to a proposed code of conduct that would require them to reach payment agreements with Australian news outlets.³ Not only could this greatly affect how elections in Victoria are discussed, debated and shared through social media, it also demonstrates a dangerous attitude by platforms towards Australian laws that aim to create fairness and observe copyright for news articles. The fast-paced rate of change within the online environment may well mean that any resulting recommendations from this inquiry, may be out of date by the time the report is published.

Nevertheless, the VEC will make its submission based on the most recent information available. It is clear that the impact of social media on future elections in Victoria will only increase, and the VEC understands it is imperative to ensure an appropriate regulatory and non-regulatory approach to help navigate this uncertain future.

¹ S. Park, C. Fisher, G. Fuller, G. & J.Y. Lee, *Digital News Report: Australia 2018*, News and Media Research Centre, University of Canberra, 2018.

² S. Cameron, & I. McAllister, *Trends in Australian Political Opinion: Results from the Australian Election Study 1987–2019*. The Australian National University, Canberra, ACT, 2019.

³ M. Doran & J. Hayne, 'Facebook threatens to ban Australians from sharing news after Google launches attack on Government plans', *ABC News*, Politics, 1 September 2020. <https://www.abc.net.au/news/2020-09-01/facebook-threatens-to-ban-australians-from-sharing-news-content/12616216>, accessed 16 September 2020.

Background

The Electoral Matters Committee *Inquiry into the impact of social media on elections and electoral administration* sets out the following Terms of Reference:

That this House refers an inquiry into the impact of social media on Victorian elections and Victoria's electoral administration to the Electoral Matters Committee for consideration and report no later than 30 June 2021 and the Committee should consider:

- 1) the impact of social media technologies on the Victorian electoral process, focusing on how social media platforms are used for political communication and whether current regulations regarding the authorisation of political content on social media are appropriate.
- 2) whether online electoral advertising is appropriately regulated in Victoria; and
- 3) how social media and new communications technologies are used by the Victorian Electoral Commission and the Parliament to engage Victorians and improve knowledge of electoral processes.

The VEC's submission will address each aspect of these Terms of Reference.

The Inquiry has also made available a survey of eight questions related to the Terms of Reference:

What do you think about the following ideas?

Q1. Encouraging social media platforms to take more action against inappropriate activities (such as bots, harassment, trolling, spreading fake news).

Q2. The government funding media literacy campaigns to help people know what they can trust online.

Q3. Requiring public disclosure of all online political advertising (for example, webpages created by social media platforms showing all of the political advertising on their platform and who paid for it, or webpages created by parties/candidates showing all of the online ads they have run).

Q4. Requiring online electoral advertising to state who paid for it.

Q5. Government support for independent and trust-worthy organisations that can fact-check claims or identify misinformation.

Q6. Using independent organisations (e.g. the Victorian Electoral Commission) as a source of reliable information about electoral candidates.

Q7. New laws requiring truth in political advertising.

Q8. Are there other things you'd like to see the government do relating to social media or online advertising and elections?

The VEC's submission will address these questions and highlight the sections where these questions are discussed.

For the purpose of this submission, references to social media or online media platforms will largely be in reference to the most popularly used apps in Australia⁴, outlined below.

Facebook

Note: includes Instagram, Facebook Messenger and WhatsApp.

Facebook is a social networking platform through which users can share personal profiles and activity updates; take part in discussions on public pages and within closed groups; form communities of interest; buy and sell goods and services; host or publicise events; stream or watch videos; and generate and influence followings. There are a large range of options for advertisers on Facebook, with business accounts and pages able to sponsor advertising for specific demographic audiences.

Instagram – an image-sharing platform that is predominantly used for visual brand awareness, meaning it is a powerful tool for industries that rely on rich visual advertising (such as fashion and cosmetics).

Facebook Messenger – an instant messaging feature built into Facebook. It facilitates individual and group chats, and photos, videos and audio recordings can be shared.

WhatsApp – a messaging and Voice over IP service that allows users to send text messages and voice messages, make voice and video calls, and share images, documents, user locations, and other media. It is popularly used to make international phone and video calls as it relies on data and allows users to avoid costly telecom charges.

Google

Note: includes YouTube

Google is known as the most popular search engine worldwide. It also encompasses a wide range of Internet-related services and products, including online advertising technologies and cloud computing.

YouTube – the most popular online video service, viewable on a huge range of devices, from phones to televisions, which have an application or built in feature to view YouTube content.

Snapchat

Snapchat is a multimedia messaging app; its key feature is that pictures and messages are usually only available for a short time before they become inaccessible to their recipients.

Twitter

Twitter is a microblogging app where users send and receive short posts of up to 280 characters, called tweets. By tagging other users directly ('@') or employing hashtags ('#'), users can link their comments to anyone else's, or contribute to a current topic. When multiple people use the same tags in a short space of time, that tag becomes a 'trend' and trend statistics can be used as a de-facto measure of the Twitter community. Twitter is frequently

⁴ According to Civic Web Media, 'Australia's most popular social media sites 2020', *Civic Web Media*, 5 February 2020.
<https://www.civicwebmedia.com.au/australias-most-popular-social-media-sites-2020/>, accessed 16 September 2020.

trawled by journalists and commentators. It's worth noting that political advertising was globally banned on Twitter as of November 2019.

Others

Other popularly used social media apps in Australia include:

- LinkedIn: A social networking app that focuses on professional networking and career development.
- TikTok: A platform where users create and share short mobile videos. It is extremely popular with young people.
- WeChat: A Chinese social networking and messaging app. It is also commonly used to make payments.

Context

Legislation

Victorian Parliamentary elections are governed by the *Electoral Act 2002* (the Act). While the Act does not specifically refer to social media and most provisions pre-date the rise of social media and online digital platforms, there are a number of connections between social media and the VEC's role as the State's electoral management body.

In addition to the VEC's responsibilities for conducting State and local government elections in Victoria, the Act also requires the VEC to promote public awareness of electoral matters through education and information programs, conduct and promote research, and provide advice and report on electoral matters.⁵

Social media provides more accessible channels through which the VEC educates, engages and informs Victorians about their democracy, often at lower cost than mainstream media and with fewer logistical barriers than face-to-face outreach activities. The VEC is also responsible for administering the Act and, as a regulator, the VEC enforces, investigates and prosecutes offences against the Act.

As an example, the Act establishes specific requirements regarding the authorisation and publication of electoral matter. Defined in section 4 of the Act, electoral matter is "matter which is intended or likely to affect voting in an election."⁶ The emergence of social media has necessitated greater agility in the application of a regulatory regime originally intended to monitor political campaign staples, like billboards, corflutes and how-to-vote cards. While 'publish' in the Act includes publication on the internet, the breadth and depth of social media has, in some form or another, created a new frontier for political communication.

Similarly, Victoria's political funding and donation disclosure requirements are among the most recent additions to the Act. In this field as well, the VEC both employs social media to obtain and disseminate information as well to act and inform its role as a regulator. Social media provides greater visibility of grassroots campaigning, which assists to identify aspiring political actors and alert them to their potential donation disclosure and reporting obligations.

⁵ Section 8(2) of the *Electoral Act 2002* (Vic).

⁶ Section 4 of the *Electoral Act 2002* (Vic).

Conversely, and while the regime is less than three years old, support for political causes using crowdfunding initiatives through social media has already started to re-frame the way some participants choose to generate their political funding in Victoria.

Who is the ‘publisher’ in social media?

Although social media platforms operate their own terms and conditions, they are also subject to the laws relevant to the jurisdictions in which they operate. Different online platforms have demonstrated varying levels of accountability, cooperation and responsibility over content published through their service, as discussed below.

The application of certain provisions of the Act for material published on social media is not well defined. As an example, sections 83(2) and 83A(2) of the Act deem the person who makes copies of electoral material and how-to-vote cards for distribution on the internet as the ‘printer’ for the purpose of satisfying the requirements in the Act that regulate that material. Sections 179 and 179A of the Act extend those, among others, to corporations and officers of bodies corporate, and yet section 179A of the Act links back to bodies corporate distinguished by the *Corporations Act 2001* (Cth). Any attempt to steer the ‘printer’ towards off-shore social media platforms would be limited by the Commonwealth’s capture of overseas corporations.

While the Act takes a deliberate approach to political advertising in mainstream media, the liability for non-compliance in political advertising on social media is much less clear.⁷ The distinct lack of a regular application for ‘publisher’ in the Act when it comes to electoral material posted to social media risks compromising enforcement and prosecution efforts for offences against the Act. In response, the VEC as well as other electoral commissions have concentrated efforts on building partnerships with online platforms based on a joint understanding of responsible practice. Accordingly, and like other electoral commissions, the VEC’s focus to date has been to build partnerships with online platforms through their Australian-based agents and seek their cooperation. For responsible providers, this is often reflected through each platform’s own terms of service and the use of artificial intelligence, moderators and community-based reporting tools.

Online platforms’ responses

It is important to highlight that independent of the evolution of laws around the world in relation to the regulation of social media, online platforms themselves are constantly updating their operations and Terms of Service to combat some of the issues arising from their platforms. Notable examples include:

- The prohibition of all political advertising on Twitter⁸. In late 2019, Twitter banned all promoted political content from its platform, with the only exemptions being news publishers.
- Twitter’s fact-checking labels. In May 2020, Twitter introduced fact-checking labels to its platform to help combat misinformation related to coronavirus (COVID-19). These labels appear below tweets and link users to pages containing further information

⁷ For a detailed discussion of this matter at the Commonwealth level, see Parliament of the Commonwealth of Australia, *Status Report*, Joint Standing Committee on Electoral Matter, Commonwealth of Australia, Canberra, March 2019.

⁸ Twitter, ‘Political Content’, *Twitter*, 2020, accessed 16 September 2020, accessed 16 September 2020.

about the misleading claims. This was thrust into the spotlight when Twitter added fact-check labels on two tweets from US President Donald Trump about the integrity of postal votes⁹. The three categories of labels are “misleading information”; “disputed claims” and “unverified claims”, and tweets falling into these categories are either identified by Twitter’s own internal systems or reports from trusted partners¹⁰. The VEC will monitor closely the use of fact-checking labels during election events.

- Facebook recently updated its Terms of Service (to commence from 1 October 2020) to pre-emptively remove content that could invite a legal or regulatory response, saying in a notification to its users: “We also can remove or restrict access to your content, services or information if we determine that doing so is reasonably necessary to avoid or mitigate adverse legal or regulatory impacts to Facebook.” This signals a willingness to proactively monitor and remove content in breach of jurisdictional laws, though it will be difficult to gauge the impact of this on election events until it is in operation.
- New authorisation and ID verification requirements for political advertising on Facebook. This is discussed in greater detail in the “Regulatory approaches” section of this submission.

How the VEC currently uses social media

The VEC employs social media in a number of ways, governed by an internal *Social Media Operational Guidelines* document. The VEC aims to achieve the following through social media engagement – to:

1. encourage community awareness of, and participation in, elections
2. raise awareness of enrolment and voting obligations
3. promote community engagement and electoral education programs
4. establish the VEC as an authoritative voice on electoral matters
5. support issues management and crisis communications
6. promote VEC as a model employer, particularly for working at elections.

To achieve these aims, the VEC maintains an active presence on a number of social media channels, most notably Facebook, Twitter, Instagram, LinkedIn and YouTube. These channels are also used to host the VEC’s sponsored advertising content during major electoral events.

Furthermore, the VEC receives and responds to large volumes of queries from the general public both during and outside election events. These can range from queries regarding electoral information, through to formal complaints or personnel-related matters.

These channels are monitored during normal business hours, with extended hours during major election periods.

⁹ See ABC News, ‘Donald Trump threatens Twitter after fact-checks on claims about mail-in ballots’, *ABC News Blog*, 27 May 2020. <https://www.abc.net.au/news/2020-05-27/trump-threatens-social-media-companies-after-twitter-fact-check/12294018>, accessed 16 September 2020.

¹⁰ Y. Roth & N. Pickles, ‘Updating our approach to misleading information’, *Twitter Blog*, 11 May 2020. https://blog.twitter.com/en_us/topics/product/2020/updating-our-approach-to-misleading-information.html, accessed 16 September 2020.

How the VEC regulates social media

The VEC maintains a procedure for escalating content potentially in breach of the Act. This system is complaints-based, meaning it relies on complaints or reports from members of the public for suspect content to be investigated. The VEC does not actively monitor advertising compliance during election events, for two key reasons:

- the sheer volume of advertising circulating during elections makes it impossible for the VEC, at its current resourcing levels, to proactively identify content that could be in breach of electoral law
- much advertising would be invisible to the VEC regardless of how many resources were dedicated to proactive monitoring, due to the fact it is micro-targeted to specific demographics and the algorithms behind online platforms are unlikely to return those ads to an audience they are not targeted at (see the section on micro-targeting under “Regulatory approaches”).

A key issue is that the boundary between advertising and political comment is often blurred on social media – therefore, the VEC's approach is to require material considered to be advertising to include an authorisation statement or a link to an authorisation. So, while individual comments or shares of electoral matter are not counted, sponsored advertising and pages/accounts dedicated to a political issue are. This is explicitly legislated in other jurisdictions such as the ACT, where s. 293A of the *Electoral Act 1992* exempts personal political views that are not paid for from authorisation requirements.

The VEC's escalation model involves the VEC directly contacting authors or advertisers when a report or complaint has been made about their content being in breach of electoral law. The most common instance of this relates to material that does not include an appropriate authorisation, or a link to an authorisation on a web page. The VEC will directly request the offender to either rectify their content (by adding appropriate authorisation) or removing it if they are unwilling to provide an authorisation statement. If such a direct request is unsuccessful, the VEC will escalate to making a direct request to the social media platform to remove the content.

The VEC established arrangements with Twitter, Google and Facebook ahead of the 2018 State election to formalise this process of escalation and taking down of offending material. These are summarised briefly below:

Twitter –the VEC established a direct reporting pathway with Twitter's Public Policy, Government and Philanthropy department, via the Trusted Partner Portal. The portal allows the VEC to report content in breach of the Act. The VEC also established direct access to Twitter's Head of Public Policy and Government Affairs for urgent escalations or out-of-hours assistance.

Google – the VEC established a direct reporting pathway with Google's Policy and Government Relations team.

Facebook – this was the most complex social media platform with which to broker an agreement. The VEC was required to provide a set of scenarios to Facebook demonstrating potential breaches of the Act. Following this, the VEC established an understanding about appropriate Facebook contacts to whom breaches of the Act could be escalated to ensure prompt removal of in-breach material.

2018 Victorian State election

In its submission to the 2014 *Inquiry into Social Media's Impact on Elections in Victoria*, the VEC provided examples of interactions and take-down requests with social media platforms in the preceding electoral events¹¹. This submission will illustrate examples from the 2018 Victorian State election.

As anticipated in 2014, the number of complaints related to electoral law breaches on social media were minimal during the 2018 State election.

There were fewer than 20 instances where the VEC was alerted to material on social media in breach of the Act. The majority of these cases related to a lack of appropriate authorisation on sponsored advertisements, or on popular pages expressing political opinions.

In most instances, the offending authors responded to the VEC's direct requests (by either adding an authorisation line or removing their advertisement or page), meaning the VEC did not need to escalate further with the social media platforms.

The VEC made four requests to social media platforms to take down or restrict in-breach content – three to Facebook and one to Twitter.

Two examples of managing in-breach content will be drawn out in detail below, with one requiring a take-down request to the applicable platforms, and one not requiring it.

Different responses from different platforms

In the first case study, the VEC received a complaint about a Facebook page sponsoring unauthorised advertisements. The VEC was able to establish that the page owner was a NSW elector currently living and working in China. He ran a Facebook page that was not associated with a political party, but was actively commenting on political matters related to the Victorian State election.

In line with the VEC's policy, the VEC directly messaged him to alert him of the breach. However, he did not heed the VEC's requests to authorise his Facebook page and refused to acknowledge the jurisdiction of the *Electoral Act 2002*, both on account of his not being enrolled in Victoria, and on account of his present location overseas.

The VEC escalated the case to Facebook through both the formal reporting mechanism and direct contact with Australian Head Office contacts. Facebook agreed to enforce a geographic restriction, restricting access to the page to those located outside Australia, meaning that people viewing the page from within Australia would not be able to see its content. However, it did mean that anyone outside Australia could still view it – and given that Victorian electors reside around the globe, this arguably was not an adequate or comprehensive response.

The page owner eventually added the required authorisation, after which the geoblock was lifted.

¹¹ The VEC's previous submission, and public hearing transcript, can be accessed at: <https://www.parliament.vic.gov.au/380-emc/inquiry-into-the-impact-of-social-media-on-victorian-elections-and-victorias-electoral-administration>

Facebook's responsiveness was relatively receptive – they restricted the offending page within one business day. In the fast-moving world of digital communications, however, this could be considered a long time for material to be circulating online.

This same page owner ran a Twitter page similar to his Facebook page promoting electoral matter in relation to the election. In this instance, Twitter did not accede to the VEC's request to have the material removed or restricted. They did not provide an explanation, nor did they respond to further requests on the matter. The VEC was unable to act further without the cooperation of Twitter; the only other possible option would have been seeking a court order to have the page taken down, which would not have been effected in a timely manner given the short election period.

Attraction of media attention

The next case study deals with an incident where escalating to the social media platform was not required. In this instance, the VEC was alerted to a Facebook page lacking an authorisation statement, 'Political posting mumma'.

A major risk in the way the VEC deals with complaints directly with authors is that the VEC is limited to operating within the parameters of the social media platforms themselves. The way Facebook Messenger operates means that while the VEC can respond as 'the VEC' to messages received, as a business page it cannot initiate conversations.

The owner of the page 'Political posting mumma', self-identified as a political party member, who was already in the public sphere and known to media due to controversial views.

Due to her Facebook settings disallowing direct messages, the VEC was required to post directly on her page 'wall' to notify her of the breach (which related to the lack of an authorisation statement). This was noticed by several public commentators, including one who reposted the exchange on Twitter and tagged the major political parties. This escalated further as the 'Political posting mumma' page owner resisted the request to authorise her page – and as a result, *The Age* picked up the story¹².

In *The Age* article, the page owner argued that she should not have to provide an authorisation statement. She stated: 'I do not receive any money for my work or funding for my page. I do not officially speak for or on behalf of any political party and I am not running for Parliament'.

In the VEC's statement to *The Age*, which was published in full, the nature of the breach was made clear; as her posts constituted electoral matter her objections were irrelevant. Having the VEC's statement appear on this public platform allowed the process of this dispute to become transparent, and as a result the VEC came across as balanced, measured and reasonable, and attracted generally positive support on social media. The author corrected the breach and authorised her Facebook page shortly after this news story was published.

¹² S. F. Coob & A. Carey, 'Political posting mumma' who attacked Safe Schools warned over Facebook page', *The Age*, 19 November 2018, <https://www.theage.com.au/national/victoria/political-posting-mumma-who-attacked-safe-schools-warned-over-facebook-page-20181119-p50h14.html>, accessed 16 September 2019.

This example demonstrated two consequences of addressing breaches publicly:

- that it is possibly more educational and effective than prosecuting breaches through regulatory means, or defaulting to reporting the breach to social media platforms and waiting for them to take down the offending material
- that the VEC can inadvertently become involved in political disagreements if communicating with an author or advertiser can only occur publicly.

Are current regulations appropriate?

To conclude this initial section of the submission and directly address questions 1 and 2 of the Inquiry's Terms of Reference, the VEC puts forward the following view:

- It is difficult to gauge the volume of disinformation circulating on social media during Victorian electoral events given that current legislation does not explicitly prohibit the spreading of disinformation in political advertising and commentary, and it has not been closely monitored or policed in the past. While the VEC received a small number of social media non-compliance complaints during the 2018 State election, these necessarily related to the narrow framework that currently governs the regulation of electoral advertising. Similarly, it is also difficult to discern the impact that this is having on the electorate and the behaviour of voters. The VEC would suggest that further investigation and research is required to objectively and accurately measure both the extent and impact of social media advertising during elections.
- It is clear that there are some weaknesses within the existing regulatory framework that could be strengthened to give greater definition about electoral matter 'published' to social media and how social media platforms can be regulated. The current provisions pre-date the proliferation of social media as a means of political communication and should be updated to give certainty about the liability of online platforms in their role as publishers.
- Given the potential and real threat of electoral interference and disinformation occurring around election events worldwide, the VEC believes it appropriate for the Parliament to explore and implement a number of regulatory and non-regulatory approaches to ensure a comprehensive multi-faceted response to those threats and strengthen democracy locally.

Regulatory approaches

This section will review potential regulatory approaches that may be under consideration in relation to election events in Victoria. The VEC will present its view on whether these approaches may be effective in the Victorian context.

Requiring truth in advertising and fact-checking

EMC Survey Q7: New laws requiring truth in political advertising.

EMC Survey Q5: Government support for independent and trust-worthy organisations that can fact-check claims or identify misinformation.

(Note: While fact-checking is not a regulatory approach, it is addressed within this section as similar issues relate to both this and the regulation of truth in advertising).

South Australia is currently the only Australian jurisdiction that explicitly prohibits misleading or deceptive political advertising. (The ACT recently introduced similar legislation for the same purposes, but the new laws will not be implemented in time for the next Territory election on 17 October 2020). According to the South Australian *Electoral Act 1985* (SA Act): “A person who authorises, causes or permits the publication of an electoral advertisement (an advertiser) is guilty of an offence if the advertisement contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent.”¹³ The SA Act further states:

If the Electoral Commissioner is satisfied that an electoral advertisement contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent, the Electoral Commissioner may request the advertiser to do one or more of the following:

- (a) withdraw the advertisement from further publication;
- (b) publish a retraction in specified terms and a specified manner and form.

The operation and enforcement of this provision has proved problematic in many respects. The provision only applies to political advertisements, to such advertisements that seek to affect the outcome of the election and to statements of fact, not to opinions or predictions of the future.

Through successive state election reports, the Electoral Commission of South Australia (ECSA) has addressed various challenges in meeting this provision of the SA Act.¹⁴ Critically, the onus is on the complainant to show that a statement is misleading and the ECSA itself is not able to investigate matters to substantiate a complaint. The ECSA is often required to seek additional information from complainants before being able to make an appropriate determination. Moreover, it is sometimes difficult for the Commission to perform its role without being involved in political controversy.

As a result, there can be significant time delays in determining a complaint. The ECSA suggests it can take 10 days from receiving complaint to its final resolution. It is difficult for the Commission to fulfil its role in a timely manner, particularly during the late stages of a State election campaign. In the VEC’s submission to the Electoral Matters Committee *Inquiry into whether the provisions of the Electoral Act 2002 (Vic) should be amended to make better provision for misleading or deceptive electoral content* from 2009¹⁵, it made the following observations about the operation of the South Australian legislation at electoral events:

¹³ Section 113(1) of the *Electoral Act 1985* (SA)

¹⁴ Electoral Commission of South Australia, *Election Report: 2018 South Australian State Election*. ECSA, Adelaide, SA, 2019. For previous elections reports see: <https://www.ecsa.sa.gov.au/about-ecsa/publications/publications-state-election-and-by-election-reports>, accessed 16 September 2020.

¹⁵ Victorian Electoral Commission, ‘Submission to the Electoral Matters Committee Inquiry into the Kororoit District By-election’, *Inquiry into whether the provisions of the Electoral Act (2002) should be amended to make better provision for the misleading or deceptive electoral content*, Electoral Matters Committee, Parliament of Victoria, August 2009, <https://www.parliament.vic.gov.au/emc/inquiries/article/155>, accessed 28 September 2020.

“At the 2002 State election, there was another flood of complaints, distracting from the conduct of the election. And at the January 2009 Frome by-election, there were nine such complaints. The Electoral Commissioner noted:

The majority of these complaints, relating to inaccurate and misleading information, were referred to the CSO [Crown Solicitor’s Office] for advice and to investigate the validity of the claims. Senior legal staff at CSO spent considerable time in assessing and researching each complaint based on the information provided to determine whether the statements made were inaccurate and misleading to a material extent and a breach of the Act.

More often than not the response provided by CSO determined that the statements in question could not be proven to be misleading to a material extent.

It was noted that the complaints raised appeared to degenerate into a “tit for tat” distraction and the Commissioner’s role was one of frustration in dealing with an extremely high workload that diverted attention away from managing the election. In particular, on Thursday 14 January a ream of paperwork some 22-25 cm high was delivered to the Commissioner in the form of supporting documentation.”¹⁶

This demonstrates that ‘truth in advertising’ provisions can be manipulated by parties and candidates for electioneering purposes, and divert resources away from the delivery of an election. It would likely require a significant degree of investigative resourcing to investigate complaints, especially given the proliferation of emerging online platforms. The volume of political advertising circulating on social media during election events could reach into the thousands, and due to microtargeting, are likely to largely go undetected.

Therefore, not only would a ‘truth in advertising’ provision be open to interpretation as to what level of inaccuracy would constitute a ‘material extent’, it does not take into account the nuanced, multi-faceted discourse that constitutes political discussions during election events, nor consider that ‘factual’ advertising can still be manipulated in ways that can mislead voters, through omission of context, literary device, manipulative targeting, and other techniques.

Finally, the VEC does not consider its role to be an arbiter of ‘truth’. The authorisation provisions in the Act are designed to ensure that people know the source of political advertising, and the VEC needs to regulate this in social media as well as traditional media. The VEC is expert in electoral matters and follows up attempts to mislead voters about how to vote correctly. The VEC is not an authority on the myriad of issues that arise in an election, and it would be an overreach for the VEC to purport to determine the truth in such issues.

Micro-targeting and disinformation

Micro-targeting describes the use of consumer data to develop highly tailored user profiles, thereby enabling advertisers to target and influence the behaviour of very specific audience segments. The vast amount of user data that is collected, shared and available to be purchased by advertisers from social media platforms means that microtargeting is particularly effective for advertisers seeking to influence communities on social media. Most importantly,

¹⁶ Electoral Commission of South Australia, *Election Report Frome By-election 17 January 2009*, ECSA, Adelaide, SA, 2019, p. 22.

given the hyper-targeted nature of the advertising, the messaging is unlikely to be detected by regulators or fact-checkers, or by users who are likely to report the content.

Micro-targeting means that the content and information that users experience via online media will almost certainly align very closely with their existing values, creating echo chambers or “filter bubbles”¹⁷. This has the potential of disconnecting users from broader discussions and amplifying disinformation that penetrates the bubble, both of which can cause harm to democracy in the long term. While it is correct to state that disinformation during electoral events existed well before online media emerged, the creation of filter bubbles has provided like-minded people with unprecedented levels of peer validation, amplifying disinformation and lending it a legitimacy that it has not previously had. Even discerning voters may struggle to navigate the content being shared within their filter bubble – let alone more vulnerable groups (such as people with low English literacy, or migrants who are distrustful of governments) who may fall victim to this influence.

This has been seen not just in the electoral sphere but in other key areas of government, such as public health messaging during the coronavirus (COVID-19) pandemic. Examples include a multitude of conspiracy theories as to the origin, cause, and ‘cures’ for the virus, the proliferation of which was enabled through the filter bubbles created in online media¹⁸.

The volume of disinformation perpetrated in this way – and the fact that the operation of online media platforms means this disinformation can operate largely invisibly and outside the reach of regulators – means that a fact-checking, ‘monitoring’ approach is unlikely to achieve much success. Large volumes of micro-targeted content, in breach of electoral law, could theoretically circulate through online platforms during election events without any awareness from regulators or independent fact-checkers. Therefore, fact checking content is, at best, a superficial way of addressing the underlying issues perpetrated by online platforms through their data collection and advertising functions, and would unlikely lead to voters who are more informed overall.

Better approaches would include a combination of the other regulatory and non-regulatory approaches outlined in this submission, including greater disclosure requirements, widespread digital literacy education, and direct penetration of filter bubbles to counter disinformation.

Reliance on cooperation

Another key issue with a ‘truth in advertising’ regulatory approach, is the fact that all attempted regulation faces significant delays or outright failure without the cooperation of online platforms themselves, undermining any extra resources dedicated to the monitoring and regulation of factual accuracy on social media during an election event. If authors and advertisers breaching electoral regulations or spreading disinformation refused to take down or correct their content in response to a request from the VEC (or other theoretical regulator), there would be no choice but to escalate the request to the platform and be at its mercy to assess and action it. This would mean both a time delay during which the offending content

¹⁷ ‘A situation in which someone only hears or sees news and information that supports what they already believe and like, especially a situation created on the internet as a result of algorithms (= sets of rules) that choose the results of someone's searches’, See Cambridge Dictionary Online, ‘filter bubble’, <https://dictionary.cambridge.org/dictionary/english/filter-bubble>, accessed 16 September 2020.

¹⁸ See SBS News, ‘Coronavirus conspiracy theories and social media rumours linked to 800 deaths worldwide’, SBS News, 13 August 2020. <https://www.sbs.com.au/news/coronavirus-conspiracy-theories-and-social-media-rumours-linked-to-800-deaths-worldwide>, accessed 25 September 2020.

remained active on the online platform, and a chance that the online platform would respond by refusing to remove the content in order to align with its own stated policies on free speech or political discussion.

It's critical to note that the prevailing course of action at some online platforms will be determined by the policy set out by the company's head office (that is, outside Australia), and that this may conflict with local or jurisdictional laws – even if those platforms have stated that they will respect the laws of the jurisdiction in which they operate. This became apparent during the Australian Electoral Commission's (AEC's) stoush with Facebook in 2018, relating to a page sponsoring unauthorised political advertising¹⁹. In this example, the AEC asked Facebook to provide them with the contact details of the offending page's owner, or alternatively, to remove or geoblock the page. While Facebook appeared initially cooperative, it ended up refusing the request.

The alternative for a regulator in this case is to pursue the matter through its own legal system, which would take a significant amount of time and therefore defeat the purpose of directly addressing the offending content in time for it to not significantly sway or influence voters in time-critical election periods.

To conclude, the VEC does not consider that new laws requiring truth in advertising to be appropriate in Victoria at this time. The VEC also considers that appointing independent and trustworthy fact-checkers may also have limited effectiveness in helping the electorate become better informed on electoral issues.

Enhanced disclosures

EMC Survey Q4: Requiring online electoral advertising to state who paid for it.

Currently, and as outlined previously in this submission, Victorian electoral law requires an authorisation statement to either appear on an advertised social media post, or have the post directly link to that statement.

Recently, and in response to the threat of foreign interference in the US Presidential election in November 2020, Facebook updated its Terms of Service to require all publishers of political or election-related advertising to verify their identity and residence in the country in which they wish to advertise. The aim is to increase transparency for audiences consuming political information and reduce the risk of foreign interference and disinformation from state actors. As a result, election-related advertising on Facebook now appears with a very clear "Paid for by..." statement – up front on the advertisement. (This is in line with current legislation across various Australian jurisdictions, whereby electoral matter published in newspapers requires it to be clearly marked as an 'advertisement', so as not to be confused with factual reporting or commentary).

The VEC considers this to be a simple and effective way of assisting voters to identify and understand advertising that is attempting to influence their vote. The VEC recommends making this a requirement for all online platforms. Rather than rely on audiences proactively clicking through to authorisation statements, an up-front "Paid for by..." statement appearing on the advertisements themselves would likely help to increase transparency and reduce the

¹⁹ Read the full details see P. McGrath, 'Facebook probed by Australian Electoral Commission over mysterious political ads', *ABC News Blog*, 26 February 2019. <https://www.abc.net.au/news/2019-02-26/facebook-electoral-commission-emails-reveal-political-ad-concern/10834736>, accessed 16 September 2020.

risks posed by anonymous advertisers. This could be further strengthened if the platforms are required to verify the identity of the advertiser (included in Facebook’s new authorisation process), in order to eliminate the possibility of nefarious actors fabricating identities to appear on the authorisation statement.

An even playing field

The first question in this Inquiry’s Terms of Reference asks about “the impact of social media technologies on the Victorian electoral process, focusing on how social media platforms are used for political communication”.

The concept of an even playing field often arises when considering the question of how social media impacts elections. In some ways, social media is seen as an equaliser – allowing direct contact between elected representatives or prospective candidates and electors; bringing together communities or groups that are geographically connected (or have a common interest) to generate lobbying power on local issues; and enabling candidates and parties to have far-reaching awareness and engagement for a relatively low cost, thereby levelling the playing field for non-incumbents, or independent candidates without the financial backing of a party.

However, it must never be forgotten that enabling social networking and discussion forms only part of a social media company’s work. A core function of social media platforms is their data collection and advertising. While from a user’s perspective, a social media platform may seem like a fairer playing field than traditional media due to the lower advertising costs, the reality is that the content and advertising presented to a user are tightly controlled and determined by detailed algorithms that track a user’s online behaviour (both within and outside the platform, if permission has been granted to do so) – creating the filter bubbles that were discussed previously in this submission. It is unlikely that the average user would, on an average day, view a balanced share of information from various election contenders through social media, even if those contenders theoretically spent the same amount on advertising.

While the questions of this Inquiry do not make reference to advertising spending caps, the VEC considers it prudent to address this as part of the broader question of fairness in the electoral process and in anticipation of these suggestions arising through the submission process. Currently, there is no spending cap on political advertising in Victoria; however, since the introduction of a donations disclosure scheme in late 2018, there are caps on political donations alongside strict disclosure requirements.

Parties, candidates, associated entities and third-party campaigners must maintain a state campaign account, which they must use to pay for political expenditure, and donations must be paid into these campaign accounts.

The VEC puts forward the view that these requirements are sufficient in maintaining an even playing field in the electoral campaigning and advertising space, effectively preventing disproportionate spends from contenders or interest groups seeking to influence the behaviour of large numbers of Victorians and ensuring that the identities of donors are transparent.

Therefore, while the VEC supports greater regulation in disclosing the identity of people paying for political advertising on social media, the VEC does not consider the extension of this into specific social media spending caps to be appropriate at this stage.

Advertising repositories or archives

EMC Survey Q3: *Requiring public disclosure of all online political advertising (for example, webpages created by social media platforms showing all of the political advertising on their platform and who paid for it, or webpages created by parties/candidates showing all of the online ads they have run).*

Picking up on the previous points made about filter bubbles and micro-targeting, one solution would be to require social media platforms to develop repositories or archives of all advertising related to a single election event, so that users are able to view and compare in a single location all political advertisements that are in circulation. This would serve the purpose of increasing transparency and accountability, allowing members of the public and regulators to access advertisements that may otherwise not have appeared in their filter bubbles due to micro-targeting.

Facebook's Ad Library is an example of an existing advertising repository. It "provides advertising transparency by offering a comprehensive, searchable collection of all ads currently running across Facebook apps and services, including Instagram"²⁰. Users can search for any ad about social issues, elections or politics that has appeared on Facebook on or after 22 May 2018. However, users cannot filter by a specific election event but rather must use search terms to find particular advertisements.

Legislating to require ad repositories is a relatively new approach and has not been tried and tested broadly in other jurisdictions. Canada introduced mandatory repository laws in 2018 which were in operation for the 2019 federal election, which had a mixed response from platforms – Facebook abided by the laws while Google proceeded to ban all political advertising from its platforms during the election period²¹. Therefore, a potential flaw of this approach is that it relies on the cooperation and compliance of online platforms to collect and display advertisements in a timely manner, and publicise them in a way that does not rely on the proactive initiative of voters.

Nevertheless, it is an approach that the VEC supports and recommends for further analysis and investigation. A key issue that may arise during election events in the current complaints-based system that the VEC operates, is that advertisements can be set to expire after short periods with no record of them available after the fact. This means that an effective and influential in-breach advertisement could make its rounds within 24-48 hours, and by the time a complaint is received by the VEC (assuming it is viewed by someone willing to report it), it has already disappeared with no record or archive of its existence, thereby making it impossible for the VEC to pursue the offending author or advertiser for their offence.

Requiring advertisements to remain in an archive, even after their advertising period has expired, would resolve this issue and help build an accurate overall picture of the advertising landscape during any particular election event. Requiring these archived posts to also record metadata (such as the number of views the posts attracted; who paid for them; and so on) would also supplement this picture and increase transparency. Facebook's Ad Library, for example, includes data on an ad's potential reach, the amount spent on the ad, where the ad was shown (by State) and an estimated age and gender breakdown of the audiences it

²⁰ See Facebook, 'Ad Library', *Facebook*, 2020. <https://www.facebook.com/ads/library/>, accessed 25 September 2020.

²¹ M. Pal, 'Social Media and Democracy: Challenges for Election Law and Administration in Canada', *Election Law Journal*, vol. 19(2) 2020. <https://www.liebertpub.com/doi/full/10.1089/elj.2019.0557>, accessed 16 September 2020.

reached. Further, it would support analysis of the effects and impacts of social media on voters during elections.

The VEC recommends this approach over the idea that parties and candidates should create their own repositories. This approach would inevitably splinter the advertising across multiple webpages or locations and does not serve the purpose of broadening users' understanding of the overall advertising landscape, nor of breaking down filter bubbles.

Non-regulatory approaches

Digital literacy and voter education

EMC Survey Q2: *The government funding media literacy campaigns to help people know what they can trust online.*

The VEC considers digital literacy education for voters to be important in protecting Victoria's future democracy and election discourse. The average voter can be reasonably expected to use critical thinking when faced with advertisements on traditional media channels (such as TV, radio and print advertising). However, the amplification and validation of disinformation enabled by online media filter bubbles can mean that social media poses a greater threat to voters who are otherwise competent at navigating and analysing electoral matter. While research suggests that social media is the least trusted news source for Australians²², the ability for social media to influence behaviour and attitudes more generally is well known.

The VEC would recommend that any education programs or campaigns of this nature go beyond educating people to "know what they can trust online" and specifically aim to help people understand the mechanics of social media platforms in collecting, sharing and using their personal data to allow advertisers to influence their behaviour. Such a program, delivered alongside critical thinking programs that helps users understand how to discern between trustworthy and deceptive information, and how to conduct their own research on candidates, parties and policies, would be the approach recommended by the VEC. It's worth highlighting that the VEC's existing voter education and outreach programs already address how voters can find information on candidates. For example, the VEC commissioned a series of digital animations ahead of the 2020 local council elections to educate voters on a range of complex topics, including how to research candidates:

<https://www.youtube.com/watch?v=n1ZCqmG35kQ>. This animation includes the message: "Be aware that any advertising is professionally crafted, so you should look at independent news articles, interviews, debates and editorials from sources you trust to get a more detailed picture of the candidate".

The VEC notes that there is scope for a digital literacy campaign to go beyond elections and political information; the government could consider funding a broader, long-term education campaign that addresses digital literacy in general. As previously mentioned, the ability to identify disinformation and search for trustworthy sources is essential in many other aspects of life, with a key example the previously mentioned coronavirus (COVID-19) health crisis.

²² T. Flew, U. Dulleck, S. Park, C. Fisher & O. Isler, O. *Trust and Mistrust in Australian News Media*. Digital Media Research Centre, Brisbane, 2020. <https://research.gut.edu.au/best/wp-content/uploads/sites/244/2020/03/Trust-and-Mistrust-in-News-Media.pdf>, accessed 16 September 2020.

AEC – Stop and Consider campaign

The Australian Electoral Commission (AEC) conducted a digital literacy campaign during the 2019 Federal election, called “Stop and Consider”. This campaign aimed at “encouraging voters to carefully check the source of electoral communication they see or hear”²³ through sponsored social media posts. Electoral Commissioner Tom Rogers noted “...there was no serious evidence of people or organisations seeking to disrupt Australian elections through disinformation, but given apparent events in other parts of the world, it was prudent to be vigilant.”²⁴

The AEC reported that the campaign was successful at both reaching and engaging voters:

“The campaign was geared towards increasing visibility of its key messages among the voting community, and this was successfully achieved through the delivery of more than 56 million social media impressions and more than 100,000 clicks to AEC website material. Outreach activities also yielded spread of key messages through positive media coverage and more than 1,700 downloads of translated fact sheets. Further to this, independent market reach undertaken showed that the Stop and Consider campaign was generally well received; with two in five (40%) of those recognising the campaign claiming they would take action on account of seeing it.”²⁵

The ACT Electoral Commission (Elections ACT) has also adapted the campaign for use in the ACT Legislative Assembly election (called “Check the source”)²⁶.

According to the Swedish Civil Contingencies Agency (MSB), raising awareness about ‘information influence activities’ is a critical approach public sector and other organisations can adopt to counter disinformation.²⁷ The MSB also suggests developing appropriate countermeasures to build trust in agencies, such as electoral commissions. In both the “Stop and Consider” and “Check the source” campaigns, social media messaging pre-empted the possibility of disinformation by reaffirming authorised electoral matter as a trusted media source. Although both electoral commissions could not act as arbiters of truth during the election campaigns, they nonetheless positioned themselves as the official source for electoral information, at the same time as they reasserted the rights of individuals to freely express their political opinions. Both the AEC and Elections ACT provided a checklist to assist voters when determining the veracity of electoral matter.

Overall, the VEC supports the idea that the government funds a digital media literacy campaign to educate Victorians and equip them to navigate electoral matter on social media during election periods. While relatively successful, “Stop and Consider” was limited to a specific electoral event. A more long-term, comprehensive digital literacy campaign designed

²³ Australian Electoral Commission, *AEC encouraging voters to “stop and consider” this federal election* [media release], 15 April 2019, <https://www.aec.gov.au/media/media-releases/2019/04-15.htm>, accessed 12 September 2020.

²⁴ Ibid.

²⁵ AEC, ‘Stop and Consider campaign: 2019 federal election’ flyer, <https://emailfooter.aec.gov.au/elections/electoral-advertising/files/stop-and-consider-external-flyer.pdf>, accessed 25 September 2020.

²⁶ Elections ACT, *Check the source*, last updated 25 July 2020, https://www.elections.act.gov.au/elections_and_voting/2020_legislative_assembly_election/2020-check-the-source, accessed 24 September 2020.

²⁷ Swedish Civil Contingencies Agency (MSB), *Countering Information Influence Activities: A handbook for communicators*. MSB, Karlstad, 2019. <https://www.msb.se/RibData/Filer/pdf/28698.pdf>, accessed 25 September 2020.

to have a more lasting and wider impact might be considered. The government is best placed to do this and can more effectively bring together the various agencies and bodies required to make it a success. Therefore, the VEC suggests that it should not be the lead agency to develop and roll out a digital literacy campaign, but rather support or form part of a broader Victorian Government approach.

A source of reliable information

EMC Survey Q6: *Using independent organisations (e.g. the Victorian Electoral Commission) as a source of reliable information about electoral candidates.*

At the 2014 EMC *Inquiry Into the Use of Social Media During Elections*, the idea was put forward of the VEC or another independent organisation acting as a single, trusted source of truth where users could be directed to find an impartial compilation of candidate and party policies.

In the six years since the 2014 Inquiry, the VEC has collected, through its research program, significant evidence that Victorian voters want one location at which they can find an impartial summary of candidates and parties standing for election.

In a recent report conducted by the Social Research Centre on behalf of the VEC, *Understanding Non-Voters of the 2018 Victorian State Election (August 2020)*²⁸, it was found that:

- asked about reasons for not voting, 21% of respondents said that they didn't know enough about the candidates
- asked about things that made it difficult to vote, 45% said that they were not familiar with their local candidates, and 31% that they were not familiar with State Government issues.

When asked what they would find helpful for voting in State elections:

- 61% of respondents supported a one-page comparison of candidates and parties, provided by an independent source
- 52% supported an app that would provide information about the election and candidates
- 39% supported more engagement by candidates through social media and local meetings.

When asked to provide their own suggestions about what would encourage voting, 13% suggested more or better information about candidates and policies.

Overall, the report found that a lack of knowledge about candidates, issues and election timing and difficulty in finding time to vote are the principal drivers of non-voting amongst those aged 18-44 years. Voters want digital access to information and assistance in the process of voting

²⁸ Social Research Centre (SRC), *Understanding Non-Voters of the 2018 Victorian State Election*, report prepared for the VEC by the SRC, Melbourne, Vic., <https://www.vec.vic.gov.au/about-us/publications/research>, accessed 25 September 2020.

itself. Engaging this group of voters through online and digital platforms is an emerging priority in future electoral events.

This, and other, research raises a number of issues relevant to this inquiry. Voters are seeking impartial sources of information to help them make informed decisions about who to vote for. The level of distrust in traditional and particularly social media news is well-established²⁹. The ability to provide voters with an independent and impartial source of information about voting, candidates and policy options at election times would go some way to counter the bias voters perceive to be present in traditional and online news and information sources. This would, in turn, enhance trust in the electoral process.

In New Zealand, the policy.nz platform serves this precise purpose. This platform “gathers essential information about the policies and candidates of New Zealand’s political parties together in one place, so you can make an informed vote this election... All the policies are based on the parties’ official websites, policy documents, press releases and social media posts.”³⁰ Their “work is funded through a mix of commercial sponsorship, advertising and donations... sponsors, advertisers and donors have no influence on editorial decisions.”³¹ The New Zealand Electoral Commission is one of those supporters. The editor of Spinoff NZ, the online magazine on which Policy is hosted, has stated: “We’ve had plenty of feedback from first-time voters saying Policy was an essential aid in making decisions”³², though there does not appear to be existing research to verify the success of this platform in its years of operation.

The VEC supports the concept of an impartial, single source of reliable information on election candidates and parties. The VEC does not consider that it is the appropriate organisation to act as this single source of information but rather that a new, independent platform be established to take the lead on this, similar to policy.nz in New Zealand.

Countering disinformation with information

An argument could also be made that proactive countering of disinformation with information would also support voters and build trust in the nominated source of reliable information.

The UK Cabinet Office introduced a model in 2017³³ for countering viral disinformation with targeted advertising containing links to government sources of information.

In response to the rise of viral fake news, the Cabinet Office created a Rapid Response Unit, with the aim of monitoring news to identify and respond to emerging issues, using the FACT model. FACT stands for Find, Assess, Create, Target:

²⁹ T. Flew, U. Dulleck, S. Park, C. Fisher & O. Isler, O. Trust and Mistrust in Australian News Media. Digital Media Research Centre, Brisbane, 2020. <https://research.qut.edu.au/best/wp-content/uploads/sites/244/2020/03/Trust-and-Mistrust-in-News-Media.pdf> accessed 16 September 2020.

³⁰ See Policy, *NZ Election 2020*, Policy Limited 2020, <https://policy.nz>, accessed 16 September 2020.

³¹ Ibid.

³² See, T. Manhire, ‘Policy is back for Election 2020: the easy, smart way to make an informed vote’, *The Spinoff*, 13 August 2020. <https://thespinoff.co.nz/politics/13-08-2020/policy-is-back-for-election-2020-the-simple-smart-way-to-make-an-informed-vote/>, accessed 16 September 2020.

³³ “Government Responses to Disinformation on Social Media Platforms: United Kingdom”, prepared by Clare Feikert-Ahalt, Library of Congress (USA), September 2019. <https://www.loc.gov/law/help/social-media-disinformation/uk.php>, accessed 16 September 2020.

Find: Constantly monitor online news sources and publicly available social media posts to identify themes/discussions/stories that promote false and misleading information relating to HMG [Her Majesty’s Government]. This may be misinformation or disinformation.

Assess: Assess the scale of engagement with the risk identified and establish whether it is appropriate to respond to the content. Flag to relevant press offices and advisors, with a recommended approach to response. This is almost never direct rebuttal.

Create: Create appropriate content with the aim of rebalancing the narrative and promoting official HMG information. This may be a press office line, a social media post, or the creation of a new asset.

Target: Target content to ensure HMG information is highly visible and accessible to the public.³⁴

Their stated focus is not to act as a rebuttal unit but rather to “check trends in new sources and, where certain search terms indicate a bias in results... optimize government pages to appear higher in search results or activate social media content to help rebalance the narrative and reassure those who were most engaged with the topic”³⁵. Therefore, rather than requesting that online platforms take down disinformation or misleading content, it is instead countered through the promotion of trustworthy information.

Adopting the philosophy of this model – that is, promoting and creating reliable content to counterbalance disinformation or fake content – would allow for less reliance on the cooperation of social media platforms in taking down in-breach content that could affect voters in an election, and instead optimises use of the platforms themselves. A regulator could instead engage in micro-targeted advertising to penetrate filter bubbles to ensure audiences most likely to be affected by emerging disinformation are the ones receiving the counter advertisements linking to trusted sources.

While the monitoring (‘Find’) aspect of this model would be impractical from a resource perspective for an electoral management body and likely ineffectual (as previously discussed in this submission in the section on fact-checking and truth in advertising), the VEC considers that such an approach may be effective in the face of trending content or content that the VEC is alerted to by complainants. In particular, it would allow for quick and effective action to be taken while waiting for a response to a take-down request and counter the negative effects that offending content may have on voters, particularly in time-critical election periods. The VEC would recommend this option is explored further, with a view of supporting a trusted independent organisation – separate to the VEC – to counter disinformation (potentially the same organisation to provide a reliable source of information on election candidates and parties).

Building stronger relationships with online platforms

EMC Survey Q1: Encouraging social media platforms to take more action against inappropriate activities (such as bots, harassment, trolling, spreading fake news).

³⁴ Ibid.

³⁵ Ibid.

To complement a regulatory response, it is vital that governments and electoral management bodies continue to build strong relationships with online platforms, both to give effect to the enforcement of social media regulation, and also to generate goodwill and a propensity to support non-regulatory responses, such as voluntary moves by online platforms to crack down on inappropriate online activities.

ECANZ Heads of Agreement

The Electoral Council of Australia and New Zealand (ECANZ), led by the Australian Electoral Commission (AEC), is developing a non-legally binding Heads of Agreement document that sets out protocols and principles for online platforms to voluntarily adopt.

Several other jurisdictions have developed similar agreements (including India³⁶ and the EU³⁷). While these are not always enforceable, they are public signals on the part of signatories of an intention to collaborate and work with electoral management bodies to combat disinformation and work towards strengthening democracy. As such, the consequence of potential reputational damage is likely to encourage signatories to comply with the protocols and principles laid out. Additionally, it forms the basis for the standard of debate and discussion Australian jurisdictions expect from all participants in the democratic process.

The VEC proposes that this joint approach, encompassing the influence of electoral management bodies across Australia and New Zealand, will form a strong basis to encourage online platforms to proactively take more action against inappropriate online activities. It has been noted earlier in this submission that online platforms are already taking proactive steps through constantly evolving updates to their operations and Terms of Service to manage and moderate foreign interference and disinformation in elections.

Future uses – opportunities and challenges

The VEC recently completed a survey facilitated by ECANZ examining the varying opportunities and challenges in relation to future uses of social media in relation to electoral functions. These responses have been provided below.

Specific electoral functions

Electoral Process or Function	Opportunities	Challenges
Responding to voter enquiries	<ul style="list-style-type: none"> • Queries received on social media are usually straightforward and can be answered quickly – takes volume away from phone lines/email inboxes 	<ul style="list-style-type: none"> • Queries related to an elector’s specific enrolment details need to be re-directed to a formal channel

³⁶ Internet and Mobile Association of India (IAMAI), 'Voluntary Code of Ethics by the Social Media Platforms for the General Election', 13 August 2019. <https://perma.cc/2NYR-8R3U>, accessed 16 September 2020.

³⁷ European Commission, *A Multi-dimensional Approach to Disinformation: Report of the Independent High Level Group on Fake News and Online Disinformation*, Publications Office of the European Union, Luxembourg, 2018. <https://perma.cc/V29P-B7TC>, accessed 16 September 2020.

	<ul style="list-style-type: none"> • Given the nature of the platforms, responses have to be short, sharp, accessible and timely • Replies to queries on public platforms are visible to others – so they can proactively prevent a higher volume of enquiries and have reputational benefits • It's easier for electors based overseas to contact the VEC over social media than by phone • Commentators and electoral experts may weigh in on queries involving the VEC and help explain complex electoral laws • Open and public discussions can allow for community moderation and a diverse mix of voices to air their views on a neutral (VEC-controlled) platform 	<ul style="list-style-type: none"> • The volume of enquiries during election periods requires intense resourcing (the VEC set up an out of hours roster of 8 am to 11 pm, seven days a week during the 2018 State election to manage social media queries) • Complaints require re-direction to formal complaints channels • FAQs/standard responses need to be prepared ahead of time or there is a risk of inconsistency in responses if there are multiple staff members managing the channels • Candidates, MPs and councillors may weigh in on debates involving the VEC, making it difficult to respond while retaining the appearance of impartiality
Targeted advertising/communications for particular voter cohorts	<ul style="list-style-type: none"> • Targeted advertising can help raise awareness of electoral events in underrepresented communities. It can also raise awareness in geographic areas for by-elections and redistricting activity • It's extremely cost efficient • In emergency situations (for example, a bushfire affecting a voting centre), social media would allow for quick, targeted information to users in the affected areas 	<ul style="list-style-type: none"> • Occasionally, audiences can be narrowed too far, and the number of people reached is minimal/ineffectual
Taking/acknowledging nominations	<ul style="list-style-type: none"> • The VEC already has Candidate Helper (a portal via its website) to assist in preparation of nomination applications – the process would not be further 	<ul style="list-style-type: none"> • It would be impossible to verify identity and other nomination information via social media. As such, social media is not recommended for this

	supported by social media, except to advertise the fact that nominations are open and direct people to the website	
Candidate liaison and instruction	<ul style="list-style-type: none"> As above, social media is a good tool to raise awareness about nominations and direct prospective candidates to the website for further information/resources 	<ul style="list-style-type: none"> Direct liaison with candidates over social media would not be recommended, as accounts/identity could not be verified, and sensitive information could not be shared over those channels Streaming candidate information sessions has been used for the 2020 local council elections, but this is done via Cisco Webex and Microsoft Teams – social media platforms are not secure enough for this
Communicating with electoral officials in the field	<ul style="list-style-type: none"> N/A 	<ul style="list-style-type: none"> Social media is not recommended for this – electoral officials are an internal audience that the VEC can reach directly through internal means
Party registration processes	<ul style="list-style-type: none"> Social media could be used to raise awareness of the party registration process and direct people to the website 	<ul style="list-style-type: none"> It would be impossible to verify identity and other registration information via social media. As such, social media is not recommended for anything other than awareness-raising
Funding & disclosure management	<ul style="list-style-type: none"> The VEC ran a sponsored social media campaign in 2018 when new funding and disclosure laws were implemented – this helped raise awareness and direct people to the website for resources and information Social media could be continually used to raise 	<ul style="list-style-type: none"> Given the high level of public/media scrutiny on funding and disclosure management, using social media should be restricted to awareness-raising activities There are often debates/accusations on social media around

	awareness of funding and disclosure obligations and milestones (e.g. publication of annual returns)	donations and corruption and the VEC needs to remain distanced from those
Scrutineer management & liaison	<ul style="list-style-type: none"> • Social media could be used to raise awareness of scrutineer responsibilities (e.g. link to scrutineer handbook) • Posting images of scrutineers at counts could help to quell conspiracy theories about the VEC tampering with votes (showing it's impossible with so much scrutiny) 	<ul style="list-style-type: none"> • Social media is not recommended for direct liaison with scrutineers • Scrutineers in the past have posted images of ballot papers on social media – not technically in breach of electoral law, but skirting the line
Results management and publication	<ul style="list-style-type: none"> • Results publication can be live-tweeted (which the VEC did for the 2018 State election), generating high engagement and interest • It's a fast and easy way to disseminate information of interest to the media and the community • There are reputational benefits – it would help the VEC be seen as the single source of truth in regard to results 	<ul style="list-style-type: none"> • Needs intense resourcing and small margin for error (e.g. an incorrect link) given how much attention is on those posts

Other general ideas

Social media is an excellent complementary channel to disseminate timely updates to voters and the general public during election periods. For example:

- a voting centre has to suddenly close for an unexpected reason (natural disaster; positive COVID-19 case; police attendance due to an incident) and voters need to be re-directed elsewhere
- acknowledging technical difficulties (such as the voting centre interactive map going down on election day) and preventing queries flooding phone and email lines
- noting where voting centre queues have become extremely long and directing people to quieter voting centres
- countering disinformation with reliable sources (as previously discussed)
- informing media/the public about delays in ballot draws, counting progress and arrangements, results publication, or other electoral processes.

The effectiveness of these would be dependent on the VEC building a sufficient following that its updates have a high degree of engagement, shareability and reach. Since 2019, the VEC has developed an annual social media plan to guide the gradual increase of its follower bases and build on its reputation as a trusted and timely source of reliable election information. The VEC intends to continue this strategic planning to enable a highly trustworthy social media presence during future election events.

Conclusion and recommendations

The VEC recommends that a combination of regulatory and non-regulatory activities are explored and implemented in the lead up to the 2022 Victorian State election, which will likely necessitate cooperation from both public and private bodies in developing the solutions.

As this submission has outlined, a regulatory framework that attempts to manage or moderate truth or accuracy in social media advertising would run into the obstacles created by the way in which online platforms are able to use and sell data to advertisers – micro-targeting, filter bubbles and the invisibility of disinformation. This is in addition to the more broadly problematic nature of attempting to define and therefore limit political discourse in the public sphere.

In summary, the VEC makes the following recommendations in response to the Inquiry's eight survey questions:

What do you think about the following ideas?

Q1. *Encouraging social media platforms to take more action against inappropriate activities (such as bots, harassment, trolling, spreading fake news).*

VEC Recommendation: The VEC supports this idea and recommends that this engagement occur in a joint manner, in cooperation with other State and Federal jurisdictions.

Q2. *The government funding media literacy campaigns to help people know what they can trust online.*

VEC Recommendation: The VEC supports this idea in principle and recommends that this is not necessarily limited to elections and political advertising but is rolled out more broadly and continuously by the government to address digital and media literacy in general.

Q3. *Requiring public disclosure of all online political advertising (for example, webpages created by social media platforms showing all of the political advertising on their platform and who paid for it, or webpages created by parties/candidates showing all of the online ads they have run).*

VEC Recommendation: The VEC supports further investigation, research and consultation on the prospect of requiring platforms to set up advertising repositories for election events. The VEC does not recommend that these webpages be created or displayed by parties/candidates themselves but rather by online platforms in a single and easily accessible location that users do not have to dig to find. This would serve the purpose of increasing transparency, facilitating the follow-up of advertising in breach of electoral law, and building an accurate historical record of advertising (and its metadata) during an election event, which in

turn can lead to deeper analysis of the effects and impact of advertising on the electorate and voter behaviour.

Q4. Requiring online electoral advertising to state who paid for it.

VEC Recommendation: The VEC supports a requirement for political advertisements to state up front who paid for it, similar to how Facebook has made this a requirement of all political or election-related advertising on its platform. The VEC further suggests that an ID verification process is required to be undertaken to prevent evasion of this requirement.

Q5. Government support for independent and trust-worthy organisations that can fact-check claims or identify misinformation.

VEC Recommendation: The VEC considers that fact-checking and monitoring for disinformation would have limited effectiveness. If this Inquiry finds that this idea is broadly supported by voters, the VEC would suggest that a limited trial is undertaken in the first instance by an independent organisation – separate to the VEC – with a strong evaluation framework in place, prior to rolling it out on a broader scale.

Q6. Using independent organisations (e.g. the Victorian Electoral Commission) as a source of reliable information about electoral candidates.

VEC Recommendation: The VEC notes this idea, and considers government is best placed to undertake further investigation and consultation to determine the best organisation to act as this source. The VEC additionally recommends that government support and further investigate an active counter-disinformation approach (potentially from a trusted independent organisation) to effectively address trending or viral disinformation.

Q7. New laws requiring truth in political advertising.

VEC Recommendation: The VEC does not support this. In addition to the problematic nature of attempting to define and limit 'truth' in political discussion, a similar scheme has proved to be challenging and ineffective in the South Australian jurisdiction.

Q8. Are there other things you'd like to see the government do relating to social media or online advertising and elections?

VEC Recommendation: The VEC would recommend that the government continue to maintain an open dialogue on this issue in recognition that it is a fast-evolving space, and that it will require a holistic approach, likely in partnership with Federal and other State governments, to properly and comprehensively address the multitudinous issues that intersect with social media and elections.

It is worth highlighting that there is always an ongoing risk social media companies may decide that the Australian environment is over-regulated and therefore decide to withdraw their presence from the region. As mentioned in the introduction to this submission, proposed communications regulations at the federal level are already sparking debate and backlash from online platforms, and further regulations at a State level may exacerbate this.

Appendix 1 – *Electoral Act 2002* extract

Electoral Act 2002 Part 5, Division 6—Electoral matter

83 Printing and publication of electoral advertisements, handbills, pamphlets or notices

- (1) A person must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, an electoral advertisement, handbill, pamphlet or notice unless—
- (a) the name and address of the person who authorised the electoral advertisement, handbill, pamphlet or notice appears; and
 - (b) in the case of an electoral advertisement, handbill, pamphlet or notice that is printed or published otherwise than in a newspaper, the name and place of business of the printer or publisher appears.

Penalty: In the case of a natural person, 10 penalty units;
In the case of a body corporate, 50 penalty units.

Note: Section 179A applies to an offence against this subsection.

- (2) For the purposes of subsection (1)(b), a person who makes copies for distribution of an electoral advertisement, handbill, pamphlet or notice that is published on the Internet is deemed to be the printer of those copies.
- (3) Subsection (1) does not apply in relation to—
- (a) a car sticker, an item of clothing, lapel button, lapel badge, fridge magnet, pen, pencil or balloon; or
 - (aa) a letter or card which—
 - (i) bears the name and address of the sender; and
 - (ii) does not contain a representation or purported representation of a ballot-paper for use in an election; or
 - (ab) a how-to-vote card registered under section 79 or 80; or
 - (b) an article included in a prescribed class of articles.
- (4) Nothing in subsection (3)(a) or (3)(aa) is to be taken, by implication, to limit the generality of regulations that may be made by virtue of subsection (3)(b).

83A Printing and publication of how-to-vote cards

- (1) A person must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed a how-to-vote card unless it complies with section 79(2)(d) or 80(4)(d).

Penalty: In the case of a natural person, 10 penalty units;
In the case of a body corporate, 50 penalty units.

Note: Section 179A applies to an offence against this subsection.

- (2) For the purposes of subsection (1), a person who makes copies for distribution of a how-to-vote card that is published on the Internet is deemed to be the printer of those copies.

84 Misleading or deceptive matter

(1) A person must not during the relevant period—

- (a) print, publish or distribute; or
- (b) cause, permit or authorise to be printed, published or distributed—

any matter or thing that is likely to mislead or deceive an elector in relation to the casting of the vote of the elector.

Penalty: In the case of a natural person, 60 penalty units or 6 months imprisonment;
In the case of a body corporate, 300 penalty units.

(2) A person must not during the relevant period—

- (a) print, publish or distribute; or
- (b) cause, permit or authorise to be printed, published or distributed—

an electoral advertisement, handbill, pamphlet or notice that contains a representation or purported representation of a ballot-paper for use in that election that is likely to induce an elector to mark the elector's vote otherwise than in accordance with the directions on the ballot-paper.

Penalty: In the case of a natural person, 60 penalty units or 6 months imprisonment;
In the case of a body corporate, 300 penalty units.

(3) In a prosecution of a person for an alleged offence against subsection (1) or (2), it is a defence if the person proves that the person—

- (a) did not know; and
- (b) could not reasonably be expected to have known—

that the matter or thing was likely to mislead an elector when casting the elector's vote.

Note

Section 179A applies to an offence against subsection (1) or (2).

85 Heading to electoral advertisements

The proprietor of a newspaper must cause the word "advertisement" to be printed as a headline in letters not smaller than 10 point to each article or paragraph in the proprietor's newspaper containing electoral matter, the insertion—

- (a) of which is, or is to be, paid for; or
- (b) for which any reward or compensation or promise of reward or compensation is, or is to be, made.

Penalty: In the case of a natural person, 5 penalty units;
In the case of a body corporate, 25 penalty units.

Note: Section 179A applies to an offence against this subsection

86 Authors to be identified

(1) A person must not during the relevant period—

- (a) print, publish or distribute; or
- (b) cause, permit or authorise to be printed, published or distributed—

a newspaper, circular or pamphlet containing an article, report, letter or other matter containing electoral matter unless the author's name and address are set out at the end of the article, report, letter or other matter, or if only part of the article, report, letter or matter appears in any issue of a newspaper, circular or pamphlet at the end of that part.

Penalty: In the case of a natural person, 5 penalty units;
In the case of a body corporate, 25 penalty units.

Note: Section 179A applies to an offence against this subsection.

- (2) This section does not apply to the publication in a newspaper of—
 - (a) a leading article; or
 - (b) an article that consists solely of a report of a meeting and does not contain electoral matter, other than comment made by a speaker at the meeting.
- (3) It is sufficient compliance with subsection (1) if a newspaper containing a letter containing electoral matter sets out the author's name and the suburb or locality in which the author's address is located.

Appendix 2 – Comparing relevant legislation in other Australian jurisdictions

Jurisdiction	Relevant provisions	Legislation
Victoria	<p>Electoral matter means matter which is intended or likely to affect voting in an election.</p> <p>Electoral advertisement, handbill, pamphlet or notice means an advertisement, handbill, pamphlet or notice that contains electoral matter.</p> <p>Publish means publish by any means including by publication on the internet.</p> <p>Authorisation requirements apply to electoral advertisements, handbills, pamphlets or notices that are printed, published or distributed. Publish means publish by any means including by publication on the internet.</p>	<p><i>Electoral Act 2002</i></p> <p>s. 3 Definitions</p> <p>s. 4 Electoral Matter</p> <p>s. 83 Printing and publication of electoral advertisements, handbills, pamphlets or notices</p> <p>s. 83A Printing and publication of how-to-vote cards</p> <p>s. 84 Misleading or deceptive matter</p> <p>s. 85 Heading to electoral advertisements</p>

	<p>The name and physical address of the person who authorised the material must appear at its end.</p> <p>Printed material also requires the named and business address of the printer.</p> <p>These authorisation requirements apply at all times, not just during the election period.</p> <p>It is offence to publish or distribute matter that is likely to mislead or deceive a voter in relation to the casting of the vote.</p> <p>The proprietor or a newspaper must include the word 'advertisement' where election matter is published.</p> <p>During the election period a newspaper, circular or pamphlet containing an article, report, letter or other matter containing electoral matter must include the author's name and address at the end of end of the article, report, letter or other matter.</p>	<p>s. 86 Authors to be identified</p>
<p>ACT</p>	<p>Electoral matter is matter, in printed or electronic form, that is intended or likely to affect voting at an election.</p> <p>Electoral advertisement means an advertisement containing electoral matter, whether or not consideration was given for its publication or broadcast.</p> <p>Electoral matter must include the name of the person who authorised the matter, a statement to this effect and if disseminated by a political party or candidate a statement to this effect; entities that are not political parties or candidates must also declare their dissemination of electoral matter.</p> <p>Authorisation is not required by individuals expressing personal political</p>	<p><i>Electoral Act 1992</i></p> <p>s. 4 Meaning of <i>electoral matter</i></p> <p>s. 198 Definitions</p> <p>s. 226 Returns by broadcasters and publishers</p> <p>s. 292 Dissemination of unauthorised electoral matter</p> <p>s. 293 Exceptions for news publications</p> <p>s. 293A Exception for personal views on social media</p>

	<p>views on social media and where they are not paid to express such views.</p> <p>Publishers and broadcasters must provide a report to the Electoral Commission detailing political advertisements published/broadcast during the pre-election period.</p>	<p>2. 294 Exceptions for dissemination of electoral matter on certain items</p>
<p>New South Wales</p>	<p>Electoral material means any thing, including without limitation a how-to-vote card, poster or advertisement, containing electoral matter (whether in a tangible or an electronic form). The NSW Electoral Commission must refuse to register any electoral material that:</p> <ul style="list-style-type: none"> • is or contains a section of language other than English without an accurate translation • does not contain the name of an individual on whose instructions the material was produced, the address of that individual or political party or if printed the name and address of the printing company. <p>Electoral matter on an electronic billboard, digital road sign or similar device must include the name and address of the individual on whose instructions the material was produced.</p> <p>Paid advertisements containing electoral matter published on the internet must include the name and address of the individual authorising the advertisement.</p> <p>Electoral matter cannot include voting instructions intended to mislead or contain untrue/incorrect statements intended or likely to mislead an elector.</p> <p>Only applies during the regulated period for an election.</p>	<p><i>Electoral Act 2017</i></p> <p>s. 4 Definitions</p> <p>s. 180 Non-complying electoral material</p> <p>s. 187 Authorisation of advertisements on electronic billboards, digital road signs etc to be displayed</p> <p>s. 188 Publication of paid electoral advertisements on the internet</p>

<p>Northern Territory</p>	<p>Definition of 'publish', which includes publish or broadcast by radio, television, internet, telephone or other means.</p> <p>Electoral matter is matter, in printed or electronic form, that is intended or likely to affect voting at an election.</p> <p>Authorisation requirements apply to campaign material, including advertisements. Campaign material must include the name and address of the person authorising the publication and the source of funding.</p> <p>A person must not publish or distribute any campaign material that is likely to mislead a voter, deceive a voter or improperly interfere with a voter casting a vote or that contains an untrue or incorrect statement.</p> <p>Only applies during an election period.</p>	<p><i>Electoral Act 2004</i></p> <p>s. 3 Definition of 'publish'</p> <p>s. 7 Electoral Matter</p> <p>s. 270 <i>Offences relating to campaign material</i></p>
<p>Queensland</p>	<p>Electoral matter means a matter relating to elections.</p> <p>The name and address of the person who authorised the election matter (advertisement, handbill, pamphlet or notice) must be stated.</p> <p>The proprietor or a newspaper must include the word 'advertisement' where election matter is published.</p> <p>It is an offence to print, publish, distribute or broadcast anything that could mislead a voter in relation to voting or publish a false statement regarding a candidate. (In this section publish includes publish on the internet, even if the internet site on which the publication is made is located outside Queensland).</p>	<p><i>Electoral Act 1992</i></p> <p>Schedule 1 Dictionary</p> <p>s. 181 Author of election matter must be named</p> <p>s. 182 Headline to electoral advertisements</p> <p>s. 185 Misleading voters</p>

<p>South Australia</p>	<p>Electoral matter means matter calculated to affect the result of an election.</p> <p>Electoral advertisement means an advertisement containing electoral matter.</p> <p>Authorisation requirements apply to electoral advertisements published in printed form or by electronic means, including on the internet. The name and address of the person, registered political part or third party authorising the advertisement must appear at the end of the advertisement.</p> <p>It is an offence to authorise, cause or permit the publication of an advertisement that is false or misleading to a material extent. If the SA Commission is satisfied that this has taken place it can request the withdrawal of the advertisement and/or a published retraction.</p> <p>The publication of paid advertisements in a journal or electronic publication on the internet must state that it is an advertisement.</p>	<p><i>Electoral Act 1985</i></p> <p>s. 4 Interpretation</p> <p>s. 112 Publication of electoral advertisements, notices etc</p> <p>s. 113 Misleading advertising</p> <p>s. 114 Heading to electoral advertisements</p>
<p>Tasmania</p>	<p>Electoral matter means matter which is intended to, is likely to or has the capacity to affect voting in an election.</p> <p>Authorisation requirements apply to electoral matter printed or published on the internet and must include the name and address of the person authorising the matter.</p> <p>Authorisation is not required for reporting and commentary but does require a statement pertaining to the authorisation of electoral matter in the publication.</p> <p>During the election period the publication of paid advertisements must include the word advertisement.</p>	<p><i>Electoral Act 2004</i></p> <p>s. 4 Electoral Matter</p> <p>s. 191 Campaign material to be authorised</p> <p>s. 193 Newspaper and periodical reportage and commentary</p> <p>s. 194 Letters to the Editor</p> <p>s. 195 Advertisements and advertorials</p>

<p>Western Australia</p>	<p><i>Electoral matter</i> means matter that is intended, calculated or likely to affect voting in an election.</p> <p>An advertisement relates to an election if it contains electoral matter, whether or not consideration was given for the publication or broadcasting of the advertisement.</p> <p>Authorisation requirements apply to any advertisement, handbill or pamphlet and must include the name and address of the person authorising it.</p> <p>Authorisation requirements apply similarly to electoral advertisements published on the internet.</p> <p>It is an offence to publish or distribute any matter that is likely to mislead or deceive a voter in relation in voting.</p>	<p><i>Electoral Act 1907</i></p> <p>s. 175 Terms Used</p> <p>s. 175A Interpretation of this Part</p> <p>s. 187 Illegal Practices Defined</p> <p>s. 187B Electoral advertisement on internet, when publishing is an illegal practice</p> <p>s. 191A Misleading or deceptive publication etc.</p>
<p>Commonwealth</p>	<p>In March 2018 new authorisation requirements were introduced into legislation as Part XXA of the <i>Electoral Act 1918</i>.</p> <p>The Act sets out the authorisation requirements of electoral communications in more detail, with different requirements depending on the type of communication.</p> <p>Authorisation particulars depend on the type of communication and the entity or person authorising the communication.</p> <p>Authorisation particulars in the Act and Determinations cover: print, telephony, text message, social media, search advertising, streamed music and a digital banners advertisement.</p> <p>While the Electoral Act does not regulate truth in electoral communications, it is an offence under s329 to print, publish or distribute matter that is likely to mislead or deceive an elector in relation to voting.</p>	<p><i>Commonwealth Electoral Act 1918</i></p> <p>s. 321D Authorisation of certain electoral matter</p> <p><i>Commonwealth Electoral (Authorisation of Voter Communication) Determination 2018</i></p>

