

Electoral Backgrounder

ELECTORAL ADVERTISING

April 2010

Introduction

1. Electoral Backgrounders are published by the Australian Electoral Commission (AEC) to provide a basic introduction to electoral law, policy and procedures for the information and guidance of all interested parties.
2. This Electoral Backgrounder provides a basic introduction to electoral advertising. Its contents are a guide only. Individual matters are assessed on a case-by-case basis and, ultimately, it is for the courts to decide upon the interpretation of the law in any particular case. Accordingly, if you are in doubt about the interpretation of the law in particular circumstances, you should seek independent legal advice.
3. This Electoral Backgrounder discusses:
 - Intent of the law
 - Authorisation of electoral advertising – printed matter and videos
 - Electoral advertising – Internet
 - Misleading and deceptive electoral advertisements
 - ‘Second preference’ how-to-vote cards
 - Truth in political advertising
 - Defamation of candidates
 - Electronic media blackout
 - Political advertising bans

- Non-compliance – electoral advertising offences
- Complaints

4. The *Commonwealth Electoral Act 1918* (the Act) is available on the AEC website at www.aec.gov.au. Unless otherwise specified, all references to sections are to sections of the Act. Also please note, the words ‘voter’ and ‘elector’ are used interchangeably throughout this publication.

Intent of the law

5. Federal elections are conducted by the AEC under the provisions of the Act.
6. The Australian Parliament has determined that the Act should not regulate the content of political messages contained in electoral advertising; rather, the intent of the Act is to ensure electors are informed about the source of political advertising, and to ensure that political advertising does not mislead or deceive electors about the way in which a vote must be cast.
7. Accordingly, the AEC has no role or responsibility in deciding whether political messages published or broadcast in relation to a federal election are true or untrue. However, the AEC does have a role in ensuring, to the extent possible, that electoral advertisements are properly authorised so that electors can know who is responsible for the statements contained in them.

Please note this update replaces Electoral Backgrounder No 15 published August 2007.

Electoral Backgrounders are published for the general information of AEC staff and people interested in electoral issues. Electoral Backgrounders present and analyse the issues on various topics, but do not promote a particular position or represent legal advice, and should not be relied upon as such. Anyone requiring legal advice should consult their own legal advisers.



AEC

Australian Electoral Commission

