

Review of the
*Commonwealth Electoral
(Authorisation of Voter
Communication)
Determination 2021*

Discussion Paper

September 2026

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Review of the *Commonwealth Electoral (Authorisation of Voter Communication) Determination 2021*

Purpose

The purpose of this discussion paper is to invite submissions on proposed areas for reform of the [*Commonwealth Electoral \(Authorisation of Voter Communication\) Determination 2021*](#) (Authorisation Determination).¹

The Australian Electoral Commission (AEC) invites you to consider whether the requirements in the Authorisation Determination could be amended to clarify how authorisations should be placed and formatted on the increasingly diverse range of communications (traditional and digital) of electoral matter.

How to make submissions

Your contribution may help inform recommendations to the Electoral Commissioner regarding changes to the Authorisation Determination before the next federal election.

Please provide written submissions in response to this paper by **12 October 2026**.

Please note: This discussion paper is concerned with the Authorisation Determination only. Any consideration of legislative amendments to the authorisation requirements in Part XXA of the Electoral Act or Part IX of the Referendum Act are outside the scope of this paper and are a matter for the Parliament, not the AEC.

Where to send your submission

You may lodge your submission by email to:

authorisations@aec.gov.au

Alternatively, you can post a submission to:

Electoral Authorisations Section
Australian Electoral Commission
Locked Bag 4007 CANBERRA ACT 2601

If you have questions about the discussion paper, please email authorisations@aec.gov.au.

Privacy

Submissions may be made publicly available, although the AEC reserves the right to leave unpublished any submission, or part thereof. Please indicate if you would like your submission to be confidential.

Submissions may be subject to requests made under the *Freedom of Information Act 1984*. Personal information shared through the consultation process will be treated in accordance with the *Privacy*

¹ The official version of the *Commonwealth Electoral (Authorisation of Voter Communication) Determination 2021* and other Commonwealth legislation is available on the Federal Register of Legislation (www.legislation.gov.au).

Act 1988. For more information on how the AEC handles personal information, please see the [AEC Privacy Policy](#).

Introduction

The authorisation requirements have two primary objects. First, to allow voters to know who is communicating electoral and referendum matter. Second, to hold those persons accountable for their communications and allow traceability for enforcement. These objects are set out in section 321C of the [Commonwealth Electoral Act 1918](#) (Electoral Act) and 110B of the [Referendum \(Machinery Provisions\) Act 1984](#) (Referendum Act).

The Electoral Act and Referendum Act identify when a communication of electoral matter or referendum matter must be authorised and the particulars that must be included in those authorisations (s 321D and s 110C, respectively). While the authorisation particulars will depend on who is communicating the electoral matter or referendum matter and through what medium that matter is being communicated, all authorisations will require the identity of the person or entity that authorised, or approved, the content of the communication, and the location at which that person or entity can be contacted.

The following communications will require authorisation under s 321D of the Electoral Act or s 110C of Referendum Act if they:

1. contain electoral matter or referendum matter, and
2. are at least one of the following:
 - a. a paid advertisement;
 - b. form part of a sticker, fridge magnet, leaflet, flyer, pamphlet, notice, poster or how-to-vote card; and/or
 - c. a matter communicated by, on behalf of, a disclosure entity (e.g. a candidate, political party, senator or member of the House of Representatives or a third party).

Electoral matter

The Electoral Act requires certain communications containing 'electoral matter' to include an authorisation statement.

'Electoral matter' is defined in s 4AA of the Electoral Act as:

... matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in an election (a federal election) of a member of the House of Representatives or of Senators for a State or Territory, including by promoting or opposing:

- (a) a political entity, to the extent that the matter relates to a federal election; or*
- (b) a member of the House of Representatives or a Senator.*

When determining whether the communication contains electoral matter, the following factors in s 4AA(4) must be considered:

- a. whether any other communications of electoral or referendum matter is excluded from the authorisation requirements;
- b. whether the communication or intended communication is or would be to the public or a section of the public;
- c. whether the communication or intended communication is or would be by a political entity or significant third party (within the meaning of Part XX);
- d. whether the matter contains an express or implicit comment on a political entity, a member of the House of Representatives or a Senator;

- e. whether the communication or intended communication is or would be received by electors near a polling place;
- f. how soon a federal election is to be held after the creation or communication of the matter; and
- g. whether the communication or intended communication is or would be unsolicited.

Referendum matter

Similarly, the Referendum Act requires certain communications containing 'referendum matter' to include an authorisation statement.

'Referendum matter' is defined in s 3AA of the Referendum Act as:

...matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote at a referendum.

For more information on the current authorisation requirements, please see [Authorising Electoral Communications - Australian Electoral Commission](#) on the AEC website.

The Commonwealth Electoral (Authorisation of Voter Communication) Determination 2021

Section 321D(7) of the Electoral Act empowers the Electoral Commissioner to make a legislative instrument determining:

- a. communications that the authorisation requirements do not apply to, and
- b. requirements or particulars, about how authorisation statements must be set out.

On 3 July 2021, the former Electoral Commissioner made the Authorisation Determination. It determines:

- a. types of communications that do not need to be authorised in Part 2 (e.g. a media release or letter that contains the name and address of the notifying entity), and
- b. the placement, format and language requirements for authorisations for different types of communications in Part 3.

The Authorisation Determination has since applied to the 2022 federal election, several by-elections, the 2023 referendum and the 2025 federal election. The Authorisation Determination has also been considered by the courts in several cases that considered the application of s 321D to different types of communications of electoral matter. A summary of the AEC's compliance and enforcement activities at those electoral events is at [Compliance & Enforcement Activities](#).

Areas for potential reform

The AEC seeks your submissions on potential areas for clarification or reform to the Authorisation Determination. The AEC has identified several areas for your consideration. We do not intend this to be an exhaustive list, and you are welcome to make submissions on any further topics that you believe warrant our consideration for inclusion in a determination made pursuant to s 321D(7) of the Electoral Act. Please note that any recommendations or submissions relating to the amendment of legislative provisions of the Electoral Act are a matter for the Parliament.

Your contribution may help inform recommendations to the Electoral Commissioner regarding any changes to the Authorisation Determination before the next electoral or referendum event.

a. Certain types of communications of electoral or referendum matter should be excluded from the authorisation requirements

Part 2 of the Authorisation Determination sets out the exceptions to the authorisation requirements that would otherwise apply to electoral or referendum communications. This Part prescribes classes of communications that do not need to include an authorisation statement because of their nature, content or method of communication.

This includes types of communications where inclusion of authorisation particulars would either be impractical (e.g. graffiti or skywriting) or would provide very little additional transparency because the author or source is so clearly identifiable (e.g. a media release or a letter). The list of exemptions seeks to reflect a practical balance between transparency and administrative burden.

Questions:

1. Are the types of communications currently excluded from authorisation requirements listed in [Part 2 of the Determination](#) reasonable?
2. Should other types of communications be added to the list of exceptions under Part 2?

b. Legibility of authorisations on printed electoral matter

The Authorisation Determination requires that the notifying particulars on printed communications must be “legible at a distance at which the communication is intended to be read” (s 11(3)(b)).

In 2022, the Federal Court of Australia, in the matter of *Kelly*, held that the use of 4-point font to set out the relevant notifying particulars on printed corflutes met the legibility requirements of the Authorisation Determination. This finding relied on the fact a person could approach the printed communication to read the authorisation from a short distance. This decision indicates that s 11(3)(b) of the Authorisation Determination may not effectively assist all electors to identify who has authorised certain printed communications of electoral matter. For instance, there might also be practical limitations for printed communications which cannot be physically approached because of their placement (e.g. billboards displayed on roads or buildings).

In the lead up to the 2025 federal election, the AEC published a font calculator and the [Authorisation Better Practice Guide](#) to assist stakeholders to meet best practice standards for font size. During the 2025 federal election, the AEC monitored the authorisation of printed electoral matter and observed an improvement with the legibility of authorisations on those communications. The AEC considers that clarification to the wording of s 11(3)(b) may assist notifying entities to understand legibility requirements.

Questions:

3. Do you have any views about the current legibility requirements for printed electoral communications?
4. How could the Authorisation Determination be amended to simplify and clarify legibility requirements for printed communications?

c. Placement of authorisations for emerging forms of digital communications

Currently, s 12(2)(d) of the Authorisation Determination allows for the authorisation of digital communications to be notified in one or more of the following ways:

- a. at the end of the communication, or
- b. via hyperlink.

The [Authorisation Better Practice Guide](#) provides guidance on the recommended formatting for different types of digital communications.

During the 2025 federal election, the AEC saw a significant increase in the variety of digital advertising used by campaigners to communicate electoral matter. Some of these emerging types of digital communications were not contemplated when s 12 of the Authorisation Determination was drafted. For example, digital banner advertising comprised of moving visual images without audio, and audio only advertising (e.g. paid advertising on podcasts or sponsored podcasts).

The AEC observed inconsistent approaches and some confusion from electoral participants when formatting authorisation statements for different forms of digital communications. The AEC considers that further clarification on authorisation requirements for digital communications may simplify and clarify compliance.

Questions:

5. Do you have any views about how the current formatting requirements apply to digital communications?
6. How could the Authorisation Determination be amended to improve transparency and compliance?

d. Electoral matter communicated on social media

Video posts on social media are now the most common form of political communication. This has changed significantly since the last Determination which allows electoral matter communicated on social media to be authorised in different ways:

- for video communications on social media, the video must be authorised by being announced and shown at the end of the communication (s 12(2)(b)),
- for communications not in video format, the authorisation must be notified: at the end of the communication or via hyperlink (s12(2)(d)), except for communications by individuals, which can be authorised in the “About Us” section of their social media site (s 12(2)(d)(iv)).

Some issues that are apparent with these different authorisation requirements:

- Individuals are unable to rely on the “About Us” section of social media platforms to authorise *video communications*. Video posts must be authorised individually in accordance with s 12(2)(b) (i.e. spoken and displayed at the end of the communication).
- For campaigners (such as candidates and political parties) using social media to engage with electors, these different and specific requirements impose a burden to correctly authorise video communications (for example ‘live’ videos that are subsequently posted to the candidate or political party’s social media platform).
- The complexity involved with formatting and placement of authorisation statements across different social media communications can create confusion and difficulty for notifying entities to comply.

Guidance published by the AEC (the [Authorisation Better Practice Guide](#)) has assisted with compliance, however, amending the Authorisation Determination’s application to social media communications could support enhanced transparency and clarify the requirements to comply.

Questions:

7. Do you have any views about the current approach to authorising social media communications?

8. How could the Authorisation Determination be amended to improved transparency and compliance and better keep pace with technological changes?

e. Use of the hyperlink facility for text/SMS messages

The cybersecurity environment has also significantly changed and worsened since the current Authorisation Determination was issued. The risk of political parties being spoofed with bulk text messages being sent to electors has also increased.

Section 12(2)(d)(ii) of the Authorisation Determination permits authorisation of digital electoral communications by including a hyperlink to an authorised website.

Including hyperlinks in SMS messages or other digital communications is inconsistent with the [Australian Cyber Security Centre](#) (ACSC) and [ScamWatch](#) advice that discourages accessing hyperlinks received via SMS or from unknown sources. Scammers commonly utilise SMS messages containing hyperlinks to scam websites that appear to be authentic to target individuals. The AEC consistently receives complaints from electors who express concern about receiving SMS electoral communications which contain a hyperlink.

At the 2025 Federal Election and the 2026 Farrer by-election, the AEC noted an increase in unauthorised and incorrectly authorised bulk SMS messages distributed to electors. This suggests there is confusion among stakeholders about how to authorise multi-media bulk SMS messages.

Questions:

9. Do you have any views about the current approach to authorising text/SMS messages?
10. How could the Authorisation Determination be amended to improved transparency and compliance?

f. Authorisation of websites communicating electoral matter

The Authorisation Determination allows for websites communicating electoral matter to be authorised in the footer of the webpage (s 12(2)(d)(iii)).

At the 2025 Federal Election, the AEC observed an increase in the use of unbranded campaign websites by disclosure entities. These websites were separate from the disclosure entity's official website and did not contain easily identifiable branding. While legislative requirements may have been met by including an authorisation statement at the footer of the webpage, electors expressed frustration about these websites and raised concerns that the use of non-branded campaign websites fails the transparency objectives set out in s 321C of the Electoral Act.

Questions:

11. Do you have any views about the current approach to authorising websites, particularly websites that contain electoral matter, but are not clearly branded by an identifiable disclosure entity?
12. How could the Authorisation Determination be amended to improve transparency and compliance?

g. Labelling of deepfakes

The Electoral Act and the Authorisation Determination do not regulate or restrict the use of artificial intelligence (AI) to generate or manipulate the communication of electoral matter. There is increasing concern about the use of AI to generate electoral matter, whether to promote or oppose a candidate

or party. AI can be used to replicate a person's image, voice or likeness in audio, video or image. This AI generated content is commonly referred to as 'deepfakes'.

In other legislative schemes, deepfakes are recognised as a harmful type of AI generated content. A 'deepfake' is variously defined as:

- A digital photo, video or sound file of a real person that has been created with AI to make an extremely realistic but false depiction of them doing or saying something that they did not actually do or say.²
- An image, video or audio depicting a person that has been edited or entirely created using digital technology (including artificial intelligence), generating a realistic but false depiction of the person.³
- A depiction of a simulated person⁴ performing an act that the real person depicted in the depiction did not perform.⁵

Outside of Australia, Canada has recently prohibited the use of deepfakes in relation to elections.⁶ The EU also recently established the European Union AI Act to establish transparency obligations for companies who provide or otherwise deploy AI systems or content. Among these obligations, AI-generated or manipulated images, audio, or videos which resemble existing persons, objects, places, entities or events must now be disclosed as such.

Currently, any artificial intelligence (AI) generated electoral matter must be authorised in accordance with s 321D of the Electoral Act if it is published or distributed:

- in paid advertising
- in printed material, and/or
- by or on behalf of a disclosure entity (e.g. a candidate, political party or other entity registered under the Electoral Act).

However, there is no requirement for the person or entity responsible for the AI generated electoral matter to specify that the matter is AI generated.

The AEC is seeking views on whether to enhance transparency and accountability in the communication of electoral matter, the Authorisation Determination should be amended to require electoral matter containing deepfakes to be labelled (e.g. 'This content contains a deepfake').

Please note that the Determination is limited to consideration of formatting, placement and additional particulars. Any amendments to restrict or prohibit AI generated electoral matter could only be achieved by legislative amendments to the authorisation requirements in Part XXA of the Electoral Act, which is a matter for Parliament.

Questions:

13. Do you have any views about the Authorisation Determination requiring deepfakes to be labelled?
14. How could the Authorisation Determination be amended to improve transparency?

² [Deepfakes | What are deepfakes? | Position statement | eSafety Commissioner](#)

³ *Criminal Code Act 1995* (Cth) Schedule, The Criminal Code, s 474.17A(2) note.

⁴ *Electoral Act 2017* (NSW) s 189A(4), *Electoral Act 1985* (SA) s 115B(5) – "simulated person" means a person depicted in digitally generated electoral material that—

(a) purports to be a depiction of a particular real person, or

(b) so closely resembles a depiction of a particular real person that a reasonable person would consider it likely to be a depiction of the real person.

⁵ *Electoral Act 2017* (NSW) s 189A(1), *Electoral Act 1985* (SA) s 115B(1).

⁶ Section 480.1 of the *Canada Elections Act*

h. Any other comments

The above areas for potential reform have been identified from the electoral and referendum events that have been held since the Authorisation Determination was made. You may have other areas for potential reform to the Authorisation Determination that are not covered in the discussion paper.

Please note that the Electoral Commissioner's power to make the Authorisation Determination is limited by s 321D(7) of the Electoral Act. Any suggestions for reform or amendment to the legislative provisions of the Electoral Act are beyond the scope of the Authorisation Determination and are matters that would need to be taken up by Parliament.

Questions:

15. Do you have any other comments or suggested amendments to the Authorisation Determination that could improve the authorisation of communications of electoral or referendum matter?