FACT SHEET

AEC Australian Electoral Commission

Purple campaign signage

Following the 2019 federal election the Court of Disputed Returns examined the use of campaign signage in the Divisions of Chisholm and Kooyong. These signs:

- informed voters that the 'correct' or 'right' way to vote was to preference a particular candidate first,
- used the colour purple (similar to the colours used by the AEC), and
- in some cases, appeared in close proximity to AEC signage at polling booths.

The Court found that the signs were likely to mislead or deceive a voter in relation to the casting of a vote, in contravention of s 329 of the *Commonwealth Electoral Act 1918* (the Electoral Act). This provides a new judicial precedent that is important to understand for future electoral campaigning.

Why didn't the AEC remove the signs on election day in 2019?

We couldn't. Despite what appears to be a common misconception, the AEC doesn't have the legal authority to remove any sign that is more than 6 metres from the entrance to a polling booth.

If we believe a sign may be in breach of the Electoral Act we can ask someone to remove it and, if it isn't removed, seek an injunction from the Courts.

The Court found that the signs were likely to mislead or deceive a voter in relation to the casting of a vote – does this mean the AEC should have taken action on election day?

This situation had not been considered by the courts before 2019 and, as such, is something that could, and now has been, argued.

The Court judgment is available for anyone to view. It includes the finding that the signage – taking account of the varying factors of colour, positioning and content – was in contravention of s 329 of the Electoral Act. This clarifies the law in relation to signage that imitates the AEC's branding.

Was the result in Chisholm and Kooyong compromised by the display of the signs?

This is exactly what was considered by the Court of Disputed Returns. The Court dismissed the applications and held that the signs did not have sufficient influence to affect the final results of the elections in Chisholm or Kooyong.

What does the Court judgment mean for the next federal election?

The AEC continues to have the power to remove signage that is less than 6 metres from the entrance to a polling booth. For signage that is more than 6 metres from the entrance to a polling booth, the AEC can ask people to remove signage if we consider it breaches the Electoral Act, and seek an injunction from the Courts if they refuse to do so. Based on the recent Court decision, the AEC can now also ask people to remove signage *imitating the AEC* in particular circumstances.

If a similar set of circumstances to 2019 arises where the message, colour and placement of signage combine to potentially mislead someone in relation to casting their vote – particularly deceiving someone into thinking the message is from the AEC – then the AEC can request the removal of the signs or seek an injunction to have the signs removed.

Can campaign signage use purple that is similar to the AEC's branding?

The AEC would strongly urge anyone planning electoral communication activities at the next federal election to not use the colour purple or any other branding elements that could be perceived to imitate the AEC in any way.

Where can I find more information on my obligations if I am considering publishing or displaying signs at a future federal electoral event?

Electoral matter must be authorised and not likely to mislead or deceive an elector in relation to the casting of a vote. Further information is available in the AEC's electoral backgrounder.

AEC21-1579

Authorised by the Electoral Commissioner, 10 Mort Street, Canberra ACT 2601