

Guidelines for the broadcast of political matter

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Guidelines for the broadcast of political matter

During political debate, it is important that audiences are informed about who is trying to persuade them to think or act in a certain way, and that people authorising political matter are accountable for the material broadcast. When proper attribution is absent or the source of political messaging is disguised, the political process can be compromised.¹

Political matter

Under Schedule 2 to the *Broadcasting Services Act 1992* (the BSA), political matter is broadly defined to mean any political matter. This includes election matter, election advertisements and referendum advertisements.

The provisions in the BSA relating to the broadcast of political matter apply at all times.

There are also restrictions on the broadcast of election matter, election advertisements and referendum advertisements that apply at different times during the relevant campaigns. These are set out in detail below.

Who do the rules apply to?

The provisions about political matter, election matter, election advertisements and referendum advertisements apply to:

- > commercial television broadcasting licensees
- > commercial radio broadcasting licensees
- > community broadcasting licensees
- > subscription television broadcasting licensees
- > persons providing broadcasting services under class licences.

The national broadcasters have their own rules about the broadcast of political matter (and in the case of SBS, also election advertisements). These rules are specified in each national broadcaster's respective legislation – the [Australian Broadcasting Corporation Act 1983](#) and the [Special Broadcasting Service Act 1991](#).

Complaints and enforcement

The provisions about political matter, election matter, election advertisements and referendum advertisements are set out as licence conditions in Schedule 2 to the [BSA](#).

Complaints about compliance with licence conditions can be made directly to the ACMA. There is no need for complainants to go to licensees in the first instance. Find out more about [this process](#).

¹ See 'How the Internet is Being Used by Political Organisations: Promises, Problems and Pointers', https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/RP97_98/98RP11#PROBLEMS, accessed 6 February 2019.

If we investigate a complaint and find that a licence condition has been breached, we have a range of [compliance and enforcement options](#), including accepting enforceable undertakings, giving remedial directions or commencing civil penalty proceedings in the Federal Court to obtain civil penalty orders.

Election or referendum material on other platforms

There are rules that apply to the disclosure of authorisation details for information about elections and referendums on non-broadcasting media platforms. This includes online channels, bulk text messages and robocalls, as well as printed materials such as leaflets and how-to-vote cards.

The authorisation requirements for non-broadcasting electoral communications related to federal elections and referendums are administered by the Australian Electoral Commission (AEC), and for state or territory elections by the relevant state or territory electoral authorities.

Complaints and enquiries about federal electoral or referendum material on these other platforms should be directed to the AEC or for state or territory elections the relevant state or territory electoral authority. For more information about the authorisation of federal electoral and referendum communications, see the Electoral Backgrounder on the [AEC website](#).

Complaints and enquiries about the operation of the *Spam Act 2003*, the *Do Not Call Register Act 2006* and associated regulations, should be made to the ACMA. Complaints and enquiries about the authorisation of robocalls or text messages regarding electoral or referendum material should be referred to the AEC.

About the guidelines

These guidelines are intended to:

- > assist licensees to identify political matter, election matter, election and referendum advertisements.
- > increase awareness and understanding of the obligations relating to the broadcast of political matter, election matter, election advertisements and referendum advertisements.

Examples featured in these guidelines are illustrative only. We will consider a licensee's compliance with the BSA on a case-by-case basis.

Licensees should always obtain their own legal advice about their obligations under the BSA.

Reviewing these guidelines

The guidelines will be updated when changes are made to regulatory provisions about the broadcast of political and election matter, and election and referendum advertisements. Case studies in these guidelines are periodically reviewed for relevance.

Relevant legislation

The guidelines refer to provisions in the following legislation:

- > *Broadcasting Services Act 1992*
- > *Commonwealth Electoral Act 1918*
- > *Commonwealth Electoral (Authorisation of Voter Communication) Determination 2021*
- > *Referendum (Machinery Provisions) Act 1984.*

These can be accessed at [legislation.gov.au](https://www.legislation.gov.au).

Political matter

Broadcasting political matter – the basic rule

If a licensee broadcasts political matter at the request of another person, the licensee must ensure that authorisation details (called ‘required particulars’) are announced (subclause 4(2) of Schedule 2 to the BSA).

The content of the required particulars (see below) is specified in the BSA (subclauses 1(2) and 1(3) of Schedule 2) and the *Commonwealth Electoral Act 1918* (the Commonwealth Electoral Act) (subsection 321D(7)) and must be placed in a broadcast in accordance with the requirements in sections 14 and 15 of the *Commonwealth Electoral (Authorisation of Voter Communication) Determination 2021* (the Commonwealth Electoral Determination).

Sections 14 and 15 of the Commonwealth Electoral Determination require that, respectively:

- > for a **radio broadcast**, the required particulars must be announced at the end of the communication
- > for a **television broadcast**, the required particulars must be announced and shown at the end of the communication.

In each case, the particulars must be notified in the same language as the broadcast, unless the broadcast is in 2 or more languages, in which case the particulars must be notified in English.

When investigating compliance with the relevant licence condition, we will ask:

- > Did the broadcast material include political matter?
- > If so, was the broadcast made at the request of another person?
- > If so, were the required particulars broadcast correctly?

Key terms include:

- > licensee
- > political matter
- > request of another person
- > required particulars.

These terms are each discussed below.

Which licensees are included?

These provisions apply to:

- > commercial television broadcasting licensees
- > commercial radio broadcasting licensees
- > community broadcasting licensees
- > subscription television broadcasting licensees
- > persons providing broadcasting services under class licences.

Provisions relating to the ABC and SBS are included in their respective acts.

The provisions do not apply to non-broadcasting platforms, for example, printed material, online streaming and on-demand services, including when such platforms are operated by licensed broadcasters.

What is ‘political matter’?

This is a fundamental question with the potential to cause most uncertainty.

‘Political matter’ is defined very broadly in the BSA (clause 1 of Schedule 2) to mean ‘any political matter, including the policy launch of a political party’. Guidance as to the sort of material that may constitute political matter is provided primarily through the ACMA’s decision-making, reflected in reports of political matter investigations.

What is political matter is an objective test and must be determined on a case-by-case basis. The balance can be a fine one.

When conducting an investigation under the BSA, we determine whether broadcast material is political matter by considering:

- > the content of the broadcast
- > the overall presentation of the material, including the tone, style and emphasis
- > the nature and style of accompanying audio or visual material
- > the context surrounding the broadcast.

The content of the broadcast

The understanding of the ordinary reasonable viewer of the nature of the message or messages communicated by the broadcast is a consideration in determining whether material is political. The question is asked: Does the content convey a message about matters that are or could be the subject of public political discussion?

Some matter broadcast will obviously be political matter – for example, a broadcast designed to affect how a person will vote in an election or a referendum. However, it is not necessary for material to explicitly promote a political party, candidate or policy for it to be political matter. If content engages with a matter of public contention or discussion, in a meaningful way that objectively seeks to *influence the audience’s position* about that matter, it may be considered political.

Promotion of brands, products or services is not determinative

Some material promotes brands, products and services while including political references. In considering whether particular material might be political matter, we consider a range of factors including the content, overall presentation of the material, emphasis, style and the context surrounding the broadcast.

For example, if material promotes a brand, product or service, and also refers to something that is political, but does so in a way that attempts to influence the audience’s position about the brand rather than influence the audience’s position about the political content (see [case study 3](#)), this material is unlikely to be regarded as political matter. Conversely, other material that might contain content that promotes a brand, product or service, but also includes other content that engages with matters of public contention or discussion in meaningful way, may well be regarded as political matter.

Material may highlight certain actions taken, or beliefs held by an organisation or business about matters of public contention or discussion as a way of promoting that organisation to an audience. Such material may become political if it engages with the broader issues underpinning those actions or beliefs.

The overall presentation of the material, including the tone, style and emphasis

Material may be political matter if it seeks to persuade the audience to a political point of view, even if at the time there is no public proposal to change the law about the issue.

It may also be enough if the broadcast is likely to influence the audience about a political issue, regardless of the intention of the person requesting the broadcast of the matter. It is also not essential that the approach be express, rather than indirect, for the broadcast to be political matter.

Further consideration about the intent of a broadcast can be found at [case study 5](#).

The nature and style of accompanying audio or visual material

Political matter may include individual components that contribute to the communication of a political message. These may be images or audio that the ordinary reasonable viewer associates with a particular political position about matters that are, or could be, the subject of public political discussion.

The context surrounding the broadcast

It is not necessary for there to be a high level of current public discourse at a government level about a matter for it to meet the threshold of political matter. The content need only engage with a matter of public contention or discussion in a meaningful way that objectively seeks to influence the audience's position about that matter.

Further discussion on what constitutes political matter can be found in [case study 1](#) and [case study 3](#).

What is 'at the request of another person'?

Only political matter that is broadcast at the request of another person is subject to the requirement about broadcasting the required particulars.

A person can include a political party, a corporation and any other association (incorporated or unincorporated), as well as a natural person.

Licensees are not prevented from advocating on social issues and, from time-to-time, may support policy initiatives.

The required particulars do not need to be broadcast if political matter is broadcast on the licensee's own initiative (see [case study 2](#)).

What are the 'required particulars'?

The required particulars are the authorisation details that must be broadcast following political matter. These are also called 'tags'.

The provision about broadcasting the required particulars of the person who authorised the broadcast applies at all times. It is not restricted to material broadcast during elections, referendums, or in times of significant public debate on certain issues. When advertisements are broadcast outside of the context of an election or referendum or are not on behalf of a political party or other 'disclosure entity' (defined below), they may still be political matter and be required to be 'tagged' with the required particulars.

On both radio and television, the required particulars must be announced at the end of the communication in the same language used in the communication, or in English if 2 or more languages are used in the communication. On television, there is an additional requirement that the particulars must also be shown (see the Commonwealth Electoral Determination).

The BSA defines ‘required particulars’ as the particulars set out in Table 1.²

Table 1: Required particulars defined in the BSA

Broadcast is authorised by	Required particulars
a disclosure entity that is not a natural person	<p>(1) (a) if the entity is a registered political party – the name of the party (the registered name) that is entered in the Register of Political Parties under the Commonwealth Electoral Act or that name omitting any of the following:</p> <ul style="list-style-type: none"> (i) if the registered name includes both a word or phrase and its abbreviation – the abbreviation; (ii) if the registered name includes ‘Incorporated’ or an abbreviation of that word – that word or its abbreviation; (iii) if the registered name includes ‘of Australia’ – those words; (iv) if the registered name ends with ‘Australia’ – that word; (v) if the entity is a registered branch or division of a registered political party – the words indicating the name of the branch or division; or <p>(b) if the entity is a disclosure entity (but not a registered political party) – the name of the entity entered on the Transparency Register under the Commonwealth Electoral Act; or</p> <p>(c) if the entity is not an entity covered by paragraph (a) or (b) and a return has been given under Part XX of the Commonwealth Electoral Act in relation to the entity – the name included in the most recent return given in relation to the entity; or</p> <p>(d) in any other case – the name of the entity.</p> <p>Note: For example, under paragraph (a) the registered name “Quokka Party of Australia Inc.—NSW” may be notified as “Quokka Party”</p> <p>(2) the relevant town or city of the entity</p> <p>(3) the name of the natural person responsible for giving effect to the authorisation.</p>
a disclosure entity that is a natural person	<p>(1) the name of the person</p> <p>(2) the town or city in which the person lives.</p>
any other entity (that is not a disclosure entity or a natural person)	<p>(1) the name of the entity</p> <p>(2) the relevant town or city of the entity.</p>
a natural person (who is not a disclosure entity)	<p>(1) the name of the person</p> <p>(2) the town or city in which the person lives.</p>

² See subclauses 1(2) and 1(3) of Schedule 2. The definition of ‘required particulars’ also refers to any particulars determined under subsection 321D(7) of the Commonwealth Electoral Act for the purposes of paragraph 1(2)(b) of Schedule 2. No such particulars have been determined to date.

The required particulars refer to specific terms:

- > disclosure entity
- > authorises
- > abbreviations
- > relevant town or city.

These terms are each discussed below.

What is a ‘disclosure entity’?

A ‘disclosure entity’ is defined in the BSA with reference to section 321B of the Commonwealth Electoral Act and section 110A of the *Referendum (Machinery Provisions) Act 1984*. It includes:

- > a registered political party (as registered under Part XI of the Commonwealth Electoral Act)
- > a significant third party, which is a person or entity that is registered under section 287L of the Commonwealth Electoral Act³
- > a third party, which is a person or entity that incurs electoral expenditure during the financial year that is more than the indexed disclosure threshold⁴ and that is not required to be registered as a significant third party
- > a referendum entity, which is a person or entity that incurs referendum expenditure during a referendum expenditure period that exceeds the disclosure threshold⁵
- > an associated entity that is registered under section 287L of that Act and includes entities that are controlled by one or more registered political parties operationally, financially or through voting rights.⁶ Examples of associated entities include ‘think tanks’, registered clubs, service companies, trade unions and corporate party members⁷
- > current members of the Parliament of the Commonwealth
- > candidates for an election to the Parliament of the Commonwealth⁸
- > other persons and entities that have to lodge returns with the AEC in relation to gifts.⁹

Annual financial disclosure returns – available for public inspection – can be accessed on the [AEC website](#).

Who ‘authorises’ the broadcast of political matter?

A person authorises the broadcasting of political matter only if the person is responsible for approval of the content and the decision to present it for broadcasting (subclause 4(4) of Schedule 2 to the BSA).

³ See section 287F of the Commonwealth Electoral Act, which sets out for when a person or an entity is required to be registered as a significant third party.

⁴ Section 287 of the Commonwealth Electoral Act defines the disclosure threshold as \$13,800, an amount that is indexed under section 321A. For the 2022–23 financial year, the threshold is \$15,200.

⁵ Section 3 of the *Referendum (Machinery Provisions) Act 1984* defines the disclosure threshold to be that specified in the Commonwealth Electoral Act.

⁶ This is not an inclusive list. See section 287H of the Commonwealth Electoral Act, which sets out when an entity is required to be registered as an associated entity.

⁷ See the [AEC website](#) for further information.

⁸ This includes people who have been candidates for an election of a member for the House of Representatives in the previous 4 years or the Senate for the previous 7 years, and a group of 2 or more candidates nominated for election to the Senate who have their names grouped together in the ballot papers in accordance with section 168 of the Commonwealth Electoral Act.

⁹ See sections 305A, 305B and 306 of the Commonwealth Electoral Act.

Abbreviations

If an abbreviation of the name of a registered political party that has a registered branch or division, or a branch or division of a registered political party is entered in the Register of Political Parties under the Commonwealth Electoral Act, then the required particulars are taken to be either the particulars referred to in paragraph 1(3)(a) of Schedule 2 to the BSA (summarised above in the first row of Table 1), or the relevant abbreviation entered in the register.

What is the ‘relevant town or city’?

The ‘relevant town or city’ of an entity that authorised the broadcast of political matter is:

- > if the entity has a principal office or premises, the town or city where it has its principal office or premises
- > the town or city in which the natural person who was responsible for giving effect to the authorisation lives.

Where the office of the relevant entity is in a particular suburb, an authorisation that refers only to the greater metropolitan area (for example, Brisbane) would generally be sufficient.

Exceptions to this approach may include circumstances where a locality or suburb is relevant to the audience’s understanding of the political matter. Therefore, if a campaign is about a local issue, it may be relevant for the audience to know whether the entity seeking to influence their view is from the local area or from outside. In such a situation, merely citing the general metropolitan area may not suffice.

If the entity is a natural person, the required particulars include the town or city in which the person lives.

Ensuring compliance

Licensees are responsible for compliance with the provision about broadcasting the required particulars.

This means taking steps to determine whether the person who authorises the broadcast of the political matter is a ‘disclosure entity’.

For matter authorised by persons or entities who are not disclosure entities, a licensee is taken to have ensured that required particulars are announced if, as a result of steps taken by the licensee, it was reasonable for the licensee to rely on the particulars provided to it.¹⁰

Steps that may be taken by the licensee include:

- > notifying a person wanting to broadcast political matter that the name of the person required to be announced as having authorised the broadcast depends on whether the person is a disclosure entity
- > seeking a verification whether the person is a disclosure entity.

More information about disclosure entities – including current listings of entities that have lodged returns – is available on the Transparency Register on the [AEC website](#).

¹⁰ See subclause 4(5) of Schedule 2 to the BSA

Keeping records

A licensee must keep, for the 'required period', a record of the name, address and occupation of the person (or the name and address of the principal office, if the person is a company) that requests the broadcast of political matter (subclause 4(3) of Schedule 2 to the BSA).

The 'required period' is the longer of 6 weeks from the date of the broadcast or until the day on which the election ends (if the matter relates to an election or referendum and was broadcast during the relevant election period). The ACMA can direct a licensee (in writing) to keep records for a longer period.

These records must be given to the ACMA if requested by written notice.¹¹

¹¹ See subclause 4(3) of Schedule 2 to the BSA.

Election matter

What is 'election matter'?

'Election matter', in relation to an election, means matter of any of the following kinds:

- a) matter commenting on, or soliciting votes for, a candidate at the election
- b) matter commenting on, or advocating support of, a political party to which a candidate at the election belongs
- c) matter commenting on, stating or indicating any of the matters being submitted to the electors at the election, or any part of the policy of a candidate at the election, or of the political party to which a candidate at the election belongs
- d) matter referring to a meeting held, or to be held, in connection with the election.

What is an 'election period'?

'Election period' means:

- a) in relation to an election to the Legislative Council of Tasmania, or an ordinary election to the Legislative Assembly for the Australian Capital Territory – the period that starts 33 days before the polling day for the election and ends at the close of the poll on that day
- b) in relation to any other election to a parliament – the period that starts on:
 - (i) the day on which the proposed polling day for the election is publicly announced
 - (ii) the day on which the writs for the election are issued (whichever happens first and ends at the close of the poll on the polling day for the election)
- c) in relation to an election to a local government authority – the period that starts 33 days before the polling day for the election and ends at the close of the poll on that day
- d) in relation to a referendum whose voting day is the same as the polling day for an election to the Parliament of the Commonwealth – the election period in relation to that election
- e) in relation to any other referendum – the period that starts 33 days before the voting day for the referendum and ends at the close of voting on that day.

'Reasonable opportunities' to participants in elections

Licensees are not obliged to broadcast election matter at all. However, if they do, certain obligations arise.

If, during an election period a broadcaster broadcasts election matter, the broadcaster must give reasonable opportunities for broadcasting election matter to all political parties contesting the election that were represented in either House of the Parliament for which the election is to be held, at the time of its last meeting before the election period.

There is no obligation for licensees to broadcast any election matter free of charge.

Whether opportunities were considered to be 'reasonable' would be established during an investigation if the ACMA were to investigate a matter that required this issue to be considered.

Election and referendum advertisements

What is an ‘election advertisement’?

An ‘election advertisement’ is:

- > an advertisement that contains election matter for which the relevant licensee receives any money or other consideration
- > an announcement that a program is sponsored by a candidate or candidates at the election
- > an announcement that a program is sponsored by a political party where a candidate at the election belongs to that party.

What is a ‘referendum advertisement’?

A ‘referendum advertisement’ is an advertisement that contains referendum matter, which the relevant licensee receives any money or other consideration.

Referendum matter is communication, the dominant purpose of which is to influence the way electors vote at a referendum.¹² Referendums relate to voting on a proposal to amend the Australian constitution.

Election and referendum ‘blackouts’

Election and referendum blackouts are called the ‘relevant period’ in the BSA. This period begins at midnight on the Thursday morning before polling day and ends at the close of the voting on polling day.

Election blackouts only apply to parliamentary elections – that is, federal and state or territory elections. There is no blackout period for local government elections.

For federal elections and referendums, the ACMA updates its website information about current blackouts shortly after election and referendum writs have been issued. The website is not updated for state and territory by-elections.

Election blackouts and referendum blackouts apply to election and referendum advertisements, respectively.

¹² See subsection 3AA(1) of the *Referendum (Machinery Provisions) Act 1984*.

Appendix

These case studies are based on actual investigations undertaken by the ACMA.

Case study 1

Breach – licensee did not announce the required particulars immediately after the broadcast of political matter.

The broadcast material

The advertisement featured a man wearing 'hi-vis' work attire. He was sitting in his ute and speaking directly to the camera as he recalled the circumstances of his wife's first pregnancy and said, 'I can remember thinking, how are we going to cope?' He exited the vehicle and entered his family home.

The advertisement continued with the man and his seven children in the family kitchen/living room. As he held a newborn baby, the man said, 'I reckon, I've coped just fine'. At the same time, the words, 'I coped ... you can too' appeared as on-screen text.

The advertisement concluded with the man standing in a kitchen, surrounded by his family as they each held up what appeared to be ultrasound images of human fetuses. The man then told viewers to 'visit notbornyet.com'. The Emily's Voice logo and the text 'notbornyet.com' were then superimposed in the lower half of the screen.

The ACMA's findings

While the advertisement had a social dimension regarding individual health choices, we considered that it went beyond providing information about the man's personal story and the message of support for continuing with an unwanted pregnancy, even in difficult circumstances. It was attempting to influence the viewpoints of viewers. The text onscreen 'I coped ... you can too' and the call from the man to 'visit notbornyet.com' encouraged viewers to get more information about the issue of abortion, which was raised indirectly in the advertisement. Together with the use of ultrasound images, these elements signalled to the ordinary reasonable viewer that the advertisement intended to influence viewers to accept a particular view on abortion.

We believed a key purpose of the advertisement was to promote the aims and objectives of Emily's Voice and to change people's views about abortion and build a broader constituency that opposed abortion while laws about abortion continued to be actively debated in Australia. For this reason, there were strong political dimensions to the advertisement.

We deemed that as the broadcast was likely to affect a person's opinion on a matter of political controversy, it was political matter and fell within subclause 4(2) of Schedule 2 to the BSA.

The complete analysis in this investigation can be accessed at [acma.gov.au](https://www.acma.gov.au) (search 'BI-231').

Case study 2

No breach – political matter was not broadcast at the request of another person.

The broadcast material

The content contained a sequence of 16 images of different people, representing all walks of life, holding up handwritten signs stating what love means to them. For example: 'I love my dog (& fiancé)', 'Love makes the world go round!' and 'Love is my baby daughter'.

The signs presented a range of personal reflections on love and the ways that people experience it. One of the signs explicitly commented on marriage equality by stating, 'Love is for everyone. I don't want to get married, but I want the choice!'

At the end of the promotion, a rainbow-coloured heart appeared on-screen and transformed into the Lifestyle channels' logo in rainbow colours. The logo was accompanied by the tagline 'Love is Love', which transformed into the word 'Lifestyle'. The use of the Lifestyle channels' logo in rainbow colours and the text 'Love is Love' at the end of the promotion, 'branded' it as part of the 'Love is Love' campaign.

The licensee stated:

- > the 'Love is Love' campaign was an independent initiative of the Lifestyle channel, planned to coincide with Valentine's Day, 'to promote love in all forms, between all different people, regardless of their sexual orientation'
- > 'Love is Love' had become synonymous with the global push for equality of the [LGBTQI+] community in all areas of life, including marriage equality in Australia
- > the campaign used the rainbow colours of the [LGBTQI+] pride flag to symbolise the acceptance of all expressions of love
- > the 'Love is Love' campaign was conceived and developed by the Lifestyle channel, which also had creative and editorial control over the content used.

Taking this content as a whole, the promotion would have prompted viewers towards a particular point of view about marriage laws.

The ACMA's findings

The licensee's description of the initiative as a 'campaign' suggested that the intention was to influence audience views about marriage equality as a political issue beyond merely communicating about equality and inclusiveness in society more generally.

Frequent and repetitive broadcasts of the 'Love is Love' campaign in a defined period leading up to Valentine's Day would have been understood by the audience as a direct appeal to garner support for marriage equality, even if the substance of some of the individual promotions might not have been characterised as political in nature.

We had previously stated that material need not contain an explicit call to action to be political matter. As a package, the 'Love is Love' campaign included elements that amounted to a call to action and more subtle attempts that would have been understood as intended to persuade viewers to support marriage equality.

For these reasons, we considered that the 'Love is Love' campaign constituted political matter within the meaning of the BSA.

We accepted the licensee's submissions that neither the advertisement nor the 'Love is Love' campaign was broadcast at the request of another person, as evidenced in submissions made to the ACMA, where the licensee confirmed that no consideration was received for the broadcast of this material.

For these reasons, we found that the political matter was not broadcast at the request of another person and the requirements in clause 4 of Schedule 2 to the BSA did not apply to the broadcast.

The complete analysis in this investigation can be accessed at acma.gov.au (search 'BI-302').

Case study 3

No breach – broadcast did not constitute political matter.

The broadcast material

We received a complaint about an advertisement for Godfreys Vacuum Cleaners broadcast on commercial television station TCN Sydney. The complainant was concerned that Godfreys were paid by the Labor Party to refer to Mr Tony Abbott, the then Leader of the Opposition, in a negative manner during the advertisement, without announcing the required particulars at the end of the commercial.

The advertisement promoted Godfreys Vacuum Cleaners. The spokesman appeared to be wearing a blond wig and glasses to impersonate the then Prime Minister, Mr Kevin Rudd:

Spokesman: Someone's been a little negative lately, Mr Abbott. Why don't you be a little more positive, Mr Abbott?

Narrator: It's positively amazing.

Spokesman: Godfrey's amazing \$99 weekend.

Narrator: Hoover bagless, half price \$99, Philips bagless half price \$99, Bissell Cordless \$99, shampooers \$99.

Spokesman: Godfreys!

Narrator: And with every \$99 cleaner, get this steam mop free. Yeah, with every \$99 cleaner get this steam mop free.

Spokesman: Godfrey's amazing \$99 weekend. This weekend, Mr Abbott.

The ACMA's findings

Any matter broadcast advocating a point of view on a government and its policies, or political parties and their policies, can fall within the definition of political matter. However, matter that simply promotes a product or service does not fall within the definition of 'political matter' merely because it refers to something that is political.

We noted that the primary purpose of the advertisement was to promote vacuum cleaners. While the spokesman referred to the negativity of Mr Abbott, it was presented in a humorous style by impersonating the then Prime Minister, Mr Rudd. We did not consider that the advertisement participated in the political process as it did not engage with, or allude to, any specific issue of a political nature or discuss any political process or political matter. The light-hearted presentation of the advertisement indicated that it was not intended to be a serious comment on politics or the political process.

For these reasons, we found that the material broadcast did not constitute 'political matter'.

The complete analysis in this investigation can be accessed at acma.gov.au (search '3086').

Case study 4

No breach – political matter was not broadcast at the request of another person.

The broadcast material

The material was broadcast immediately before start of the second half in a live rugby league program, as the teams were running onto the field.

The audio was:

Commentator 1:

Back at the football stadium, finals football continues. The first preliminary final, with Manly leading 16 to 4. Forty minutes of football, perhaps, left. The Eagles are rocking. Not only has the Manly Football Club been doing great work on the field this season, they've also been very busy working with the community off the field. With significant funding from the Manly Leagues Club and Harbord Diggers, for whom a lot of these kids played, the Sea Eagles established The Eagle's Nest, in conjunction with the Royal Far West Health Service. Eagle's Nest is a multi-purpose room where staff run adolescent mentoring programs with the assistance of the Manly players. The ongoing financial assistance of registered clubs across Australia ensure [sic] this, and many other worthwhile programs, continue, but they are under threat from the new untested technology the Federal Government plans to introduce. Funding from clubs is the lifeblood of many community programs and initiatives that we all enjoy. So for more information go to wontworkwillhurt.com.au.

As Manly come back in front of 31,894 – the crowd figure. At 16–4.

Well, you're very much a part of the club industry these days ... and it is true, they do a lot for the community. And if they keep hitting the clubs, the ones who are going to suffer are the ones at the bottom of the ladder.

Commentator 2:

Yes, the proposed mandatory pre-commitment that they've put forward is a rubbish policy. It won't work, it won't solve the problem they say they're going to target, and it will do irreparable damage to the hospitality industry. It won't work, and it will hurt. You're 100 per cent right. I've never seen a more stupid policy in all my life.

[Whistle blows and play in second half begins.]

Commentator 1:

Well, that's an endorsement.

There was also a visual on screen 'wontworkwillhurt.com.au' while part of the above was being broadcast, over vision of the teams running out onto the field for the second half of the match.

The ACMA's findings

We found that mandatory pre-commitment (MPC) for poker machine play had been a controversial topic for several months at the time of the broadcast and was the subject of proposed Federal Government legislation. Accordingly, we considered that MPC was a political issue at that time. While the material broadcast contained information, such as details of the Eagle's Nest project, it also sought to influence viewers to oppose MPC. We therefore considered that the material in the broadcast relating to MPC constituted political matter.

Having carefully examined the sequence of events concerning communications between the licensee (Nine), Clubs Australia/Clubs NSW, the National Rugby League (NRL) and Manly-Warringah Sea Eagles Limited, we concluded that it was Nine, not any other person, which took the initiative that led to the broadcast of the impugned material, and that the contribution of others (Manly-Warringah Sea Eagles Limited,

Clubs NSW/Clubs Australia and the NRL) was at the request of Nine, not the other way round.

We also noted that while there was no prohibition on a licensee running its own political campaign, the licensee did not make clear in the broadcast that the script had been prepared by Nine management and was broadcast at the initiative of Nine management. Nor did the licensee make clear that the website to which it directed viewers for 'more information' was a website of a campaign funded by Clubs Australia and other industry associations, which considered that their revenue would be negatively affected by the introduction of MPC.

The complete analysis in this investigation can be accessed at acma.gov.au (search '2686').

Case study 5

No breach – political matter was not an election advertisement broadcast during the ‘blackout period’ and was not broadcast at the request of another person.

The broadcast material

The content complained about was 2 short recordings of what were presented to be election advertisements for the then Prime Minister of Australia, Mr Malcolm Turnbull MP. The recordings, which were comedic in nature, were voiced by a comedian who sounded similar to Mr Turnbull.

The recordings were broadcast the day before and on the day of the 2016 federal election.

The ACMA’s findings

a) *Election advertisement broadcast during the election ‘blackout’.*

As the ‘relevant period’ (also known as the election blackout period) starts at midnight on the Wednesday before the election, the content was broadcast within the ‘relevant period’ for the purposes of the BSA.

The licensee submitted that the recordings were not advertisements but were ‘sweepers’ – pre-recorded samples aired between songs that are commonly used on radio. It advised that a comedian voiced them and that listeners were used to hearing these impersonations.

The licensee also submitted that the content was not ‘election matter’ as it did not genuinely advocate the support of any political party and did not comment on any matters being submitted to the electors at the election or any candidate’s policies.

We considered that some listeners, including the complainant, may not have realised that the recordings were not genuine political advertisements. The impersonation closely resembled Mr Turnbull’s speaking voice. Further, although the recordings were mostly broadcast between songs, several times they were played immediately following advertising blocks, which would have suggested to some listeners that they were bona fide political advertisements.

In our view, the content fell within the definition of ‘election matter’ because, although intended to be comedic, the recordings were, on the face of it, a direct appeal to voters to vote for Mr Turnbull, who was a candidate at the election and the leader of a political party contesting the election.

The content was not excluded from the definition of ‘election matter’ by the fact that it was not Mr Turnbull or the Liberal Party who made the appeal, or that the content did not genuinely advocate support for Mr Turnbull because it was intended to be comedic.

However, as the ACMA accepted the licensee’s submission that it did not receive ‘any funding or other consideration, directly or indirectly’ in relation to the broadcasts, the ‘election matter’ was not an ‘election advertisement’, and so was not subject to the restrictions in the ‘blackout’ period.

b) *Political matter without the required particulars.*

We found that even though the recordings were comedic, they referenced the federal election and appealed to listeners to vote for Mr Turnbull, a candidate in that election. In our view, that was sufficient to meet the definition of ‘political matter’.

However, we accepted the licensee's submission that the content was not broadcast at the request of a political party or any other person. Therefore, there was no requirement for the required particulars to be announced immediately afterwards.

The complete analysis in this investigation can be accessed at [acma.gov.au](https://www.acma.gov.au) (search 'BI-214').