

# We can handle the truth

## Opportunities for truth in political advertising

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*Truth in political advertising laws are supported by 84% of Australians. Successful models include industry self-regulation in New Zealand and making misleading advertising an offence in South Australia. Decisions about what constitutes “the truth” may be fraught, but they are routinely made by companies and regulators under consumer law. Australia can choose from a variety of models, but some form of truth in political advertising should be legislated.*

Discussion paper

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# Summary

In most Australian elections, politicians, parties and candidates do not need to tell the truth in their advertisements.

Truth in political advertising laws are difficult, and many factors need to be balanced – including the need for the bureaucracy to be independent and seen to be independent, the nature of truth, the finality of elections and the constitutional right to political communication.

However, South Australia’s experience shows that legislated truth in political advertising is feasible and New Zealand’s experience shows that private regulation can work.

South Australia has had truth in political advertising since the 1980s, without major issue. The Electoral Commission is at times uncomfortable with its role as adjudicator of the truth, but truth in political advertising laws are possible without using a statutory body as the arbiter.

New Zealand has private regulation of truth in political advertising, conducted by its advertising standards body. This system has existed for decades, during which time it has dealt with complicated questions of truth with nuance and transparency.

Until 2002, Free TV Australia (then known as the Federation of Australian Commercial Television Stations) heard complaints against, and did not permit, misleading political advertising under the *Trade Practices Act*.

More recently, Australia’s Advertising Standards Bureau has proposed that it could regulate government advertising – which shows that they have no apparent objection to making difficult political decisions under pressure.

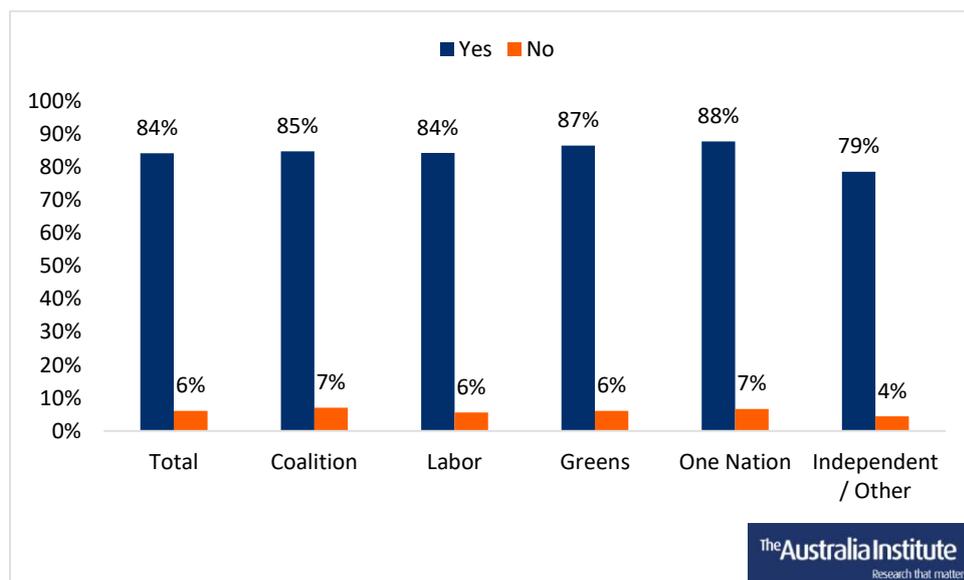
In addition, the tone and character of ads could be regulated to make them more balanced and instructive without legislating for “truth” per se. Political parties in Australia are already used to preparing broadcasts for the ABC and SBS that meet the public broadcasters’ requirements for an impartial tone, seemingly without issue.

The short duration of election campaigns and the finality of an election result means that penalties like forcing advertisers to withdraw or retract misleading ads may have little effect. One option is to withdraw some or all public funding from parties and candidates that are found to have authorised misleading or inaccurate ads. This penalty would affect political decision making during election campaigns, but could be applied in the months after an election – giving time for consideration, adjudication and legal avenues of appeal.

Representative polling shows that 84% of Australians support truth in political advertising laws, and that support is broadly similar regardless of who a person votes for. A variety of potential adjudication models and penalties are supported, including withdrawing public funding, as are related topics like self-regulation by the advertising and media industries and regulation of government advertisements.

Several models for increasing the truthfulness of election campaigns are available to policymakers. They are popular and proven to work in other jurisdictions.

**Figure: Do you support truth in political advertising laws?**



# Introduction

Lying in political advertising is perfectly lawful in Australia. Or to be more accurate, there is no law that compels political parties to tell the truth in political advertising.<sup>1</sup>

This is different to other aspects of advertising that are prohibited from making misleading or deceptive claims. Pharmaceutical companies cannot claim to have the cure for cancer; food companies cannot claim that sugary foods are good for kids; lawyers cannot guarantee that they will win every personal injury case.

In the 2019 election campaign, independent Zali Steggall called for a reform of political advertising laws after activist group Advance Australia's ads claimed she supported Labor's franking credits policy.<sup>2</sup> Steggall has pursued the issue since her election to Parliament.<sup>3</sup> Liberal MP Jason Falinski has also supported truth in political advertising laws, saying: "We have truth in advertising across the board: it just doesn't apply to political campaigns".<sup>4</sup>

Political ads and electoral materials from the 2019 election that were criticised as misleading include:<sup>5</sup>

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<sup>1</sup> See for example ACMA (2019) *Election and political matter guidelines*, <https://www.acma.gov.au/theACMA/political-matter-tv-content-regulation-i-acma>; Ad Standards (n.d.) *Political and election advertising*, <https://adstandards.com.au/issues/political-and-election-advertising>; AEC (2019) *Electoral Backgrounder: Electoral communications and authorisation requirements*, [https://www.aec.gov.au/About\\_AEC/Publications/Backgrounders/authorisation.htm](https://www.aec.gov.au/About_AEC/Publications/Backgrounders/authorisation.htm)

<sup>2</sup> Knaus & Karp (2019) *Zali Steggall plans political ad reform after rightwing smear campaign*, <https://www.theguardian.com/australia-news/2019/mar/11/zali-steggall-plans-political-ad-reform-after-rightwing-smear-campaign>

<sup>3</sup> Remeikis, Butler, Cox, & Karp (2019) *"Expect and respect": Scott Morrison announces public service shake-up – politics live*, <https://www.theguardian.com/australia-news/live/2019/jul/25/labor-coalition-superannuation-medevac-politics-live>

<sup>4</sup> Gregory (2019) *Federal election 2019: Tony Abbott says Warringah campaign "pretty personal" in secret recording*, <https://www.abc.net.au/news/2019-05-12/tony-abbott-zali-steggall-getup-advance-australia-in-warringah/11100424>

<sup>5</sup> Farhart (2019) *"Nasty" election prompts calls for crackdown on political advertising*, <https://www.sbs.com.au/news/nasty-election-prompts-calls-for-crackdown-on-political-advertising>; Karp (2019) *"It's a lie": Chris Bowen calls on Coalition to disavow claim Labor will bring in death tax*, <https://www.theguardian.com/australia-news/2019/apr/22/its-a-lie-chris-bowen-calls-on-coalition-to-disavow-claim-labor-will-bring-in-death-tax>; Knaus & Evershed (2019) *False election claims spark push for truth in political advertising laws*, <https://www.theguardian.com/australia-news/2019/may/20/false-election-claims-spark-push-for-truth-in-political-advertising-laws>; Knaus & Karp (2019) *"Designed to deceive": how do we ensure truth in political advertising?*, <https://www.theguardian.com/australia-news/2019/may/27/designed-to-deceive-how-do-we-ensure-truth-in-political-advertising>; Langford (2019) *There's Literally Nothing Stopping Politicians From Lying To You In Election Ads*, <https://junkee.com/lying-election-ads/203483>

- Signs in Chinese “mimicking the purple theme of the Australian Electoral Commission” at three polling booths, that said preferencing the Liberal Party is the “correct way to vote”.
- Liberal ads saying that Labor was planning a “car tax”.
- Paid ads from a Facebook group saying Tanya Plibersek “thinks that Indians can’t create jobs in Australia”.
- United Australia Party ads saying that the party “will win government”.
- A Facebook ad paid for by George Christensen which said that “we know Labor have secret plans to bring in a death tax”, with other Liberal advertising claiming “Labor will tax you to death”.

These issues are not unique to the 2019 election. Nick Xenophon and the Greens have called for truth in political advertising laws multiple times, most prominently after the 2016 election, when Prime Minister Malcolm Turnbull said they would have “a very close look” at such laws following Labor’s “Mediscare” campaign.<sup>6</sup> *The Australian* newspaper recommended them in an editorial.<sup>7</sup>

Laws requiring truth in political advertising have been proposed – and in some cases adopted – at state and federal levels since the 1980s. Calls for truth in political advertising have been made after most elections by various groups.

These laws raise issues about what the truth is and who should decide what is and is not true. However, successful truth in political advertising systems in South Australia and New Zealand show that these questions can be satisfactorily answered.

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<sup>6</sup> Sales (2016) *Interview: Prime Minister Malcolm Turnbull*, <https://www.abc.net.au/7.30/interview:-prime-minister-malcolm-turnbull/7639624>

<sup>7</sup> *The Australian* (2016) *Truth-in-advertising laws needed*, <http://www.theaustralian.com.au/opinion/editorials/truthinadvertising-laws-needed-for-political-parties/news-story/abcf95dd079ad418c51af6644d520f1e>

# South Australia

South Australia is unique in Australia in having laws that govern what can be said in elections. Section 113 of SA's *Electoral Act 1985* makes it an offence to authorise or cause to be published electoral advertisements that are materially inaccurate and misleading. The SA Electoral Commissioner can request such advertisements be withdrawn from further publication and a retraction published; they can also apply to the Supreme Court to enforce withdrawal and/or retraction.<sup>8</sup>

The Court of Disputed Returns may declare the results of an election (for an individual lower house seat or the entire half-Legislative Council) void on the grounds of misleading advertising, if the result of the election was affected by that advertising.<sup>9</sup>

The maximum penalty for materially inaccurate and misleading advertising is \$5,000 for individuals or \$25,000 for a body corporate. However, the offence is rarely prosecuted. Instead, the law is mainly realised through the Electoral Commissioner's requests for withdrawal and/or retraction, which appear to be largely honoured. Candidates have sometimes litigated to have an election declared void on the grounds of misleading advertising, but the Court of Disputed Returns has not done so to date.

## STATISTICS

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The SA Electoral Commission has received complaints about inaccurate and misleading advertising in each of the last six elections and requested at least one withdrawal or retraction in most elections, but has not taken legal action to achieve withdrawals/retractions. See Figure 1 for more details.

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<sup>8</sup> *Electoral Act 1985* (SA), s 113, [http://www7.austlii.edu.au/cgi-bin/viewdoc/au/legis/sa/consol\\_act/ea1985103/s113.html](http://www7.austlii.edu.au/cgi-bin/viewdoc/au/legis/sa/consol_act/ea1985103/s113.html)

<sup>9</sup> *Electoral Act 1985* (SA), s 107(5), [http://www7.austlii.edu.au/cgi-bin/viewdoc/au/legis/sa/consol\\_act/ea1985103/s113.html](http://www7.austlii.edu.au/cgi-bin/viewdoc/au/legis/sa/consol_act/ea1985103/s113.html)

**Figure 1: Complaints and withdrawal/retraction requests in each election to South Australian electoral commission**



Source: Renwick & Palese (2019) *Doing Democracy Better*, p. 23, <https://www.ucl.ac.uk/constitution-unit/news/2019/mar/new-report-doing-democracy-better>

Note: The Electoral Commission in 2006 did not mention withdrawal/retraction requests.

Note further that the Electoral Commission in 2018 used a different method for calculating complaints and withdrawal/retraction requests.<sup>10</sup> Renwick and Palese appear to have back-calculated their 2018 figures using the earlier methodology.

## PROPOSED CHANGES OR ABOLITION

In 2009, the SA Electoral Commission said that determining whether a statement was misleading *to a material extent* was onerous, and recommended removing that element – which would strengthen the provision.<sup>11</sup> The Electoral Commission in 2014 recommended removing section 113 for reasons including that it threatens the perceived independence of the Electoral Commission, since they will be urgently ruling on contentious questions of politics, policy and truth.<sup>12</sup> The Commission in 2018 revisited section 113, identifying problems with complainants providing insufficient information and the process being time consuming.<sup>13</sup>

<sup>10</sup> Electoral Commission SA (2018) *2018 State Election Report*, pp. 78–79, <https://ecsa.sa.gov.au/about-ecsa/publications/publications-state-election-and-by-election-reports>

<sup>11</sup> Renwick & Palese (2019) *Doing Democracy Better*, pp. 25–26, <https://www.ucl.ac.uk/constitution-unit/news/2019/mar/new-report-doing-democracy-better>

<sup>12</sup> Electoral Commission SA (2014) *2014 State Election Report*, p. 79, <https://ecsa.sa.gov.au/about-ecsa/publications/publications-state-election-and-by-election-reports>

<sup>13</sup> Electoral Commission SA (2018) *2018 State Election Report*, p. 80

## CASE STUDIES

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While the Electoral Commission has not used the courts to compel withdrawals/retractions (at least since 1997 when the current arrangement was introduced), there have been successful prosecutions for breaches of s 113 and unsuccessful attempts to have election results voided due to misleading and inaccurate advertising potentially affecting the result of an election.<sup>14</sup>

Because litigation has tended to focus on (unsuccessfully) attempting to overturn election results, there are cases where judges or courts have said that an s 113 conviction may be appropriate, but they are limited to deciding the question of whether a new election should be held.

Examples of political advertising that were considered under s 113 include:

- In 1993, Labor ran a TV ad that said: “The fact is that the Brown Liberals have stated that any school with less than three hundred students will be subject to closure. We have 363 schools with less than 300 students ...”. The Liberal spokesperson had actually said that they were not going to close 200 schools or close schools with 300 students, but that “a small number of schools that have got a very small number of students” would potentially be closed.  
The Labor State Secretary was convicted, one of the few convictions under s 113.<sup>15</sup>
- In 1997, the Liberals printed a newspaper ad that said that voting for an independent or Democrat “gives you” Labor leader Mike Rann (as premier) “thanks to preferences”. In fact, voters decide their own preferences, and in at least some cases independent how-to-vote cards recommended preferencing the Liberal candidate over the Labor one. Finally, if elected an independent or Democrat would not necessarily support Labor or Mike Rann.  
An independent candidate for the electorate of Davenport, Jack King, went to the Court of Disputed Returns, arguing that the Liberal candidate in Davenport had won over the Democrat candidate because of the misleading ads. The court found that the advertisement was inaccurate and misleading to a material extent, but they had not affected nor were likely to affect the election result.<sup>16</sup>
- Prior to the 2002 election, independent MHA Peter Lewis said he had done no deals with Labor and did not support the Labor Party. Lewis later gave confidence and supply to a Labor government. The voting ticket registered by Lewis’s minor party was different to the how-to-vote cards distributed by Lewis’s volunteers.

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<sup>14</sup> VEC (2009) *Submission to the Electoral Matters Committee Inquiry into the Kororoit District By-election*, p. 7, [https://www.parliament.vic.gov.au/images/stories/committees/emc/8Victorian\\_Electoral\\_Commission.pdf](https://www.parliament.vic.gov.au/images/stories/committees/emc/8Victorian_Electoral_Commission.pdf)

<sup>15</sup> *Cameron v Becker* (1995), <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/sa/SASC/1995/5149.html>

<sup>16</sup> *King v Electoral Commission* (1997), <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/sa/SASC/1998/6557.html>

The court considered when Lewis formed the intention of supporting the Labor government and the nuance of “supporting” governments in different contexts. Ultimately the court found that it was likely Lewis had decided to support Labor after the election result, and so the statements did not breach s 113.<sup>17</sup>

- In 2010, Labor advertising claimed that independent MHA Kris Hanna was “soft on crime”. The ads featured quotes by Hanna taken from Hansard. Hanna argued that the quotes in context showed that he opposed the supposedly “tough on crime” legislation for reasons that did not include being soft on crime.

The court found that the statements were opinion and therefore did not breach s 113, although the court refused to award costs to the Labor candidate and stated that the ads were “personal, negative and inflammatory” and “accompanied by only flimsy support”.<sup>18</sup>

- In 2014, an independent candidate implied that Jay Wetherill knew about and chose not to inform parents of the rape of a child at a school. The claims appeared in an ad funded and authorised by the Liberal Party. In fact, Wetherill’s office knew about the rape, but Wetherill did not.

The Electoral Commissioner found that the advertisement breached s 113 and she asked the Liberals to withdraw the ad and issue a retraction, which they did.<sup>19</sup>

- In 2014, a Labor Facebook post that said that thanks to a new code of conduct, shoppers could “rest assured” while buying free-range eggs. However, the code had not yet been implemented.

The Electoral Commissioner found the statement breached s 113 and asked Labor to correct the post and post a retraction.<sup>20</sup>

- In 2014, a Labor flyer asked “Can you trust Habib?” with a dingy brick wall, criticising Liberal candidate Carolyn Habib. The flyer was criticised as racist and said to falsely associate Carolyn Habib with Egyptian-Australian Mamdouh Habib, who 10 years earlier had been wrongly accused of training the 9/11 hijackers and other terrorism

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<sup>17</sup> *Featherstone v Tully* (2002); *Featherstone v Tully (No 2)* (2002) <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/sa/SASC/2002/338.html>; VEC (2009) *Submission to the Electoral Matters Committee Inquiry into the Kororoit District By-election*, p. 7

<sup>18</sup> *Hanna v Sibbons & Anor* (2010), <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/sa/SASC/2010/291.html>; *Hanna v Sibbons & Anor* (2010) (costs), <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/sa/SASC/2010/313.html>

<sup>19</sup> Holmes (2014) *South Australian state election 2014*, [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp1415/SAElection](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1415/SAElection); Novak & Holderhead (2014) *Weatherill to sue over election ad*, <https://www.adelaidenow.com.au/premier-jay-weatherill-to-take-legal-action-over-liberal-party-election-advertisement/news-story/e83475a1a20b6fcea580618455a36924>

<sup>20</sup> Renwick & Palese (2019) *Doing Democracy Better*, p. 24

links.

It appears the Electoral Commissioner did not find that the flyer breached s 113.<sup>21</sup>

- In 2017, the Liberal Party published ads claiming that their energy plan would save households \$300 per year. The modelling showed that most of those savings would occur regardless of the Liberal energy plan, with households only saving \$60–\$70 as a result of the plan.

The Electoral Commissioner found that the Liberal claims breached s 113 and requested the party publish a retraction and correction. The Liberals, at least initially, did not accept the ruling.<sup>22</sup>

- In 2018, Labor federal senator Alex Gallacher claimed that the Liberals had “a secret plan to cut \$557 million of the GST share from South Australia”.

The Electoral Commissioner found that the claims breached s 113. Gallacher’s retraction was published by the Labor Party.<sup>23</sup>

- In 2018, a Liberal Party website with voting advice was published with branding that meant it “could be wrongly perceived as coming from the commission itself”.

The Electoral Commission was considering its options in the latest reporting from February 2018.<sup>24</sup>

Some political advertisements that are considered and withdrawn are not publicised.

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<sup>21</sup> Renwick & Palese (2019) *Doing Democracy Better*, p. 24; see also Bourke (2014) *Husic calls for apology over Habib flyer in SA election*, <https://www.abc.net.au/news/2014-03-17/ed-husic-wants-apology-overtly-racist-flyer/5325530>; Richardson (2015) *Labor haunted by racist campaign*, <https://indaily.com.au/opinion/2015/02/27/richardson-labor-haunted-racist-campaign/>

<sup>22</sup> Harmsen (2017) *“It’s a lie”*: SA Government hits out at Liberals over energy, <https://www.abc.net.au/news/2017-10-11/sa-government-hits-out-at-steven-marshall-over-energy/9039726>; (2018) *SA Liberal, Labor parties both censured for “misleading” claims*, <https://www.abc.net.au/news/2018-03-14/sa-election-aec-upholds-complaint/9546522>

<sup>23</sup> Harmsen (2018) *SA Liberal, Labor parties both censured for “misleading” claims*

<sup>24</sup> ABC News (2018) *SA Electoral Commission investigates “misleading” Liberal voting website*, <https://www.abc.net.au/news/2018-02-28/liberal-website-deemed-misleading-by-sa-electoral-commission/9495190>

# Other jurisdictions

## NON-POLITICAL MISLEADING CONDUCT

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Australian consumer laws do not permit businesses to – in the course of trade and commerce – make incorrect statements, or those “likely to create a false impression”, even if the business’s intention is not to mislead. Businesses cannot include fine print that contradicts the overall message of the ad, “bait” ads for products that are not widely available or claims about environmental benefits that they cannot substantiate. They also cannot remain silent when “the situation called for something to be explained”.<sup>25</sup>

Ad Standards, the industry self-regulator, considers a limited set of misleading ads: advertising and marketing to children, food and beverage advertising, and environmental claims in advertising. It directs consumers to the ACCC and its state and territory equivalents for other trade and commerce complaints; and to the advertiser or the complainant’s local MP in the case of political advertising.<sup>26</sup>

Where a client feels like they have been subjected to misleading or deceptive conduct, the ACCC recommends they first contact the seller, then approach a third party for assistance, and finally consider taking legal action. The ACCC does not resolve individual complaints, although state and territory consumer protection agencies and (for some industries) ombudsmen sometimes do.<sup>27</sup>

## MECHANICS OF VOTING

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All Australian jurisdictions have laws against deceiving people specifically about the mechanics of voting<sup>28</sup> but these do not necessarily prevent deception about who to vote for.<sup>29</sup>

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<sup>25</sup> ACCC (n.d.) *False or misleading claims*, <https://www.accc.gov.au/consumers/misleading-claims-advertising/false-or-misleading-claims>; Juebner (2018) *Misleading or Deceptive Conduct Claims: Practical Hints for Practitioners*, pp. 8–10, <https://www.vicbar.com.au/file/5691/download?token=hsbloa4Y>

<sup>26</sup> Ad Standards (n.d.) *Misleading and deceptive advertising*, <https://adstandards.com.au/issues/misleading-and-deceptive-advertising>; (n.d.) *Political and election advertising*

<sup>27</sup> ACCC (n.d.) *Make a consumer complaint*, <https://www.accc.gov.au/consumers/complaints-problems/make-a-consumer-complaint>; (n.d.) *Where to go for consumer help*, <https://www.accc.gov.au/consumers/consumer-protection/where-to-go-for-consumer-help>

<sup>28</sup> VEC (2009) *Submission to the Electoral Matters Committee Inquiry into the Kororoit District By-election*, pp. 3–6

<sup>29</sup> *Evans v Crichton-Browne* (1981); see also Knaus & Karp (2019) “Designed to deceive”: how do we ensure truth in political advertising?

In the 2019 election, Liberal signs in Chinese that “mimick[ed] the purple theme of the Australian Electoral Commission” were reported to the AEC by Labor and independent candidate Oliver Yates. The signs were displayed in the electorates of Chisholm and Kooyong.

The AEC’s interpretation of the case law is that the *Electoral Act 1918* (Cth) only prohibits misleading or deceptive conduct “which affects the process of casting a vote rather than the formation of the political judgement.”<sup>30</sup> The AEC concluded that the ads were not in breach of the law, adding “While the AEC uses purple in our signs, the AEC can’t prohibit others doing so”.<sup>31</sup>

Kooyong candidate Oliver Yates will sue the Liberal Party in the Court of Disputed Returns over the misleading Chinese signs; he is joined by a petitioner from the electorate of Chisholm. Yates’ legal interpretation is that the signs could mislead voters into thinking that the only valid vote is for the Liberals. Labor has said that the signs may breach a different law, which makes it a crime to impersonate a Commonwealth body, but is not taking legal action.<sup>32</sup>

## COMMONWEALTH POLITICAL ADVERTISING LAWS

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The earliest truth in political advertising requirements were a regulation from 1917 under the *War Precautions Act*. That act was repealed in 1920.<sup>33</sup>

In 1983, the Federal Government amended the *Commonwealth Electoral Act 1918* to add, among other things, the requirement not to produce any electoral advertisement “containing a statement (a) that is untrue; and (b) that is, or is likely to be, misleading or deceptive”.<sup>34</sup>

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<sup>30</sup> Karp (2019) *Oliver Yates may take Liberals to court of disputed returns over “deceptive” election signs*, <https://www.theguardian.com/australia-news/2019/may/21/oliver-yates-may-take-liberals-to-court-of-disputed-returns-over-deceptive-election-signs>

<sup>31</sup> Farhart (2019) “Nasty” election prompts calls for crackdown on political advertising

<sup>32</sup> Karp (2019) *Oliver Yates may take Liberals to court of disputed returns over “deceptive” election signs*; (2019) *Independent Oliver Yates to challenge Liberals’ Chinese election signs*, <https://www.theguardian.com/australia-news/2019/jul/26/independent-oliver-yates-to-challenge-liberals-chinese-election-signs>; McGrath (2019) *Frydenberg and Liu hit with High Court challenge over election results*, <https://www.abc.net.au/news/2019-07-31/josh-frydenberg-and-gladys-liu-hit-with-high-court-challenge/11365722>

<sup>33</sup> Michael Maley (2019) *Home truths about political advertising*, <https://insidestory.org.au/home-truths-about-political-advertising/>

<sup>34</sup> Williams (1997) *Truth in Political Advertising Legislation in Australia*, [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/RP9697/97rp13?print=1](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/RP9697/97rp13?print=1)

Four main criticisms were made in 1984 by the Joint Select Committee on Electoral Reform:<sup>35</sup>

1. While fair political advertising is a legitimate objective, it is not one properly to be sought through legislation. Political advertising involves 'intangibles, ideas, policies and images' which cannot be subjected to a test of truth, truth itself being inherently difficult to define.
2. As evidence was given that even predictions and opinions may imply statements as to present fact, and thus be subject to the section, the section was considered to be so broad as to be unworkable.
3. The section would have a disproportionate impact on publishers, who would need to seek legal advice before publishing. This would inhibit political advertising and thus limit the information received by the public.
4. The Committee expressed concern that injunctions might be misused to disrupt the campaigns of other parties and candidates. In the context of an election campaign the grant of an interim injunction could have the same effect as a final order.

The laws were repealed that year, never having been tested in an election.

In 1991, Parliament legislated a ban on all political advertising, except for a mandatory six minutes for party advertisements on each television station each day, in the *Political Broadcasts and Political Disclosures Act 1991* (Cth). The High Court struck it down as unconstitutional.<sup>36</sup>

In 2010, the agreement between the Greens and the Labor Party to ensure supply for the Gillard Government included a goal to create a “truth in advertising” offence in the *Commonwealth Electoral Act*.<sup>37</sup> This goal was not achieved.

## STATE AND TERRITORY POLITICAL ADVERTISING LAWS

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Two prominent examples of jurisdictions that have considered truth in political advertising laws are Queensland and the ACT.

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<sup>35</sup> Williams (1997) *Truth in Political Advertising Legislation in Australia*

<sup>36</sup> Miskin & Grant (2004) *Political advertising in Australia*, p. 15,  
[https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/HF7F6/upload\\_binary/hf7f67.pdf;fileType=application/pdf#search=%22library/prspub/HF7F6%22](https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/HF7F6/upload_binary/hf7f67.pdf;fileType=application/pdf#search=%22library/prspub/HF7F6%22)

<sup>37</sup> Gillard, Swan, Brown, Milne, & Bandt (2010) *Agreement*, sec. 3(b),  
<https://australianpolitics.com/2010/09/01/greens-sign-agreement-to-support-gillard.html>

Queensland Parliament’s legal review committee proposed truth in political advertising in 1996, but the laws were not passed.<sup>38</sup>

The ACT Greens proposed truth in political advertising laws in 2016. However, the ACT Electoral Commission said that such laws are difficult to enforce and could be exploited (“crying wolf”).<sup>39</sup> The ACT has not legislated such laws.

While the Northern Territory is sometimes reported as having truth in political advertising laws,<sup>40</sup> the NT Electoral Commission applies a “narrower interpretation” limited to deceiving people about how to vote.<sup>41</sup>

During a Tasmanian election, advertisements and political materials cannot use the name, photograph or likeness of a candidate without that candidate’s written permission.<sup>42</sup>

## PRIVATE REGULATION OF POLITICAL ADVERTISING

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Until 2002, Free TV Australia (then known as the Federation of Australian Commercial Television Stations, or FACTS) heard complaints against, and did not permit, misleading political advertising.<sup>43</sup> Following the 2001 election, Free TV Australia sought advice as to whether this was necessary and they were advised that the *Trade Practices Act* did not apply to political advertising.<sup>44</sup>

Accordingly, Free TV Australia adopted their current policy of reviewing political ads for defamation, political authorisation and electoral advertising claims only.<sup>45</sup> Advertisements for free-to-air television are checked under the ClearAds system (formerly “CAD”), which does require most advertisers to substantiate the claims that they make in their

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<sup>38</sup> Williams (1997) *Truth in Political Advertising Legislation in Australia*

<sup>39</sup> ACT Electoral Commission (No 2) (2017) *Submission 14: Select Committee on the 2016 ACT Election and Electoral Act*, [https://www.parliament.act.gov.au/\\_\\_data/assets/pdf\\_file/0003/1086231/Sub-14-ACT-Electoral-Commission-Sub-2.pdf](https://www.parliament.act.gov.au/__data/assets/pdf_file/0003/1086231/Sub-14-ACT-Electoral-Commission-Sub-2.pdf)

<sup>40</sup> Michael Maley (2019) *Home truths about political advertising*

<sup>41</sup> ACT Electoral Commission (No 2) (2017) *Submission 14: Select Committee on the 2016 ACT Election and Electoral Act*, p. 6

<sup>42</sup> *Electoral Act 2004* (Tas), s. 196, <https://www.legislation.tas.gov.au/view/whole/html/inforce/current/act-2004-051>

<sup>43</sup> It is not clear when this practice began, except that it did at least take place in 1996 and in 2001. From correspondence with Free TV Australia, 19 August 2019 and Williams (1997) *The Victory: The inside story of the takeover of Australia*, pp. 282–283

<sup>44</sup> From correspondence with Free TV Australia, 19 August 2019.

<sup>45</sup> From correspondence with Free TV Australia, 19 August 2019. See also Keane (2016) *Truth in political advertising: An idea whose time has gone*, <https://www.crikey.com.au/2016/07/20/truth-in-political-advertising/>; Miskin & Grant (2004) *Political advertising in Australia*, p. 7

advertisements. However, claims in political advertisements are not required to be substantiated.<sup>46</sup>

Before the 2016 election, Ad Standards (then known as the Advertising Standards Bureau) said that Australia should follow Canada in funding the advertising bureau to review government advertising “for partisanship and party messages”.<sup>47</sup> Ad Standards provides self-regulation for the advertising industry, including ruling on whether to uphold complaints against particular advertisements for breaching the industry’s various codes. Government advertisements are distinct from political advertisements, but Ad Standards’ willingness to assess government ads shows that these private bodies do have an appetite for a regulatory role.

Media owners do have the discretion to implement editorial processes that may include asking clients to verify claims made in political ads. Ad hoc rejection of advertisements does take place occasionally in Australia at the publisher level, ostensibly on factual grounds. For example, in July 2019 the *Mackay Mercury* rejected an advertisement publicising the Galilee Blockade because the advertisement claimed that most Queenslanders “did not want the mine to proceed”.<sup>48</sup>

Private regulation of social media and digital platforms is discussed below under social media and digital platforms regulation generally.

## SOCIAL MEDIA AND DIGITAL PLATFORMS REGULATION

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Internationally, Facebook has said it will treat the United States’ 2020 Census “like an election”: committing to write a new policy about census misinformation and dedicating an internal team to monitor what is posted about the census. Facebook already has policies to ban white nationalism and separatism and to remove false information about voting, exceptions to its general rule of keeping misinformation online.<sup>49</sup>

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<sup>46</sup> Confirmed in correspondence with ClearAds, 9 August 2019 and Free TV Australia, 19 August 2019. See also ClearAds (n.d.) *ClearAds Handbook*, pp. 19–20, 114, <https://www.clearads.com.au/storage/final-clearads-handbook-version-ca12.pdf>

<sup>47</sup> Canning (2016) *Advertising watchdog calls for official role reviewing government and election ads*, <https://mumbrella.com.au/advertising-watchdog-calls-official-role-reviewing-government-ads-367577>

<sup>48</sup> Meade (2019) *Adam Goodes doco leaves Eddie McGuire heartbroken – about his negative role*, <https://www.theguardian.com/media/2019/jul/19/adam-goodes-doco-an-eye-opener-says-eddie-mcguire-the-final-quarter>

<sup>49</sup> Ingram (2019) *Facebook to remove false posts about 2020 census after civil rights demands*, <https://www.nbcnews.com/tech/social-media/facebook-ban-misinformation-about-2020-census-n1024876>; Ingram & Collins (2019) *Facebook bans white nationalism from platform after pressure from civil rights groups*, <https://www.nbcnews.com/tech/tech-news/facebook-bans-white-nationalism-after-pressure-civil-rights-groups-n987991>

By contrast, Facebook has said that it is “not our role” to remove misinformation concerning Australian elections. Facebook does “demote” content that is found to be false under its independent fact-checking procedures, which shows the content less prominently on the platform. However, it does not fact-check posts from politicians or political parties.<sup>50</sup>

Facebook’s fact-checking found that claims in the 2019 election that Labor was planning to introduce a death tax were false, and demoted some post accordingly, although the policy to not fact-check posts from politicians and parties means “no death tax content from political candidates or parties was affected”.<sup>51</sup>

Facebook chair and CEO Mark Zuckerberg has said that “I don’t think as a society we want private companies to be the final word on making these decisions [about political misinformation]”, but federal Communications Minister Paul Fletcher says that having an Australian government body verify items on social media is “clearly not a workable solution”.<sup>52</sup>

In August 2019, ACCC chair Rod Sims criticised Facebook and Google for acting as publishers but not taking editorial responsibility for the content on their platforms. He said that Facebook should remove false information and could do so if it wanted:

If you know the information is wrong it should be removed. If you know it’s false, it should be taken down. ...

They have to take responsibility, and the idea that they can’t; I understand they don’t want to, but I reject the fact that they can’t.

They can. They have massive technology. They can do all this stuff. They just don’t want to do it because it would damage their bottom line.<sup>53</sup>

The ACCC’s Digital Platforms Inquiry, released in June 2019, recommends a Digital Platforms Code to counter disinformation. Digital platforms with more than one million monthly Australian users would be required to implement an industry code of conduct (enforced by

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<sup>50</sup> Murphy & Knaus (2019) *Facebook says it was “not our role” to remove fake news during Australian election*, <https://www.theguardian.com/technology/2019/jul/31/facebook-says-it-was-not-our-role-to-remove-fake-news-during-australian-election>

<sup>51</sup> Murphy & Knaus (2019) *Facebook says it was “not our role” to remove fake news during Australian election*

<sup>52</sup> Murphy (2019) *Facebook does not have “editorial obligations” of media companies, minister says*, <https://www.theguardian.com/media/2019/aug/01/facebook-does-not-have-editorial-obligations-of-media-companies-minister-says>; Paul (2019) *Facebook says it can’t handle election misinformation crisis alone*, <https://www.theguardian.com/technology/2019/jun/26/facebook-constitution-supreme-court-zuckerberg>

<sup>53</sup> Murphy (2019) *Facebook could tackle fake news but chooses not to, regulator says*, <https://www.theguardian.com/australia-news/2019/aug/14/facebook-could-tackle-fake-news-but-chooses-not-to-regulator-says>

the ACMA or other independent regulator) to handle complaints about disinformation “presented as news and journalism”.

The threshold for disinformation, as envisaged by the ACCC, would be high, with examples given including incorrect claims that a public figure is involved with illegal activity, doctoring and dubbing video footage to misrepresent a political figure’s position, and releasing incorrect voting details. It would not cover commentary and analysis with a clear partisan ideology or political slant. “Disinformation” is inaccurate information with the intent of causing harm, not mere “misinformation” which is inaccurate information not created with the intent of causing harm.<sup>54</sup>

Sims said that if the Digital Platforms Code as recommended by the ACCC would not be broad enough to cover the “death taxes” advertising from 2019, the regulatory structure “could be easily adjusted to deal with that”.<sup>55</sup>

Increased transparency of advertising on digital platforms is discussed below, under “Accountability and transparency”.

## REGULATION OF POLITICAL STATEMENTS IN OTHER COUNTRIES

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Canada has a limited version of truth in political advertising laws. This law prevents publication of “any false statement of fact in relation to the personal character or conduct of a candidate”.<sup>56</sup>

The New Zealand *Electoral Act 1993* makes it a crime to publish, within two days of an election, “a statement of fact that the person knows is false in a material particular” in order to influence voters.<sup>57</sup>

New Zealand’s Advertising Standards Code requires “truthful presentation” of ads,<sup>58</sup> and this private regulation exposes political ads to significant analysis and the real threat of

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<sup>54</sup> ACCC (2019) *Digital Platforms Inquiry: Final report*, pp. 370–372,

<https://www.accc.gov.au/system/files/Digital%20platforms%20inquiry%20-%20final%20report.pdf>

<sup>55</sup> Murphy (2019) *Facebook could tackle fake news but chooses not to, regulator says*

<sup>56</sup> *Canada Elections Act 2000* (Can), s 91, <https://laws.justice.gc.ca/eng/acts/e-2.01/FullText.html>; Miskin & Grant (2004) *Political advertising in Australia*, p. 13

<sup>57</sup> *Electoral Act 1993* (NZ), s 199A,

<http://www.legislation.govt.nz/act/public/1993/0087/latest/DLM307519.html>; Miskin & Grant (2004) *Political advertising in Australia*, p. 14

<sup>58</sup> NZ Advertising Standards Authority (2018) *Advertising Standards Code*,

<https://www.asa.co.nz/codes/codes/advertising-standards-code/>

withdrawal.<sup>59</sup> The Advertising Standards Authority publishes decisions on its website for a period of seven years.<sup>60</sup>

In New Zealand, election ads on television and radio are publicly-funded, tightly-restricted and regulated by a statutory authority, the Broadcasting Standards Authority. Since 1989 the BSA has received 18 complaints and upheld three.<sup>61</sup>

Some states in the USA have laws about misleading electoral advertising or other statements, but they have typically been ruled to be unconstitutional limitations on freedom of speech. Examples include the courts applying a limited interpretation of defamation when the statements are made during campaigning and legal opinion that a law prohibiting false statements designed to aid or injure candidates is unconstitutional.<sup>62</sup>

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<sup>59</sup> Parsons (n.d.) *Free and Fair: Preventing Political Misinformation*, <http://research.alexparsons.co.uk/free-and-fair/>

<sup>60</sup> Examples and discussion can be found in: NZ Advertising Standards Authority (n.d.) *Decisions involving the product "Political" in 2014*, [http://old.asa.co.nz/srch\\_product.php](http://old.asa.co.nz/srch_product.php); Parsons (n.d.) *Free and Fair: Preventing Political Misinformation*; Renwick & Palese (2019) *Doing Democracy Better*, pp. 31–32

<sup>61</sup> Renwick & Palese (2019) *Doing Democracy Better*, pp. 34–35

<sup>62</sup> *New York Times v Sullivan* (1964) and *May (1992) State Regulation of Political Broadcast Advertising: Stemming the Tide of Deceptive Negative Attacks*, both from Williams (1997) *Truth in Political Advertising Legislation in Australia*

# Truth in political advertising considerations

Truth in political advertising is a fraught topic, and policymakers and legislators must consider and balance a number of factors. These factors are grouped by topic below.

## EXISTING PROVISIONS AGAINST MISLEADING CONDUCT

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Although what is “the truth” is a fraught question, it is one that corporations, politicians and courts must routinely consider. Existing laws already prohibit misleading voters, protect trade dress that evokes a particular product or organisation, and forbid companies from engaging in misleading and deceptive conduct.

- **Corporations:** Corporations are required by legislation to not engage in “misleading or deceptive” conduct. Why should the standard be any lower for politicians?<sup>63</sup>
- **Misleading a voter:** This is already forbidden in most states and at the Commonwealth level, however it is limited to misleading people about how to cast their vote, not who they should cast their vote for.
- **Trade dress:** In corporate law, the power of logos and colours to evoke a particular product or company is well-understood. Individual colour tones can be trademarked.<sup>64</sup> Political material that evokes the AEC or a rival political party through colour, design and placement, however, has not been subjected to the same controls.

## LIMITATIONS

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Bans on misleading advertisements are necessarily limited in scope. They do not cover all political speech and must abide by the implied freedom of political communication. Lawmakers and courts must decide how to cover claims about the future, which may not be able to be assessed as true or false in the moment. In the flurry of an election campaign, it is also difficult to identify appropriate remedies.

- **Advertisements only:** Proposed laws typically only address advertisements, not all political speech.<sup>65</sup>

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<sup>63</sup> Williams (1997) *Truth in Political Advertising Legislation in Australia*

<sup>64</sup> IP Australia (2016) *Colour me happy: can you own a colour?*, <https://www.ipaustralia.gov.au/about-us/news-and-community/blog/colour-me-happy-can-you-own-colour>

<sup>65</sup> Keane (2016) *Truth in political advertising: An idea whose time has gone*

- **Constitution:** There is an implied freedom of political communication in the Australian Constitution. The South Australian truth in political advertising laws were found to be constitutional by the SA Supreme Court in *Cameron v Becker*.<sup>66</sup> However, social media content – which is ostensibly unofficial and personal – might have greater protections.<sup>67</sup>
- **How to cover claims about the future:** If a political advertisement says that a politician will do X, and the politician says they will not do X, is the ad a lie? In some cases, the ad will have accurately anticipated that the politician will lie, change their mind, etc.<sup>68</sup> Former AEC official Michael Maley gives as an example Tony Abbott saying “there would be no cuts to the ABC” before the 2013 election.<sup>69</sup>
- **Reticence from the public service:** The SA Electoral Commission’s ambivalent relationship with that state’s truth in political advertising laws has already been discussed. In 1996, the AEC recommended that, if truth in political advertising laws were introduced, they be administered by a separate Election Complaints Authority with “strong coercive powers of investigation”.<sup>70</sup>
- **Timeliness:** Remedies like requiring the ad to be withdrawn may come too late in the election process to correct the damage; in some cases, a determination may take place after the election is over. In addition, modern advertising does not necessarily have a clear route for retractions – for example, targeted social media advertising or vehicle “wrap-around” ads.<sup>71</sup> Foreign-language signs, as seen in the 2019 election, must be independently and reliably translated before they can be assessed.<sup>72</sup>

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<sup>66</sup> Williams (1997) *Truth in Political Advertising Legislation in Australia*

<sup>67</sup> Michael Maley (2019) *Home truths about political advertising*

<sup>68</sup> Knaus & Karp (2019) “*Designed to deceive*”: how do we ensure truth in political advertising?

<sup>69</sup> Knaus & Karp (2019) “*Designed to deceive*”: how do we ensure truth in political advertising?

<sup>70</sup> AEC (1996) *Supplementary submission to the Joint Standing Committee on Electoral Matters*, [https://www.aec.gov.au/Elections/australian\\_electoral\\_system/files/jssem/1996\\_election/sub109.pdf](https://www.aec.gov.au/Elections/australian_electoral_system/files/jssem/1996_election/sub109.pdf)

<sup>71</sup> For some discussion of these issues, see Electoral Commission SA (2014) *2014 State Election Report*, pp. 56–57

<sup>72</sup> Michael Maley (2019) *Home truths about political advertising*

# Standards for political broadcasts

A legislated requirement for truth in political advertising is controversial because it requires decisions about the nature of truth and freedom of political communication, and for those decisions to be made quickly in the heat of an election campaign.

An alternative or complementary approach might be to place standards on the tone, style and purpose of political advertising. This could change the character of political advertising to be more factual and measured without enforcing “truth”.

Australia already has proven and long-standing rules around political broadcasts: the standards that the public broadcasters place on the free airtime that they give political parties around an election. These standards, especially for the ABC, are strict and detailed, and yet readily complied with by all eligible political parties. They could serve as a template for legislated standards for other political broadcasts.

## ABC AND SBS “FREE TIME”

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Before each election, the ABC and the SBS grant eligible political parties “free time election broadcasts” (ABC) or “free airtime” (SBS). These are periods of time set aside for government, opposition and some minor parties to broadcast policy speeches and statements on election and policy issues.

What can be broadcast in the free time is limited by legislation and by policy.

The SBS policy limits content so that it: “must be presented in a manner which aims to inform voters about significant policy issues”, must not be defamatory and be of suitable production quality.<sup>73</sup>

The ABC has more detailed principles and obligations.

## ABC “PRINCIPLES AND OBLIGATIONS”

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While “accuracy is the responsibility of the parties making the broadcasts”, the ABC is obliged to “act in accordance with principles of fairness and objectivity”. It requires that the

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<sup>73</sup> SBS (2013) *Guidelines on allocation and use of free airtime: Federal elections and referendums*, pp. 5–6, [http://media.sbs.com.au/home/upload\\_media/site\\_20\\_rand\\_1194087174\\_sbs\\_free\\_airtime\\_guidelines\\_federal\\_2013.pdf](http://media.sbs.com.au/home/upload_media/site_20_rand_1194087174_sbs_free_airtime_guidelines_federal_2013.pdf)

broadcasts are not used for personal attacks, the material broadcast is not defamatory or otherwise unlawful and, perhaps most significantly, the broadcast is not an advertisement.<sup>74</sup>

The broadcasts must be “in the form of a political comment or statement”, not an advertisement – a consideration that includes content and presentation. Forbidden material could include “stylised images, misleading non-verbal impressions, unduly frequent or unduly prominent use of catchwords, slogans or jingles, and attempts to associate parties or candidates with anything universally approved or, conversely, universally condemned”.<sup>75</sup>

The ABC also requires:<sup>76</sup>

- speakers to be sitting members or candidates,
- the broadcast not take the form of news and current affairs style interviews,
- the broadcast only depict identifiable people with their consent,
- graphics and vision to be informative, and not accompanied by sound effects,
- music to be background only and not contain elements that could drive the narrative of the announcement,
- no telephone or text numbers, email addresses, websites, etc.

The ABC also inserts, for a time, an on-screen crawl (“chyron”) reading “This is an election broadcast for the <Party Name>”.

The decision of whether to run a political broadcast rests with the ABC. The chair of the Election Coverage Review Committee administers the free election broadcasts. The committee’s membership is drawn from each of the ABC’s divisions.<sup>77</sup>

## REFLECTIONS

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Consider the form a political attack ad would take were it to be required to meet the ABC’s broadcast requirements:

- It could not have ominous background music or a black-and-white photograph of the target of the ad.
- To avoid qualifying as a personal attack, it would have to be specific about that person’s perceived flaws or wrongdoing.
- It would have to be spoken by a political candidate, not a voice actor.

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<sup>74</sup> ABC (2016) *Free Time Election Broadcasts*, p. 1, <http://about.abc.net.au/wp-content/uploads/2017/01/ElectionProdGuidelines2016.pdf>

<sup>75</sup> ABC (2016) *Free Time Election Broadcasts*, pp. 1–3

<sup>76</sup> ABC (2016) *Free Time Election Broadcasts*, pp. 1–3

<sup>77</sup> ABC (2016) *ABC Coverage of the 2016 Federal Election – ECRC Chair’s Report*, pp. 2–3, <https://about.abc.net.au/reports-publications/abc-coverage-of-the-2016-federal-election-ecrc-chairs-report/>

- It would have an on-screen crawl saying which party had paid for the ad, allowing viewers to interpret the ad in that light while it is still playing.

Ads that focused on policy would be required to present their information in a more informative manner, avoiding uplifting jingles or motherhood statements.

These restrictions, if placed on paid political broadcasts (i.e. what is currently called political advertising) would help make political broadcasts more measured, specific and potentially more truthful while avoiding some of the issues around legislating a requirement for “truth” per se.

# Accountability and transparency

While not directly requiring truth in political advertising, measures like archiving advertisements would help increase accountability and transparency. Polling shows that 86% of Australians support a public archive of political advertising that parties and candidates are required to submit all ads to (see “Popular opinion” for more information).

In recent years, the major digital platforms – Facebook, Twitter and Google – have begun making political ads publicly available. These ad libraries are a good start, and their strengths and weaknesses are illustrative for what a multimedia, mandatory political advertising archive might look like.

## INTERNET AD LIBRARIES

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The Facebook Ad Library, Twitter’s Ads Transparency Center and Google’s Transparency Report are attempts by the major digital media companies to make advertising content, targeting and budgets more transparent.

Google’s Transparency Report records political advertising for India, the European Union and the United States. Ads can be browsed by advertiser, format, amount spent and number of impressions. Information for each ad includes the content of the ad (low resolution), which page paid for the ad, the rough number of impressions and the rough amount of money spent to purchase the ad. Ads served through a third-party vendor are not displayed in the Transparency Report. Ads that breached Google’s policies are identified, although which policy they breached is not identified.

Google’s Transparency Report is better designed than other ad libraries, but because its scope is limited to ads about candidates and parties, and does not include “issue ads”, it does not capture a significant source of interference.<sup>78</sup>

The Facebook Ad Library shows all active ads, as well as inactive ads that ran in certain countries that are about social issues, elections or politics. It has been implemented incrementally; extra coverage exists for Brazil, Canada, European Union, India, Israel,

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<sup>78</sup> Rosenberg (2019) *Ad Tool Facebook Built to Fight Disinformation Doesn’t Work as Advertised*, <https://www.nytimes.com/2019/07/25/technology/facebook-ad-library.html>

Ukraine, United Kingdom and United States.<sup>79</sup> Not all countries have the same level of transparency.<sup>80</sup>

The Facebook Ad Library currently provides more information on US (and Brazilian and Indian) ads than Australian ones. It only shows active Australian ads, while it also shows inactive US ones. The Guardian archived political Facebook ads during the 2019 federal election, including through a ProPublica application that includes more information on ad targeting than is available from the library.<sup>81</sup>

In addition, much more detail is shown for US ads than Australian ones. For example, the library showed that a particular Donald Trump ad was shown exclusively to women, equally distributed between four states, in the ratio 25% age 25–34, 50% age 46–54 and 25% age 55–64, that less than \$100 was spent on the ad and it had fewer than 1,000 impressions. This is not full information about who was targeted or why, but it is useful information entirely missing from the Australian ads. See Figure 2 below.

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<sup>79</sup> Constine (2019) *Facebook launches searchable transparency library of all active ads*, <http://social.techcrunch.com/2019/03/28/facebook-ads-library/>; Facebook Business (n.d.) *Ads about social issues, elections or politics*, <https://www.facebook.com/business/help/2405092116183307>; Facebook Help Centre (n.d.) *How are ads about social issues, elections and politics identified on Facebook?*, <https://www.facebook.com/help/180607332665293>

<sup>80</sup> Evershed & Ball (n.d.) *Australian election campaign: database of political Facebook advertising*, <http://www.theguardian.com/australia-news/ng-interactive/2019/may/01/australian-election-campaign-database-of-political-facebook-advertising>

<sup>81</sup> Evershed & Knaus (2018) *Help us monitor political advertising in Australia*, <https://www.theguardian.com/australia-news/2018/jul/24/help-us-monitor-political-advertising-in-australia>; Evershed & Ball (n.d.) *Australian election campaign: database of political Facebook advertising*

Figure 2: Example US ad

The image shows a Facebook advertisement for the 'Women for Trump' coalition. The ad text states: 'President Trump has worked to support women during his time in the White House. -He has supported national paid family leave so parents can care for their newborn children. -He has fought for security at the border -He created more than 5 million new jobs and the lowest unemployment in YEARS ...'. The ad features a large image of a crowd of women at a rally with the text 'THE WOMEN FOR TRUMP COALITION NEEDS THE SUPPORT OF STRONG WOMEN LIKE YOU!' and a 'Sign Up' button. Below the ad, there is a 'Sign Up' button and a URL: 'HTTPS://WOMEN.DONALDJTRUMP.COM'. The ad is sponsored by Donald J. Trump for President, Inc.

On the right side, there is a 'Data about this ad' panel. It shows the ad is 'Active' and started running on 30 Jul 2019. Key metrics include '<1K Impressions' and '<\$100 Money spent (USD)'. A bar chart titled 'Who was shown this ad' shows the distribution by age and gender: 25% for Men (ages 25-34), 60% for Women (ages 45-54), and 20% for Unknown (ages 55-64). Below this, a map of the United States shows where the ad was shown, with several states highlighted in purple, including California, Texas, and Florida.

Source: Facebook Ad Library. Unfortunately, the library does not appear to produce unique URLs for each ad, making it almost impossible to link to them.

It is worth noting that individuals who are served a Facebook ad can click “Why am I seeing this ad?” and be told, for example, that the company is targeting people who are interested in a particular page or topic. However, this targeting information is not included in the library.

In practice, the Facebook Ad Library fails to meet minimum standards.<sup>82</sup> Academic Laura Edelson says it may not be possible to extract meaningful data from it without breaching

<sup>82</sup> Ambassador for Digital Affairs (n.d.) *Facebook Ads Library Assessment*, <https://disinfo.quaidorsay.fr/en/facebook-ads-library-assessment>; Hern (2019) *Tories continue Facebook ad spree as “major bugs” block transparency*, <https://www.theguardian.com/technology/2019/jul/29/tories->

Facebook's terms and conditions; in any case, the process required custom software to avoid bugs in Facebook's code. The *New York Times* tried to analyse advertising in the US midterm elections, but the "bugs and technical limits made it functionally impossible". 31% of French ads were removed from the Library due to a "labelling problem".<sup>83</sup>

One bug is that the Facebook Ad Library sometimes produced web links (URLs) over 86,000 characters long. The bug is classified as "won't fix for now".<sup>84</sup> The safe limit for a web link is around 2,000 characters. For reference, this report is about 70,000 characters long.

Facebook has also frustrated the efforts of transparency groups to record the ads and advertising tactics used on their website by obfuscating Facebook's code.<sup>85</sup>

Twitter's Ads Transparency Center launched in 2018 for the USA, and in 2019 for the EU, India and Australia. The Center is not comprehensive and does not give wholesale access to the data. A work-around is time-consuming and may violate Twitter's terms and conditions.<sup>86</sup>

At the time of writing, the centre had three "political campaigning advertisers" listed for Australia: the Liberal Party, the AEC and former independent candidate for New England Adam Blakester. This represents an incomplete picture of Australian political campaigning on Twitter.

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facebook-ads-bugs-transparency-dark-money; Mozilla (2019) *Facebook's Ad Archive API is Inadequate*, <https://blog.mozilla.org/blog/2019/04/29/facebooks-ad-archive-api-is-inadequate>

<sup>83</sup> Rosenberg (2019) *Ad Tool Facebook Built to Fight Disinformation Doesn't Work as Advertised*

<sup>84</sup> Rosenberg (2019) *Ad Tool Facebook Built to Fight Disinformation Doesn't Work as Advertised*

<sup>85</sup> Waterson (2019) *Facebook restricts campaigners' ability to check ads for political transparency*, <https://www.theguardian.com/technology/2019/jan/27/facebook-restricts-campaigners-ability-to-check-ads-for-political-transparency>

<sup>86</sup> Ambassador for Digital Affairs (n.d.) *Twitter Ads Transparency Center Assessment*, <https://disinfo.quaidorsay.fr/en/twitter-ads-transparency-center-assessment>; Rosenberg (2019) *Ad Tool Facebook Built to Fight Disinformation Doesn't Work as Advertised*

**Figure 3: Twitter's three "political campaigning advertisers"**

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 **Adam Blakester**  
@adamblakester

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 **AEC**   
@AusElectoralCom  
16.4m+ enrolled, 90k polling officials, 8k polling places, 50m+ ballot papers, 100k+ pencils #ausvotes #democracy AU

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 **Liberal Party**   
@LiberalAus  
#BuildingOurEconomy. Authorised by A. Hirst, Liberal Party of Australia, Cnr Blackall & Macquarie Streets, Barton ACT 2600.

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Twitter (n.d.) *Political Campaigning Advertisers*,  
[https://ads.twitter.com/transparency/i/political\\_advertisers](https://ads.twitter.com/transparency/i/political_advertisers)

The current internet ad libraries are inadequate, but they demonstrate that – if required to do so by legislation – the advertising industry could produce meaningful, complete databases of political advertisements.

## REPORTING AND JOURNALISM

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Although the digital platforms' ad libraries are inadequate and transparency around political advertising is only partial, what information is available has already led to substantial reporting.

In 2018, independent newsroom ProPublica showed that US industries were disguising their Facebook political advertising under front groups and invented names and that other disclosures were inadequate.<sup>87</sup> They also uncovered an advertising campaign encouraging people to vote for the US Green Party from an organisation that the Green Party had not heard of and had no affiliation with, and political ads from candidates that pretended to come from news organisations or non-partisan entities.<sup>88</sup>

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<sup>87</sup> Merrill (2018) *How Big Oil Dodges Facebook's New Ad Transparency Rules*,  
<https://www.propublica.org/article/how-big-oil-dodges-facebooks-new-ad-transparency-rules>

<sup>88</sup> Merrill (2018) *What We Learned From Collecting 100,000 Targeted Facebook Ads*,  
<https://www.propublica.org/article/facebook-political-ad-collector-targeted-ads-what-we-learned>; Turton & Merrill (2018) *A Mysterious Facebook Group Is Using Bernie Sanders' Image to Urge Democrats to Vote for the Green Party*, <https://www.propublica.org/article/a-mysterious-facebook-group-is-using-bernie-sanders-image-to-urge-democrats-to-vote-for-the-green-party>

In 2019, the Facebook Ad Library was used by reporters from the *New York Times* to show that the Donald Trump Facebook page had run over 2,000 ads using the term “invasion” in the months leading up to a mass shooting that was described by the shooter as “a response to the Hispanic invasion of Texas”.<sup>89</sup>

In the United Kingdom, Facebook’s library has allowed journalists to report on how spending has compared between Brexit and anti-Brexit campaigns.<sup>90</sup> It also revealed the government was spending taxpayer money promoting the (then) May Government’s Brexit deal.<sup>91</sup>

Early in 2019, Facebook’s increased disclosure allowed journalists at the ABC to identify that at least four Facebook pages targeted at Australian audiences were being operated out of Kosovo, Albania and Northern Macedonia. The pages posted inflammatory, plagiarised content, apparently in order to make money from their cut of Facebook advertising revenue.<sup>92</sup>

In the 2019 federal election in Australia, Liberal Facebook ads were customised to address makes of car, reading “Shorten wants to tax your Toyota Hilux” (or Mitsubishi Triton, etc). Being able to see (active) ads on the platform allowed journalists to infer that the party was “narrowcasting” these ads to people who had “liked” those varieties of car on Facebook.<sup>93</sup> More information, including confirmation of who was being targeted by these ads, would lead to greater accountability.

With more transparency around political advertisements – their content, targeting and timing – and archiving of past advertisements, journalists will be better able to conduct this kind of reporting.

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<sup>89</sup> Kaplan (2019) *How the Trump Campaign Used Facebook Ads to Amplify His ‘Invasion’ Claim*, <https://www.nytimes.com/2019/08/05/us/politics/trump-campaign-facebook-ads-invasion.html>

<sup>90</sup> Waterson (2019) *Obscure pro-Brexit group spends tens of thousands on Facebook ads*, <https://www.theguardian.com/politics/2019/jan/14/obscure-pro-brexit-group-britains-future-spends-tens-of-thousands-on-facebook-ads>

<sup>91</sup> Waterson (2018) *Almost £100k of public money spent on Brexit deal Facebook ads*, <https://www.theguardian.com/politics/2018/dec/10/almost-100k-of-public-money-spent-on-brexit-deal-facebook-ads>

<sup>92</sup> Workman & Hutcheon (2019) *Popular Australian Facebook pages manipulated by trolls from the Balkans*, <https://www.abc.net.au/news/2019-03-15/trolls-from-kosovo-are-manipulating-australian-facebook-pages/10892680>

<sup>93</sup> Elton (2019) *Mitsubishi Tritons and the modern warfare of tailored election ads*, <https://www.abc.net.au/news/2019-04-12/the-modern-warfare-of-tailored-election-ads/10998426>

# Popular opinion

In July 2019, The Australia Institute polled a representative sample of the public on questions relating to political advertising and government advertising. These results show strong support for truth in public advertising laws, including a variety of penalties and remedies. There is also popular support for self-regulation by the media and regulated government advertising.

## TRUTH IN POLITICAL ADVERTISING LAWS

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Australians overwhelmingly support truth in political advertising laws, with 84% of respondents supporting Australia passing truth in political advertising laws that would make it illegal for political parties and candidates to publish ads that are inaccurate and misleading.

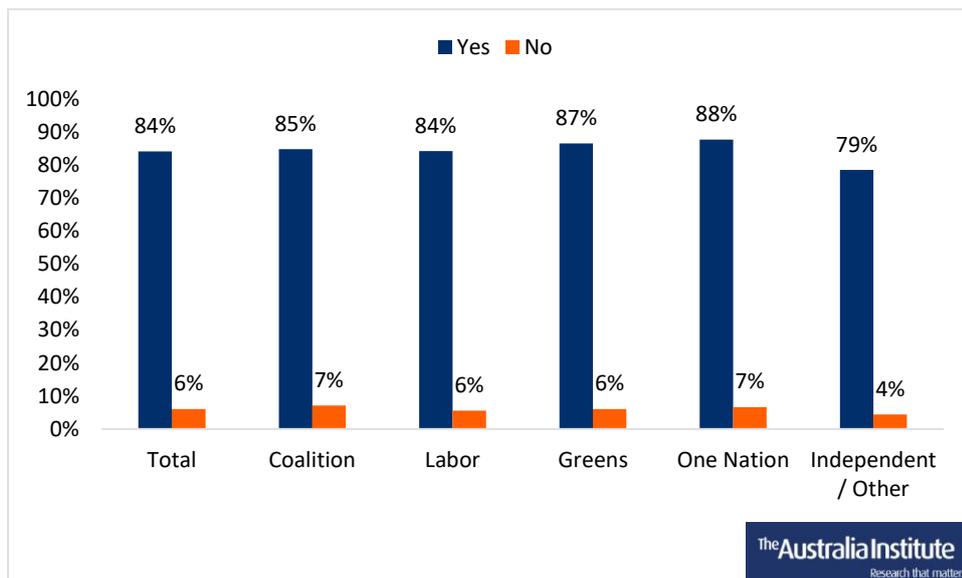
Support was similar across parties, with 85% of Coalition voters, 84% of Labor voters, 87% of Greens voters and 88% of One Nation voters supporting the proposal. Only support among Independent/Other voters was lower, at 79%.

This result is very similar to results from our post-election poll on 4 July 2016, which found 88% support for a similar proposition. Interestingly, there was partisan variation in 2016, with 94% of Coalition voters and 78% of Labor voters in support.<sup>94</sup> The earlier poll's closeness to the 2016 election and Liberal complaints about "Mediscare" may have contributed to the partisan variation.

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<sup>94</sup> The Australia Institute (2016) *Truth in Political Advertising*, <http://www.tai.org.au/content/truth-political-advertising>

**Figure 4: Do you support truth in political advertising laws?**



## Potential penalties

Respondents were asked about what kind of penalties they should apply to parties and candidates that published inaccurate and misleading ads. There was majority support for three of the four potential penalties. Respondents were able to choose any number of penalties; on average, respondents chose 2.3 each.

Financial penalties are already in use in South Australia, although in practice they are rarely sought or applied. The offence carries a charge of \$5,000 for individuals or \$25,000 for a body corporate (i.e. political party or other organisation). In the poll, 62% of respondents supported fines and other financial penalties.

South Australia also requires withdrawal of the ad or a retraction (or both) if it is found to be misleading or inaccurate. 60% of respondents supported parties and candidates being forced to publish retractions at their own expense.

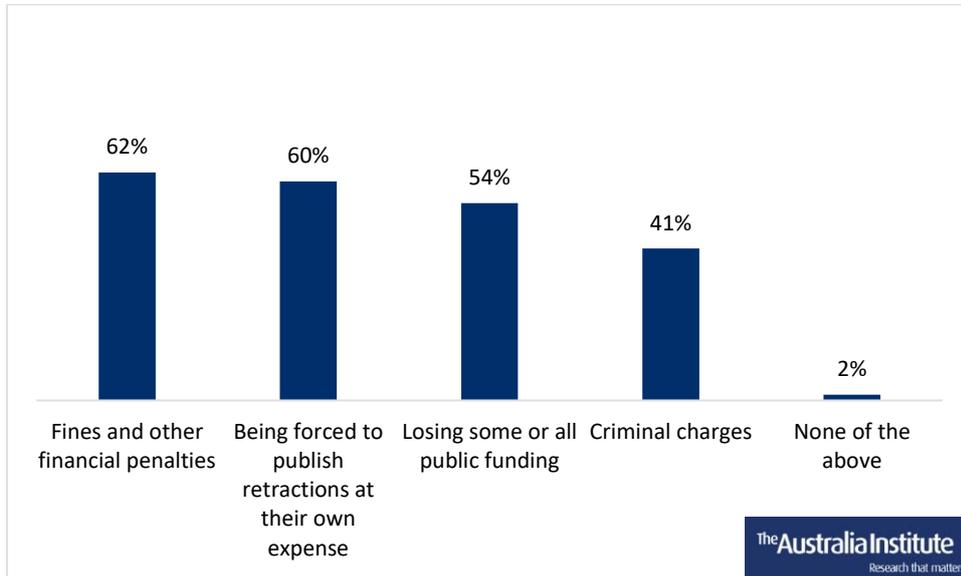
Parties and candidates losing some or all of their public funding is the third penalty to attract majority support, with 54% of respondents in favour. As with fines, this penalty can be applied after the election is over, instead of requiring quick action like withdrawals and retractions. There is also a clear conceptual link between the wrong of attempting to mislead the public and the penalty of losing access to funding provided by the same public.

To our knowledge, criminal charges (as distinct from fines) have not so far been used in political advertising systems. That may reflect their unpopularity, with only 41% of Australians supporting their use.

It is worth noting that some models of political regulation do not use penalty schemes. For example, ABC and SBS “free time” grants to political parties require certain standards, but

the consequence of non-compliance is just that the broadcast does not run or – if time permits – it may be revised.

**Figure 5: Support for potential penalties for misleading and inaccurate advertising**



## Adjudication

Respondents were asked about who should adjudicate whether an ad is misleading and inaccurate. Three options were based on existing truth in political advertising system.

The SA system is adjudicated by the SA Electoral Commission in the first instance, and then before the Supreme Court.

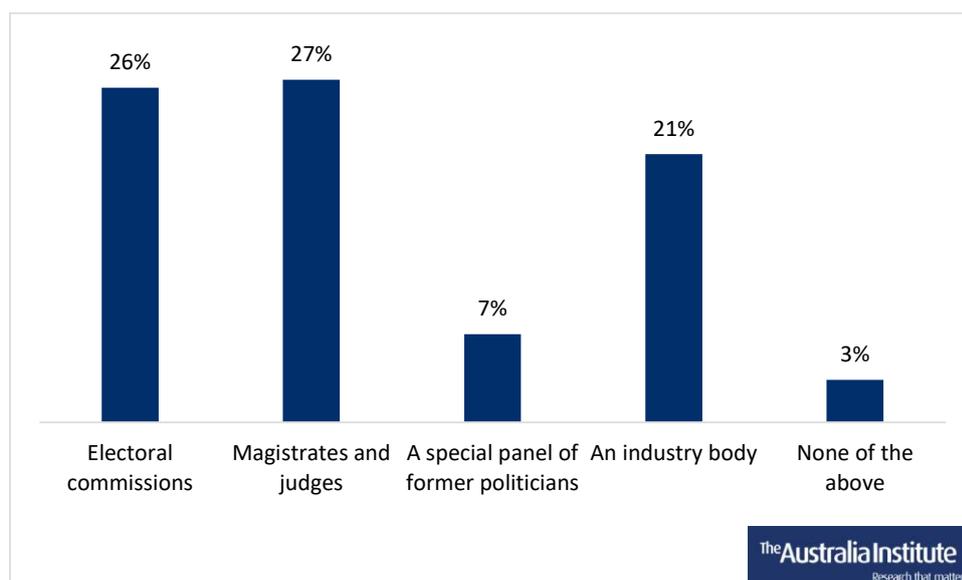
The New Zealand system mostly uses their advertising industry body to enforce truthfulness.

The model of using a special panel of former politicians comes from academic Graeme Orr. Orr argues that such a panel, convened for the election, would have a better understanding of the “realities” of political debate than judges, and would remove the electoral commission from the awkward position of passing judgement on political parties.<sup>95</sup>

Apart from the panel of former politicians, support was similar across the adjudication options.

<sup>95</sup> Orr (2016) *Time to tighten the reins on politicians and their “truths,”* <http://theconversation.com/time-to-tighten-the-reins-on-politicians-and-their-truths-62457>

**Figure 6: Options for adjudication**



## POLITICAL ADVERTISING AND THE MEDIA

Respondents were presented with a variety of statements about political advertising more generally, including the media's role in vetting and publishing political ads.

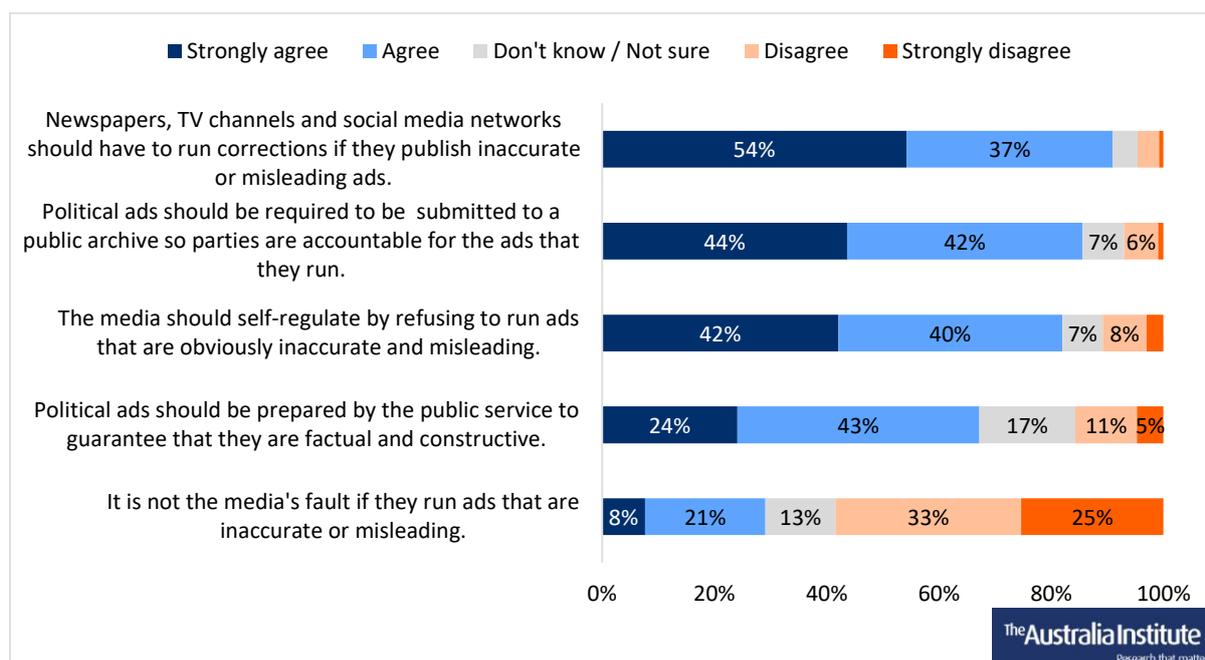
Support for media accountability and self-regulation is strong.

- 91% agreed, including 54% who strongly agreed, that media should have to run corrections if they publish inaccurate or misleading ads.
- 82% agreed, including 42% who strongly agreed, that the media should refuse to run ads that are obviously inaccurate and misleading.
- 58% *disagreed*, including 25% who strongly disagreed, that it is “not the media’s fault” if they run ads that are inaccurate or misleading (29% agreed).

There was also support for two measures that would increase the accountability of political parties and candidates.

- 86% agreed, including 44% who strongly agreed, that political ads should be required to be submitted to a public archive.
- 67% agreed, including 24% who strongly agreed, that political ads should be prepared by the public service to guarantee that they are factual and constructive.

**Figure 7: Political advertising propositions**



## GOVERNMENT ADVERTISING AND PROMOTION

A related issue to political advertising is government advertising, which is funded by the taxpayer with the ostensible purpose of informing the public. Government advertising on both sides of politics and at both state and federal levels has been accused of being partisan. In addition, legislation and policies are sometimes given sensational or misleading names to make them more palatable.<sup>96</sup>

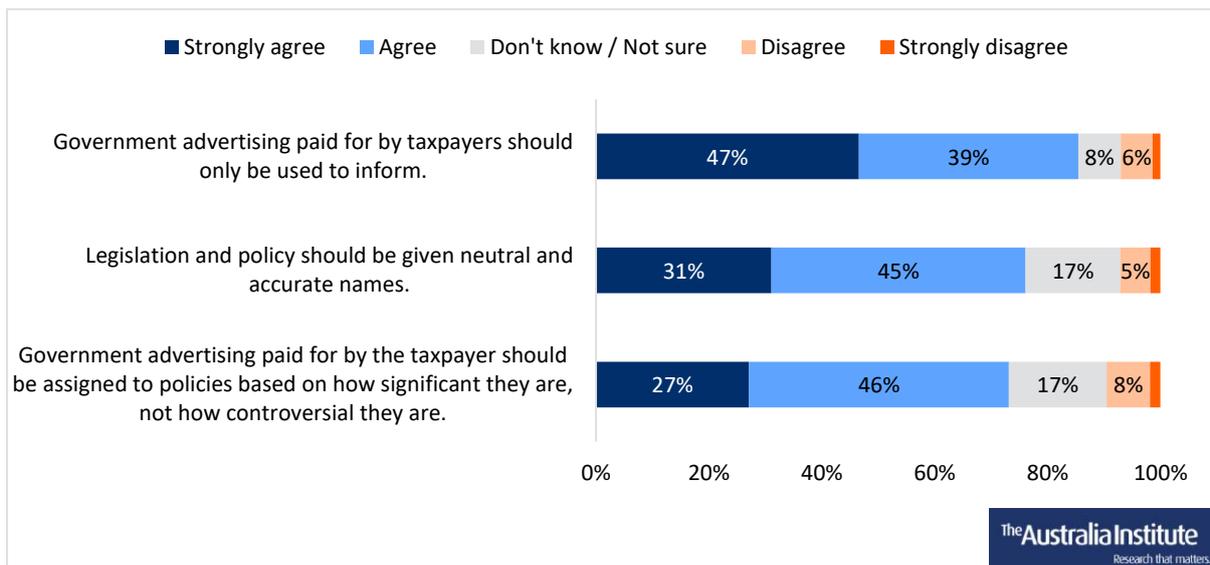
Our polling asked Australians a set of questions about government advertising and promotion. Their responses continued the theme that Australians want advertising to be truthful and for politicians to be accountable for the ads that they publish.

- 85% agreed, including 47% who strongly agreed, that government advertising should be only used to inform.
- 76% agreed, including 31% who strongly agreed, that legislation and policy should be given neutral and accurate names.
- 73% agreed, including 27% who strongly agreed, that government advertising should be assigned based on how significant a policy is, not how controversial it is.

<sup>96</sup> For detailed discussion and analysis, see Orr (2006) *Government Advertising: Parliament and Political Equality*,

[https://www.aph.gov.au/About\\_Parliament/Senate/Powers\\_practice\\_n\\_procedures/~/~/~link.aspx?\\_id=53A7CFCC47014D138E5C10FAFD0299D6&\\_z=z](https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/~/~/~link.aspx?_id=53A7CFCC47014D138E5C10FAFD0299D6&_z=z)

**Figure 8: Government advertising and promotion propositions**



# Conclusion

Questions of “what the truth is” are fraught, and the partisanship and quick pace of an election campaign make finding the truth more difficult. However, what is lost from routine and substantial deception in political campaigns is far greater. Public support for truth in political advertising laws, and a range of other mechanisms to increase accountability, is high. A wide range of models have significant or majority support.

Different models of regulation have succeeded in South Australia and New Zealand and, for a limited set of broadcasts, on the ABC and SBS. Parties and candidates mostly comply with these requirements without controversy or issue.

Australians should choose the truth in political advertising regulation that best suits our political objectives, and aim for the perfect system. But there is no need to be paralysed by existential questions about the truth; a range of truth in political advertising regulations work reasonably well and any of them could improve on the status quo.

# Appendix: Polling results

## METHOD

The Australia Institute conducted a national survey of 1,464 people between 23 July 2019 and 30 July 2019, online through Dynata (formerly Research Now) with nationally representative samples by gender, age, state and territory, and household income.

The margin of error (95% confidence level) for the national results is 3%.

Results are shown only for larger states.

Voting crosstabs show voting intentions for the lower house. Those who were undecided were asked which way they were leaning; these leanings are included in voting intention crosstabs, but results are also shown separately for undecideds. "LNP" includes separate responses for Liberal and National. "Other" includes Centre Alliance, Jacqui Lambie Network and Independent/Other.

## FULL RESULTS

***Should Australia pass 'truth in political advertising' laws so that it is illegal for political parties and candidates to publish ads that are inaccurate and misleading?***

	Total	Male	Female	NSW	VIC	QLD	WA
<b>Yes</b>	84.2%	83.8%	84.6%	84.3%	83.0%	83.1%	82.9%
<b>No</b>	6.1%	6.9%	5.3%	5.7%	5.7%	7.3%	7.5%
<b>Don't know</b>	9.7%	9.3%	10.1%	10.0%	11.3%	9.6%	9.6%

The Australia Institute  
Research that matters.

	Total	Coalition	Labor	Greens	One Nation	Ind / Other
<b>Yes</b>	84.2%	84.8%	84.3%	86.6%	87.8%	78.6%
<b>No</b>	6.1%	7.1%	5.6%	6.0%	6.7%	4.4%
<b>Don't know</b>	9.7%	8.1%	10.2%	7.4%	5.6%	17.0%

The Australia Institute  
Research that matters.

*If 'truth in political advertising' laws were adopted, which of the following do you think should be possible penalties for parties and candidates that published inaccurate and misleading ads?*

	Total	Male	Female	NSW	VIC	QLD	WA
<b>Fines and other financial penalties</b>	62.2%	61.4%	62.9%	64.3%	60.9%	59.5%	62.3%
<b>Being forced to publish retractions at their own expense</b>	59.7%	58.1%	61.2%	59.8%	57.4%	58.1%	63.7%
<b>Losing some or all public funding</b>	53.8%	55.3%	52.3%	53.2%	52.3%	55.5%	57.5%
<b>Criminal charges</b>	41.5%	47.2%	36.0%	42.6%	41.2%	40.5%	42.5%
<b>None of the above</b>	1.6%	1.5%	1.6%	1.3%	1.1%	3.0%	0.7%
<b>Don't know / Not sure</b>	9.0%	7.4%	10.5%	8.9%	9.4%	8.3%	10.3%

The Australia Institute  
Research that matters.

	Total	Coalition	Labor	Greens	One Nation	Ind / Other
<b>Fines and other financial penalties</b>	62.2%	61.8%	63.4%	66.4%	56.7%	58.8%
<b>Being forced to publish retractions at their own expense</b>	59.7%	60.3%	58.6%	70.5%	48.9%	57.7%
<b>Losing some or all public funding</b>	53.8%	51.4%	55.4%	61.7%	48.9%	51.6%
<b>Criminal charges</b>	41.5%	33.8%	43.7%	46.3%	51.1%	48.4%
<b>None of the above</b>	1.6%	1.9%	0.8%	0.7%	1.1%	3.8%
<b>Don't know / Not sure</b>	9.0%	8.4%	8.4%	4.7%	7.8%	16.5%

The Australia Institute  
Research that matters.

*If 'truth in political advertising' laws were adopted, who should adjudicate whether an ad is inaccurate and misleading?*

	Total	Male	Female	NSW	VIC	QLD	WA
<b>Electoral commissions (for example, the Australian Electoral Commission for federal ads)</b>	26.4%	29.9%	23.1%	23.6%	29.6%	26.9%	28.1%
<b>Magistrates and judges through the legal system</b>	27.0%	29.5%	24.7%	27.0%	26.7%	26.6%	28.1%
<b>A special panel of former politicians convened for the election</b>	7.0%	8.4%	5.6%	7.7%	7.8%	6.0%	6.2%
<b>An industry body (for example, Ad Standards)</b>	21.2%	18.4%	23.8%	22.6%	19.9%	20.3%	20.5%
<b>None of the above</b>	3.3%	2.5%	4.1%	3.6%	1.3%	5.3%	5.5%
<b>Don't know / Not sure</b>	15.0%	11.2%	18.6%	15.5%	14.6%	15.0%	11.6%

The Australia Institute  
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	Total	Coalition	Labor	Greens	One Nation	Ind / Other
<b>Electoral commissions (for example, the Australian Electoral Commission for federal ads)</b>	26.4%	28.4%	24.3%	32.2%	32.2%	19.2%
<b>Magistrates and judges through the legal system</b>	27.0%	26.7%	29.3%	25.5%	22.2%	25.3%
<b>A special panel of former politicians convened for the election</b>	7.0%	7.3%	8.0%	6.7%	3.3%	4.9%
<b>An industry body (for example, Ad Standards)</b>	21.2%	20.7%	21.1%	21.5%	26.7%	19.8%
<b>None of the above</b>	3.3%	2.3%	2.5%	4.7%	6.7%	6.0%
<b>Don't know / Not sure</b>	15.0%	14.6%	14.8%	9.4%	8.9%	24.7%

The Australia Institute  
Research that matters.

*The following statements are about truth in political advertising. For each statement, indicate whether you agree or disagree.*

*Newspapers, TV channels and social media networks should have to run corrections if they publish inaccurate or misleading ads.*

	Total	Male	Female	NSW	VIC	QLD	WA
<b>Strongly agree</b>	54.2%	52.9%	55.5%	55.1%	54.7%	53.8%	51.4%
<b>Agree</b>	36.7%	37.2%	36.3%	35.7%	36.1%	35.9%	43.2%
<b>Disagree</b>	3.8%	4.6%	3.1%	2.3%	4.0%	5.6%	4.1%
<b>Strongly disagree</b>	0.8%	1.0%	0.5%	0.6%	0.8%	1.3%	0.0%
<b>Don't know / Not sure</b>	4.4%	4.2%	4.7%	6.2%	4.3%	3.3%	1.4%

The Australia Institute  
Research that matters.

	Total	Coalition	Labor	Greens	One Nation	Ind / Other
<b>Strongly agree</b>	54.2%	53.2%	56.5%	57.7%	46.7%	51.6%
<b>Agree</b>	36.7%	39.5%	34.9%	34.2%	44.4%	32.4%
<b>Disagree</b>	3.8%	4.0%	3.1%	4.7%	1.1%	6.0%
<b>Strongly disagree</b>	0.8%	0.4%	1.0%	0.7%	2.2%	0.5%
<b>Don't know / Not sure</b>	4.4%	2.9%	4.6%	2.7%	5.6%	9.3%

The Australia Institute  
Research that matters.

*The media should self-regulate by refusing to run ads that are obviously inaccurate and misleading.*

	Total	Male	Female	NSW	VIC	QLD	WA
<b>Strongly agree</b>	42.1%	39.9%	44.1%	44.0%	41.5%	41.9%	38.4%
<b>Agree</b>	39.9%	38.8%	41.0%	37.9%	40.2%	41.5%	45.9%
<b>Disagree</b>	7.8%	10.0%	5.7%	7.2%	7.8%	6.3%	10.3%
<b>Strongly disagree</b>	3.0%	3.9%	2.1%	2.6%	4.3%	2.7%	2.1%
<b>Don't know / Not sure</b>	7.2%	7.4%	7.0%	8.3%	6.2%	7.6%	3.4%

The Australia Institute  
Research that matters.

	Total	Coalition	Labor	Greens	One Nation	Ind / Other
<b>Strongly agree</b>	42.1%	40.1%	44.8%	43.0%	46.7%	36.8%
<b>Agree</b>	39.9%	44.0%	37.7%	40.3%	32.2%	37.9%
<b>Disagree</b>	7.8%	7.3%	7.7%	9.4%	7.8%	8.2%
<b>Strongly disagree</b>	3.0%	2.7%	3.4%	1.3%	6.7%	2.2%
<b>Don't know / Not sure</b>	7.2%	6.0%	6.3%	6.0%	6.7%	14.8%

The Australia Institute  
Research that matters.

**Political ads should be required to be submitted to a public archive so parties are accountable for the ads that they run.**

	Total	Male	Female	NSW	VIC	QLD	WA
<b>Strongly agree</b>	43.6%	44.8%	42.6%	45.3%	44.7%	42.2%	41.1%
<b>Agree</b>	41.9%	40.4%	43.4%	40.0%	41.2%	43.5%	42.5%
<b>Disagree</b>	6.1%	7.4%	4.8%	5.7%	4.6%	7.0%	10.3%
<b>Strongly disagree</b>	1.0%	1.1%	0.8%	1.3%	1.1%	0.7%	0.7%
<b>Don't know / Not sure</b>	7.4%	6.2%	8.5%	7.7%	8.4%	6.6%	5.5%

The Australia Institute  
Research that matters.

	Total	Coalition	Labor	Greens	One Nation	Ind / Other
<b>Strongly agree</b>	43.6%	40.3%	47.1%	51.7%	43.3%	36.8%
<b>Agree</b>	41.9%	46.8%	37.4%	36.2%	43.3%	45.1%
<b>Disagree</b>	6.1%	6.0%	6.9%	6.7%	4.4%	4.4%
<b>Strongly disagree</b>	1.0%	0.6%	1.0%	1.3%	1.1%	1.6%
<b>Don't know / Not sure</b>	7.4%	6.3%	7.7%	4.0%	7.8%	12.1%

The Australia Institute  
Research that matters.

**Legislation and policy should be given neutral and accurate names.**

	Total	Male	Female	NSW	VIC	QLD	WA
<b>Strongly agree</b>	31.1%	32.4%	29.8%	33.0%	33.4%	27.6%	24.0%
<b>Agree</b>	45.0%	43.7%	46.3%	44.3%	43.9%	46.8%	50.7%
<b>Disagree</b>	5.3%	6.6%	4.1%	4.9%	5.9%	5.0%	6.2%
<b>Strongly disagree</b>	1.8%	2.4%	1.2%	1.5%	1.1%	2.0%	4.1%
<b>Don't know / Not sure</b>	16.8%	14.9%	18.6%	16.4%	15.6%	18.6%	15.1%

The Australia Institute  
Research that matters.

	Total	Coalition	Labor	Greens	One Nation	Ind / Other
<b>Strongly agree</b>	31.1%	27.4%	35.8%	35.6%	27.8%	25.8%
<b>Agree</b>	45.0%	50.9%	42.3%	42.3%	37.8%	41.8%
<b>Disagree</b>	5.3%	6.3%	4.8%	4.7%	4.4%	4.9%
<b>Strongly disagree</b>	1.8%	0.2%	2.5%	4.0%	4.4%	1.1%
<b>Don't know / Not sure</b>	16.8%	15.2%	14.6%	13.4%	25.6%	26.4%

The Australia Institute  
Research that matters.

**Government advertising paid for by taxpayers should only be used to inform.**

	Total	Male	Female	NSW	VIC	QLD	WA
<b>Strongly agree</b>	46.6%	47.3%	45.9%	46.0%	46.6%	47.2%	46.6%
<b>Agree</b>	38.9%	37.8%	39.9%	38.9%	37.5%	37.9%	40.4%
<b>Disagree</b>	5.7%	6.5%	4.9%	4.7%	7.0%	5.3%	8.2%
<b>Strongly disagree</b>	1.4%	1.4%	1.3%	1.5%	1.1%	1.7%	2.1%
<b>Don't know / Not sure</b>	7.5%	7.0%	8.0%	8.9%	7.8%	8.0%	2.7%

TheAustraliaInstitute  
Research that matters.

	Total	Coalition	Labor	Greens	One Nation	Ind / Other
<b>Strongly agree</b>	46.6%	41.1%	47.1%	57.0%	52.2%	49.5%
<b>Agree</b>	38.9%	45.3%	38.9%	28.2%	31.1%	33.0%
<b>Disagree</b>	5.7%	6.1%	4.2%	8.1%	4.4%	7.1%
<b>Strongly disagree</b>	1.4%	1.0%	1.7%	0.7%	3.3%	1.1%
<b>Don't know / Not sure</b>	7.5%	6.5%	8.0%	6.0%	8.9%	9.3%

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**It is not the media's fault if they run ads that are inaccurate or misleading.**

	Total	Male	Female	NSW	VIC	QLD	WA
<b>Strongly agree</b>	7.7%	9.4%	6.0%	8.7%	8.4%	6.0%	6.8%
<b>Agree</b>	21.4%	25.0%	18.1%	20.0%	23.7%	19.6%	23.3%
<b>Disagree</b>	33.1%	28.4%	37.5%	31.9%	32.9%	34.2%	40.4%
<b>Strongly disagree</b>	25.3%	27.5%	23.3%	27.9%	21.3%	27.9%	22.6%
<b>Don't know / Not sure</b>	12.5%	9.7%	15.2%	11.5%	13.7%	12.3%	6.8%

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	Total	Coalition	Labor	Greens	One Nation	Ind / Other
<b>Strongly agree</b>	7.7%	6.7%	10.9%	3.4%	7.8%	4.4%
<b>Agree</b>	21.4%	23.4%	22.4%	18.1%	17.8%	17.6%
<b>Disagree</b>	33.1%	31.3%	31.4%	43.0%	35.6%	33.5%
<b>Strongly disagree</b>	25.3%	26.5%	23.8%	25.5%	26.7%	25.8%
<b>Don't know / Not sure</b>	12.5%	12.1%	11.5%	10.1%	12.2%	18.7%

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***Political ads should be prepared by the public service to guarantee that they are factual and constructive.***

	Total	Male	Female	NSW	VIC	QLD	WA
<b>Strongly agree</b>	24.1%	24.7%	23.5%	25.1%	28.3%	21.3%	21.2%
<b>Agree</b>	43.1%	41.3%	44.8%	41.5%	40.2%	42.5%	53.4%
<b>Disagree</b>	11.0%	13.1%	9.0%	10.2%	10.5%	11.6%	8.9%
<b>Strongly disagree</b>	4.7%	6.9%	2.7%	5.1%	3.8%	5.6%	2.7%
<b>Don't know / Not sure</b>	17.1%	14.0%	19.9%	18.1%	17.3%	18.9%	13.7%

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	Total	Coalition	Labor	Greens	One Nation	Ind / Other
<b>Strongly agree</b>	24.1%	19.6%	27.8%	27.5%	28.9%	21.4%
<b>Agree</b>	43.1%	44.9%	44.1%	40.9%	42.2%	37.4%
<b>Disagree</b>	11.0%	13.1%	8.6%	12.1%	7.8%	12.6%
<b>Strongly disagree</b>	4.7%	5.4%	3.8%	3.4%	6.7%	5.5%
<b>Don't know / Not sure</b>	17.1%	17.1%	15.7%	16.1%	14.4%	23.1%

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***Government advertising paid for by the taxpayer should be assigned to policies based on how significant they are, not how controversial they are.***

	Total	Male	Female	NSW	VIC	QLD	WA
<b>Strongly agree</b>	27.1%	28.2%	26.1%	29.4%	27.2%	25.9%	21.9%
<b>Agree</b>	46.0%	44.5%	47.5%	43.8%	41.5%	48.8%	58.2%
<b>Disagree</b>	7.7%	9.8%	5.7%	6.6%	9.7%	8.0%	6.8%
<b>Strongly disagree</b>	1.8%	1.8%	1.9%	3.4%	0.8%	1.0%	2.1%
<b>Don't know / Not sure</b>	17.3%	15.6%	18.9%	16.8%	20.8%	16.3%	11.0%

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	Total	Coalition	Labor	Greens	One Nation	Ind / Other
<b>Strongly agree</b>	27.1%	24.2%	29.1%	28.2%	27.8%	28.6%
<b>Agree</b>	46.0%	52.0%	43.7%	45.6%	42.2%	37.9%
<b>Disagree</b>	7.7%	8.1%	6.5%	10.1%	11.1%	6.6%
<b>Strongly disagree</b>	1.8%	2.5%	1.5%	1.3%	1.1%	1.6%
<b>Don't know / Not sure</b>	17.3%	13.2%	19.2%	14.8%	17.8%	25.3%

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