



SUBMISSION BY COMMERCIAL RADIO AUSTRALIA
PARLIAMENT OF VICTORIA - ELECTORAL MATTERS COMMITTEE
INQUIRY INTO THE IMPACTS OF SOCIAL MEDIA ON ELECTIONS AND ELECTORAL
ADMINISTRATION

30 September 2020

Commercial Radio Australia (**CRA**) is the peak industry body representing the interests of commercial radio broadcasters throughout Australia. CRA has 260 member stations, comprising 99% of the Australian commercial radio industry.

CRA welcomes this opportunity to respond to the Electoral Matters Committee Inquiry into the impacts of social media on elections and electoral administration (**Inquiry**).

Commercial radio stations have been subject to onerous political matter disclosure requirements since the introduction of the *Broadcasting Services Act 1992 (BSA)*. The BSA is a Commonwealth statute but it applies to all political matter and election matter advertising at State level.¹

CRA does not comment on whether online political advertising is appropriately regulated in Victoria. However, CRA would like to draw the Committee's attention to the current Commonwealth regulation that applies to the commercial radio industry across the whole of Australia, including Victoria. **The commercial radio industry generally favours harmonisation across platforms, with a deregulatory focus where possible.**

1. Tagging of political matter

The BSA was amended by the *Electoral and Other Legislation Amendment Act 2017 (Amendment Act)*, which harmonised the Commonwealth authorisation requirements across all platforms, including social media. The rules apply across Australia.

As a result of the Amendment Act, all platforms must tag political advertising with the required authorisation particulars. These obligations apply to social media as well as to broadcasters.

¹ BSA, Schedule 2, Part 1 (definition of *election*).

2. Election advertising blackout

In addition to political tagging requirements, the BSA prohibits commercial radio broadcasters from broadcasting election advertisements from the Wednesday prior to a State or Federal election until the election has taken place.

There is no equivalent to this restriction for online platforms.

Under section 3A, Schedule 2 of the BSA, commercial radio broadcasters are not permitted to broadcast election advertisements during the 'relevant period'. The 'relevant period' is defined under section 1 of the BSA as 'the period that commences at the end of the Wednesday before the polling day before the election and ends at the close of the poll on that polling day'.

The current blackout rules were enacted in 1992, several years before internet access became commonplace. There is no equivalent to the blackout rules in place for media other than commercial television and radio. Political parties are free to advertise in print and online at any time they like.

This places commercial broadcasters at a significant commercial disadvantage, as advertisers place their content on alternative platforms.

Furthermore, the discrepancy in the rules applicable to different media makes the blackout rule ineffective. Listeners are inundated with political advertising from other sources, particularly social media, throughout the blackout period. Voters are surrounded by readily accessible political advertising on all other platforms.

The current rules are unfair and ineffective. The policy reason for their original enactment has long been undermined, they do not keep pace with current technology and consumer behaviour, and they place commercial broadcasters at a disadvantage compared with other media platforms.

CRA appreciates that the Victorian Electoral Matters Committee has no jurisdiction over the BSA. However, we would like the Committee to be aware of this discrepancy in the Commonwealth legislative framework. The commercial radio industry has long argued that the blackout provisions should be removed from the BSA.

3. Truth in Advertising

CRA would have significant concerns regarding any suggestion that 'truth in advertising' provisions should be applied to political advertising.

To add a further layer of regulatory obligations to check truth in political advertising would be highly complex and difficult to administer, dramatically increasing the regulatory burden on broadcasters during election periods.

If any such rules were introduced, primary liability should lie with the authorising body, and not with the broadcaster. Commercial radio broadcasters are not able to identify what is a 'political truth' and should not be expected to do so.

If any 'truth in advertising' regulation is contemplated in relation to social media, the commercial radio industry would wish to ensure that any rules would contain an adequate exemption for commercial radio broadcasters.

Please contact Joan Warner, on [REDACTED], for clarification on any aspect of this submission.