

**Submission
No 37**

**ADMINISTRATION OF THE 2023 NSW STATE ELECTION AND OTHER
MATTERS**

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By email: electoralmatters@parliament.nsw.gov.au

Dear Electoral Matters Committee

Inquiry into the Administration of the 2023 NSW state election and other matters

I am writing to make a submission to this Inquiry addressing paragraph (3)(iii) of the terms of reference, which concerns *“Whether truth in political advertising laws for New South Wales state elections would enhance the integrity and transparency of the electoral system”*.

There is an obvious need for truth in political advertising laws in NSW.

There have been an increasing number of incidents of misinformation in recent state and federal elections, including false and misleading claims made by political parties or organisations about the policies and positions of rival political parties, with the clear intention of influencing the outcome of elections.

Extensive research shows that false and misleading political advertising is corrosive to our democracy and elections. We know that misinformation in political advertisements hinders the public's ability to make informed choices when it comes to voting – and risks voters being misled, and the outcome of elections being affected by confusion and lies.

We want our elections to be a competition of ideas, with genuine debates over policy that can inform the way people choose to vote. Instead, however, increasingly they are becoming platforms for disinformation, eroding public confidence in both politicians and the democratic process itself. The advent of social media, and the easy dissemination of information online, only makes the need for regulation more critical.

Political advertising campaigns containing false information, in an attempt to influence an election outcome, can affect any political party. Such adverts are designed to confuse the public and to swing their vote – impacting on the public's right to a free, informed vote. This is as much a human rights issue as it is an issue for political parties who are being targeted by false advertising.

During the 2023 NSW state election, the Animal Justice Party was the subject of a misinformation campaign run by an unregistered political party. The group ran a series of radio advertisements in the weeks prior to election day, which stated the following (or similar):

“The Animal Justice Party wants to stop you owning a dog or cat or any animal. That is just so wrong. Don’t let them take pet ownership away from you. Make your vote count at this election, put the Animal Justice Party last.”

There were also similar claims made on social media. These claims are, and were, entirely false. The Animal Justice Party has never had a policy to ban people from having cats, dogs or other companion animals, and all of our elected MPs (including myself) have and love companion animals.

These false advertisements ran on multiple radio stations, multiple times a day, every day, for at least a week prior to the election. It is impossible to know the full impact they had. Anecdotally, election-day volunteers for the Animal Justice Party reported voters saying they were confused by the radio ads and/or had chosen not to vote for, or preference, the Animal Justice Party as a result. When concerns were raised about these advertisements, one of the radio stations involved publicly responded that there was *“no onus on the broadcaster to ensure there is truth in election ads”*.

This is the problem with the status quo. Right now, there is virtually no recourse for people or organisations who make false or misleading statements in political advertising during elections. The powers of the NSW Electoral Commission to take action are extremely limited.

I believe this urgently needs to change by amending the *Electoral Act 2017* (NSW) to create a new offence to make it illegal to put misleading statements in political advertisements. It should not be legal for politicians to lie in their advertising campaigns in NSW. The public expects and deserves better. It is already illegal for corporations to engage in misleading or deceptive conduct in trade or commerce. Why would we not require the same standard of conduct – if not higher – from candidates, politicians and political parties? This is an issue that goes to the heart democracy.

Misinformation in political advertising has the potential to manipulate voter preferences and distort election results. Residents in NSW have a right to vote, but they should also have a right to an informed vote. With our mandatory voting system, it is even more important that voters are not fed lies and untruths about political parties or their policies, as doing so removes their ability to make an informed vote that reflects their own genuine views about who should be running our Government and making decisions that will impact their own futures and that of their families. The fear based campaigning we have seen on the rise in recent years is designed to deceive the public and distort election outcomes, and can be very problematic for smaller parties without the funding to refute false claims.

Other states and territories, such as South Australia and the ACT, already have laws in place regarding truth in political advertising. I note that Independent MP Zali Steggall,

has introduced several private members bills at the Federal level, largely based on the South Australian model.

While this is no doubt a complex issue – where we must strike a balance between protections against inaccurate or misleading political advertising, and protection of free speech – it not something this Parliament can afford to ignore any longer.

I strongly urge the Committee to make a recommendation that we introduce similar ‘truth in political advertising’ laws in New South Wales.




Yours sincerely



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