



## Electoral Commissioner

REF: EC20-000004

Committee Secretary  
Select Committee on Foreign Interference through Social Media  
Parliament House  
CANBERRA ACT 2600

Dear Committee members

### **Submission – Inquiry into foreign interference through social media**

I welcome the establishment of the Select Committee on Foreign Interference through Social Media and am pleased to be able to provide this submission to assist you in examining this important area of democratic integrity.

An overarching factor in determining the success of any parliamentary election is public confidence in the end result. The criticality of the public's trust in election results is reflected in the AEC's obsession with electoral integrity, and the need to deliver safe, sound and secure federal electoral events.

The Australian Electoral Commission (AEC), and more broadly the Australian legislative framework for election administration, are frequently cited as exemplars of global best practice. However, maintaining the highest levels of electoral integrity is a continually evolving challenge.

Electoral integrity is a dynamic issue for electoral administrators not only in Australia, but also overseas. There are many facets to the integrity of a specific electoral event. Some of these facets have been part of the electoral management landscape for decades and others continue to emerge and evolve with the development of technology. The broad notion of 'integrity' now encompasses cyber security and disinformation, in addition to longer term issues such as physical security and sound operating procedures.

Around the world, disinformation has been identified as a major increasing threat to democratic processes, especially during election periods. Online channels are particularly powerful and enable information to be spread quickly and cheaply, and are vulnerable to being misused.

#### Electoral legislation

To understand the issue of disinformation in Australia, it is important to know the reach and scope of electoral legislation.

A critical, and sometimes misunderstood, aspect of the *Commonwealth Electoral Act 1918* (the Electoral Act) is that, with one limited exception, it does not regulate truth in electoral communication. Furthermore, the High Court has found there is an implied freedom of political communication in the Commonwealth Constitution that limits the scope of the Parliament to make laws restricting political

communications. Various parliamentary inquiries have also considered truth in electoral advertising and recommended against taking a regulatory approach, noting previous High Court findings and the difficulties associated with determining the truth of electoral advertising.

While electoral laws do not regulate the truth of electoral communications, the Electoral Act does require electoral matter to be authorised to provide voters with the source of communication. In 2018, these authorisation requirements were extended to cover modern communication channels including social media.

## **2019 federal election**

In response to the emerging threats of cyber and foreign interference in the global electoral environment, the AEC placed a strong focus on cyber security matters leading into, and throughout, the 2019 federal election.

### Electoral Integrity Assurance Taskforce

The 2019 federal election was the first full general election where a formalised Electoral Integrity Assurance Taskforce (the taskforce) was operational to address risks to the integrity of the electoral system. The taskforce comprised a range of Commonwealth agencies who were co-located during the federal election and provided timely guidance and expertise to the AEC on a broad range of integrity issues, including cyber security and disinformation.

The taskforce proved to be a successful model for agencies working together to support the integrity of the election. It is obviously pleasing that taskforce members advised that no foreign interference, malicious cyber activity, or security matters were identified that compromised the delivery of the 2019 federal election.

### 'Stop and Consider' campaign

While the taskforce worked behind the scenes to ensure the integrity of the electoral processes, the Stop and Consider social media campaign was launched to raise public awareness of potential disinformation during the 2019 federal election.

The campaign, the first of its kind by the AEC and one of very few run by electoral management bodies across the world, encouraged voters to check the source of material they consumed to avoid being misled by potential disinformation. Campaign material also encouraged voters to consider whether the information they're consuming was current and safe.

A media placement spend of approximately \$500,000 across social media channels Facebook, Twitter, Instagram and Google achieved more than 56 million social media impressions and 100,000 click-throughs to AEC website material. Advertising placement was supported by information available in 29 languages and community outreach activities.

Independent tracking research showed that the campaign was generally well received, with two in five (40 per cent) of those recognising the campaign claiming that they would take an action on account of seeing it.



## Engagement with social media organisations

Over a number of years we have sought to establish and maintain an ongoing relationship with social media and digital platform providers who have a prominent presence in Australia to ensure the content on these platforms complies with the relevant provisions of the Electoral Act.

The level of engagement with these organisations was both vastly increased and improved for the 2019 federal election when compared to previous electoral events. We engaged, in person, with Facebook, Twitter, Google and WeChat in relation to the 2019 federal election in order to better understand their platforms, any relevant initiatives (e.g. political advertising transparency libraries), their policies and establish procedures to address electoral communications that breached electoral laws (e.g. was not properly authorised).

The AEC investigated many examples of electoral communication on social media during the 2019 federal election. However, there were only eleven items of social media communication that resulted in requests by the AEC to the relevant social media company to remove the illegal communication (all of our requests were promptly responded to). In the vast majority of cases content was either rectified to comply with the Electoral Act or removed by the responsible person or entity.

Overall we were pleased with the improved engagement with social media organisations for the 2019 federal election period. Our interactions with Facebook, Twitter, Google and WeChat were positive and we established good working relationships.

## Countering electoral disinformation

As explained within this submission, the AEC does not have a legislative role regarding the truth of electoral communications. While it is outside of our remit to determine the accuracy of political statements, the AEC can and does take action on disinformation relating to the process of administering the election.

During the 2019 federal election we monitored social media activity - the commentary directed to our accounts and commentary identified through key word searching. Through this we identified disinformation related specifically to the administration of the event to swiftly and firmly correct the record.

The firmer approach to correcting electoral disinformation was a deliberate departure from more common practices of public engagement used across government. This style of engagement was suited to the time critical and complex electoral communication environment to ensure incorrect information that could affect a voter's participation in the election was countered by the authoritative source before it could spread.

We also used simple, explanatory infographics and animations to provide key information regarding the election process in an easily consumable format suited to digital media. These products again served to correctly inform voters about the administration of election and engender confidence in the integrity of the event.

## Electoral communication complaints

During the 2019 federal election (from the issuing of the writs on 11 April to election day on 18 May), the AEC investigated 528 complaints relating to electoral communications – 109 of these were on social media and, of those, 28 breaches of the Electoral Act were identified.

There is a high volume of traditional and online electoral communications during an election. The AEC does not proactively seek out communications that may not comply with the requirements in the Electoral Act, but rather acts on complaints and information provided to us.

While there is always a significant amount of anecdotal commentary directed to the AEC's communication channels (including social media accounts) regarding alleged mistruths in electoral advertising, the majority of formal complaints concern the proper authorisation of a range of electoral communications.

### **The continuing challenge**

We are cognisant that the current complexities of the electoral communication environment will continue to evolve and our concentration on this area of electoral administration is increasing in turn.

The review and refinement of the Electoral Integrity Assurance Taskforce's operations will be central to our work for future federal elections.


Crucially, we will continue to build on our established relationships with social media organisations who play a key role with regard to electoral communication – not only concerning legislative requirements but also in implementing measures more broadly to inform and protect their users. We are also currently – through the Electoral Council of Australia and New Zealand - in the process of working with other Australian electoral management bodies and the New Zealand Electoral Commission to ensure our approach to such matters is consistent.

Furthermore, the AEC is regularly engaging with our international electoral management colleagues to share information and benchmark our approaches in this complex and evolving area. To that end, we have held recent teleconferences with Elections Canada and the Electoral Commission in the United Kingdom to learn about current approaches in their respective jurisdictions and ensure we are up-to-date in our responses to emerging threats cyber and foreign interference in the global electoral environment.

Given the evolving threat, and focus on this important issue, we are exploring future improvements and applications of the Stop and Consider campaign. As with all communication campaigns, changes or expansions to the choice of channels, variations of creative, duration of messaging and the level of investment would each have a significant effect on the reach of key messages, but need to be carefully considered with reference to the electoral and communication climate at the time.

While disinformation exists in relation to electoral communications, it is of course a trending issue more broadly and we will be engaging across Government regarding any potential related communication and education efforts in that regard. We will also closely monitor the digital communication and security environment around key international elections due to occur in 2020 and 2021.

I trust that this submission is of assistance to the Committee. As you proceed with your work, I am of course happy to contribute further as requested. I look forward to the Committee's report.

Yours sincerely 

Tom Rogers 

12 March 2020