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Submission to the Joint Standing Committee on Electoral Matters

Inquiry into the Conduct of the 2016 Federal Election

TERM OF REFERENCE 1(A) AUTHORISATION REQUIREMENTS

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SUBMISSION TO THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS INQUIRY INTO THE CONDUCT OF THE 2016 FEDERAL ELECTION

INTRODUCTION

1. The Terms of Reference of this Inquiry include:

1. *All aspects of the 2016 Federal election and matters related thereto, and without limiting the scope of the committee's inquiry, with particular reference to:*
 - (a) *The application of provisions requiring authorisation of electoral material to all forms of communication to voters;*
 - (b) *The potential applicability of 'truth in advertising' provisions to communication to voters including third-party carriage services;*
 - (c) *The options available to Parliament to ensure consistent application of disclosure rules to and the regulation of all entities undertaking campaign activities; and,*
 - (d) *The potential application of new technology to voting, scrutiny and counting, with particular reference to its application to remote voting, ADF personnel on deployment and supporting vision-impaired voters.*

2. In substance, this submission addresses Term of Reference 1(a).

3. In closing this submission, we refer to our intention to provide the Committee in due course, with a substantive submission in relation to **Term of Reference 1(d)**.

ABOUT US

About the Printing Industries Association of Australia

4. The Printing Industries Association of Australia ("*Printing Industries*") is the peak industry body for the print, visual communications and media technologies sector.
5. *Printing Industries* is a not-for-profit, membership-based association, and is registered as an industrial organisation under the *Fair Work Act*.
6. *Printing Industries* was formed to represent what is now regarded as the 'traditional print sector'. As print, visual communications and media technologies continue to evolve, so does *Printing Industries*' membership.
7. In terms of traditional print, *Printing Industries* represents about 80% of the volume of traditional print production capacity in Australia.

About our industry

8. The industry is an exemplar of innovation and adaptation. The environment for print remains under pressure, both from alternative communication channels and operational challenges.
9. Participating in a truly free international market, the sector is now the largest manufacturing employer in Australia.
10. Yet the sector operates without any Government assistance or protection, in an environment in which it is directly exposed to the vicissitudes of global market forces and competitors.
11. Amidst all this, the industry is justly proud of its agility and ability to adapt, together with the efficiency it continues to gain through its ongoing innovation.

OUR RECOMMENDATIONS

12. *Printing Industries* believes that Australia's laws must:

- a) Ensure that voters are informed about the source of political advertising.
- b) Prevent voters from being misled by political advertising.
- c) Facilitate the taking of legal action and serving of documents in every circumstance in which any person believes that political advertising has misled voters or defamed somebody.

13. In this context, *Printing Industries* recommends that:

- a) The current *Electoral Act (Cth)* requirements for 'authorised by' and 'printed by' in relation to printed material be maintained and/or made consistent (to the highest level).
- b) As far as is technologically possible, the results of implementing (a) above for details as to 'authorised by' and 'printed by' in relation to printed material (and/or their equivalent) be extended to each medium for election communication.
 - In this context, the equivalent of details as to:
 - 'Authorised by' could include 'Organised/Sponsored by'
 - 'Printed by' could include 'Spoken/Broadcasted/Published/Posted/Texted by'.

14. These recommendations apply to each medium able to be used for electoral advertising, including as outlined in paragraph 24 of this submission.

THE REASONS FOR OUR RECOMMENDATIONS

15. The reasons for our recommendations include that implementing them will:

Help to create and sustain Australian jobs – neutralise the attraction of a communication medium which has no accountability

16. Those wanting to evade responsibility for being ‘careless with the truth’ will obviously prefer to communicate an electoral advertisement via a medium for which there is no requirement to display ‘printed by’ (or its equivalent). The lack of accountability via these media will increase their electoral traffic, to the detriment of the print industry and its associated jobs.

Help to create and sustain Australian jobs – ‘wear your heart on your sleeve’

17. Without the requirement for ‘printed by’ (or its equivalent), politicians will no longer be encouraged to show that they ‘buy Australian’. ‘Political customers’ will (often unwittingly) engage print brokers, who will send jobs off-shore.

Help to create and sustain local (and particularly regional) jobs – ‘wear your heart on your sleeve’

18. Without the requirement for ‘printed by’ (or its equivalent), politicians will no longer be encouraged to show that they ‘buy locally’. ‘Political customers’ will (often unwittingly) engage a printer who has no ‘local’ premises.

19. Voters might forgive the use of a printer in a suburb just outside a metropolitan electorate – but not much further from home.

20. Regional voters struggle to forgive the use of a printer whose premises aren’t located in their regional electorate.

21. In each case, requirements as to ‘printed by’ encourage ‘political customers’ to ‘shop at home’.

Get rid of inconsistencies and silly red tape

22. Inconsistencies in our current laws (even in application to hard copy print matter, let alone new technologies):

- a) Cause the well-intentioned to waste time
- b) Mean that during every election, *Printing Industries* gets countless calls from members confused about their obligations. On most occasions, our member’s understanding of his/her obligations is different from the understanding and expectations of our member’s prospective client. In the best of times, this confusion is unhelpful. In the pressure-cooker of an election campaign, this confusion can become very unpleasant. In any event, this confusion is bad for the productivity of our industry and bad for the reputation of Australia’s law-makers
- c) Encourage the ill-intentioned to play mischief.

THE BACKGROUND TO OUR RECOMMENDATIONS AND TO THE REASONS FOR THEM

The Problem

23. The law as it applies to current technologies:
- a) Fails to ensure that voters are informed about the source of political advertising
 - b) Fails to prevent voters from being misled
 - c) Fails to facilitate the taking of legal action and serving of documents in every circumstance in which any person believes that voters have been misled or a person defamed
 - d) (In direct defeat of the aims of the current authorisation requirements) allows anonymity to be used as a shield for irresponsible, misleading, deceptive and/or defamatory comments
 - e) Is inconsistent in its requirements
 - f) Is hard for users to understand.

The evidence of the problem

24. Whilst the law as it stands is hard to understand, *Printing Industries* has done its best to do so. Based on our research (much of which draws upon AEC information), we set out below our understanding of the material effect of today's laws.

When both 'authorised by' and 'printed by' is required

- The name and street address of both a person who authorised and the printer is required for:
 - Printed electoral advertisements
 - Any stickers, fridge magnets, calendars, notepads, shopping lists, wine bottle labels, cinema slideswhich contain electoral advertisements

When 'authorised by' (but not 'printed by') is required

- The name and address of a person who authorised is required for:
 - An advertisement in a newspaper
 - A 'paid' advertisement published online (i.e. required to be printed on a website and on a Facebook page)
 - Electoral video recordings.
- The name of a person who authorised and the name and address of the authorising political party is required (to be spoken) for:
 - An electoral advertisement broadcast on TV.
- The name of the registered political party and candidate, plus the name and address of the person who authorised is required for:
 - How-To-Vote cards.

When neither 'authorised by' nor 'printed by' (nor their medium-appropriate equivalent) is required

- Neither an authorisation nor printer details are required for such things as:
 - An advertisement broadcast by SMS
 - An 'unpaid' advertisement published online (e.g. on a website, on Facebook)
 - T-shirts, lapel buttons, badges, pens, pencils, balloons and caps which contain political advertising
 - A newspaper announcement of the holding of a meeting
 - Business cards which promote a candidate
 - Letters and cards containing political advertising and which already bear the name and address of the sender (and don't contain the representation of a ballot paper). (This includes letters to constituents from Members of Parliament and business cards from candidates for election).

- During an election period, there is no requirement for identification of:
 - Authors of 'letters to the editor' in newspapers and journals
 - Callers to talkback radio.

Obvious inconsistencies and confusion

25. From the above, it is obvious that there are different requirements for an identical message communicated via different media. For example:

- An electoral advertisement printed in hard copy, versus published (paid) online, versus published (unpaid) online, versus broadcast in an SMS
- An electoral advertisement printed via a calendar, shopping list, fridge magnet or notepad, versus an electoral advertisement printed on a T-shirt, lapel badge, tie pin, caps, balloons
- An electoral advertisement broadcast on TV, versus at a cinema.

OUR REBUTTAL OF SPECIFIC ARGUMENTS WHICH ADVOCATE NO 'PRINTED BY' REQUIREMENTS

Some physical objects are too small

26. Some argue that some physical objects (such as tie pins, lapel buttons, pens etc) are too small to allow the inclusion of the details of the printer/engraver/equivalent. This argument ignores today's printing technology, which can imprint any article, any size.

With modern home and office printing capabilities now capable of producing professional-quality printed materials the requirement to include the address of the printer in advertising is somewhat absurd.

27. This is in fact precisely why a printer's details must be displayed. Today, anyone can print anything, and do so anywhere.

28. In earlier centuries and before the advent of our current laws, 'pamphleteers' were printing at home, and often quite incendiary material which prompted riots and insurrection. By way of example, Jonathan Swift (author of *Gulliver's Travels*) was a pamphleteer and his equivalent of today's home printer.

29. Putting this another way: anyone can print anything, and do so anywhere "**again**", NOT "**now**".

It is unnecessary for printer details to be included, because this information is no longer relevant in the digital age, when many advertisements are communicated electronically.

30. It remains necessary for printer details to be included in any physical/tangible medium or object. It is now more relevant and therefore necessary that printer-equivalent details be included in any electoral advertisement communicated via any other medium.

FUTURE SUBMISSION – TERM OF REFERENCE 1(D) – ELECTRONIC VOTING

31. *Printing Industries* understands that the Committee does not have an immediate deadline by which it is required to report on Term of Reference 1(d), namely:

The potential application of new technology to voting, scrutiny and counting, with particular reference to its application to remote voting, ADF personnel on deployment and supporting vision-impaired voters.

32. *Printing Industries* will lodge a submission and in due course, would like to be heard in relation to Term of Reference 1(d).

33. In this context, we note that the Committee has received a submission from Australia Post, advocating the cessation of voting by printed ballot, and Australia Post running elections digitally.

34. In brief, *Printing Industries* opposes:

- a) Any move to electronic voting (for reasons including lack of security, prevalence of hacking, and the recent census experience).
- b) Australia Post's bid to be heavily involved in any electronic voting (for both reasons of security and the inappropriateness of a Government business entity competing with private enterprise and consequently losing focus on the quality and efficiency of its core service obligations).

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