

FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE

QUESTION ON NOTICE

Administration of the referendum into an Aboriginal and Torres Strait Islander Voice

Committee Question Number: TBA

Division/Agency Name: Content and Consumer Division, Australian Communications and Media Authority

Hansard Reference: Spoken, Page No. 18 (4 May 2023)

Topic: ACMA – Plebiscite and regulation rules

Senator PRATT asked:

Senator PRATT: Did you use any of your powers to manage content anywhere in the media landscape during the marriage postal survey? If so, can you give us some examples?

Ms Chapman: From memory, there was some activity at the time in tagging of commercials in relation to the issue because it was firmly within that realm. Other than that, I'm not sure. I'll need to take it on notice. I don't recall that there was anything. We do not consider the content of any of that advertising—

Senator PRATT: I understand that. While you might not necessarily consider the content unless there is vilification or a breach of some other law, in that context, were there people seeking to influence the debate without being able to be sourced and identified as the drivers of that information or opinion?

Ms Mudford: To clarify, in relation to misinformation and disinformation on digital platforms, the ACMA didn't have a role at that point in time. Our focus on misinformation and disinformation came to pass only in December 2019. In relation to the plebiscite and broadcasts we'd probably have to take those details on notice.

Senator PRATT: I'd be very interested to hear examples of what you might have had to regulate in that context. I certainly saw examples of material that was not authorised—at first, in part, because organisations may have been reluctant to have been found in terms of who was putting forward that opinion. I know that's largely a matter for the Electoral Commission, but can you tell us how the powers to regulate that readily identifiable source of information, and making sure it's transparent who has put forward a particular view and who has paid for advertising, intersect with the Electoral Commission?

Ms Chapman: We'll come back to you.

Answer:

Broadcasting platforms

During the period of the Australian Marriage Law Postal Survey between 1 September 2017 and 14 November 2017, the Australian Communications and Media Authority (ACMA) received two complaints about broadcast material relevant to the survey.

The ACMA investigated one complaint about an advertisement for a lobby group broadcast on commercial free-to-air television. The complainant was concerned that the relevant content had not been correctly classified for the time zone in which it was broadcast. The ACMA's investigation found that the advertisement did not breach the content classification provisions in the *Commercial Television Industry Code of Practice 2015*.

The second complaint was about accuracy of material in a current affairs program on ABC Radio. Following careful assessment by the ACMA, we decided to take no further action because the relevant broadcast contained information that would have allowed the audience to contextualise the statements that were the subject of the complaint.

The ACMA has jurisdiction under the *Broadcasting Services Act 1992* to assess whether political matter that is broadcast on TV and radio includes the appropriate authorisation details. The ACMA did not receive any complaints about compliance with the authorisation requirements at the time of the Australian Marriage Law Postal Survey.

If an authorising entity is what is termed a 'disclosure entity', then the details in the required particulars are different to those required for other entities. Whether an entity is a disclosure entity is defined in the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984*, which are administered by the Australian Electoral Commission.

Telecommunications platforms

The ACMA also received 844 complaints about calls, emails and SMS in relation to the Australian Marriage Law Postal Survey. None of these were commercial in nature and so were out of jurisdiction of the *Spam Act 2003* and the *Do Not Call Register Act 2006*.