



21 February 2025

Hon Meg Webb MLC Committee Chair
Joint Standing Committee on Electoral Matters
Parliament of Tasmania

Via email only: electoralmatters@parliament.tas.gov.au

Dear Ms Webb,

Joint Standing Committee on Electoral Matters' (JSCEM) inquiry into the Electoral Amendment Bill 2024 (No. 25 of 2024)

Section 196 of the *Electoral Act 2004* (Tas) protects a candidate from having their name or likeness appear in advertising and other electoral material without permission.

Bill No. 25 of 2024 would amend the protection in s.196 to how-to-vote cards only, meaning candidate names and likenesses could appear in misleading advertising.

The Legislative Council debated this matter extensively in late 2023, when considering amendments to the *Electoral Act*. At that time, the Legislative Council did not support removing s.196 in the absence of truth in political advertising to protect candidates against misuse of their names and images.

The Australia Institute Tasmania supports introducing truth in political advertising laws alongside any limitation on s.196.

South Australia has had working truth in political advertising laws since 1985. Withdrawals and retractions have been required for ads misrepresenting candidates.ⁱ After the ACT adopted similar laws in 2020 its first adverse finding was in relation to an ad that pictured and named a rival candidate.ⁱⁱ

In other words, truth in political advertising laws can protect candidates against misrepresentation. In Tasmania, candidates rely on s.196 to resolve cases like these.

The Committee inquiry into the Greens Bill on donations disclosure heard concerns from the Tasmanian Electoral Commission (TEC) about administering such a provision here.

The TEC's objections mirror those of the Electoral Commission of South Australia and Elections ACT. Both parliaments nonetheless made electoral commissioners responsible.

Associate Professor Yee-Fui Ng completed a thorough study of Australian truth in political advertising laws last year, including interviews with South Australian former premiers, attorneys-general, shadow ministers, state directors and party lawyers.

She concluded:

The South Australian participants were unanimous that the South Australian Electoral Commission's reputation for impartiality over time has been unaffected by administering TiPA [truth in political advertising] laws, and that the Electoral Commission continues to enjoy strong public confidence for neutrality.ⁱⁱⁱ

When the Albanese Government introduced a federal truth in political advertising bill late last year, they also chose the electoral commission as the responsible administrator. However, instead of the commissioner being the decision-maker, this would be the responsibility of an independent Electoral Communications Panel headed by a former judge. This provides an alternative model the Tasmanian Parliament could consider.

It is for the Parliament to decide who is best placed to administer laws. That said, there is a distinction between administration and enforcement. Appropriately, the ACT and South Australian laws provide that only a court can compel a retraction, not the commission.

Regardless of amendments to s.196, introducing truth in political advertising laws should be a priority for this Parliament.

Political ads that are deceptive and misleading interfere with the public's ability to make informed decisions, but lying in political advertising remains perfectly legal. With the rise of social media and generative AI, democracies around the world are struggling to address disinformation and misinformation. Truth in political advertising laws are a possible, practical and popular measure to combat these emerging problems.

They are also popular, with Australia Institute research finding that between eight and nine in ten Tasmanians (80 to 93%) support them across all voting intentions – Liberal, Labor, Greens and other.

Tasmania lags behind other Australian jurisdictions when it comes to key integrity measures that protect against corruption, ensure trust in Tasmania's public institutions, and support good governance. Further information on this can be found in the Australia Institute's *Democracy Agenda for the 51st Parliament of Tasmania*.^{iv}

Fortifying Tasmania's democracy is the responsibility of all parliamentarians. But unless they are prepared to support integrity reforms that are consistent with the expectations of their constituents, Tasmania will lack key accountability and transparency mechanisms.

Recommendation: Any amendments to s.196 should be complemented by the addition of truth in political advertising provisions.

Attachment A provides an amendment that could be made to Bill No. 25, to include truth in political advertising, modelled on South Australian and ACT legislation.

Regards,



Eloise Carr

Director
The Australia Institute Tasmania

Background

The Australia Institute is an independent public policy think tank that conducts research across a range of social, economic, and environmental issues. For thirty years, we have been publishing independent evidence-based research, combined with impactful engagement, that shapes the public policy debate and drives positive change.

ⁱ See for example Novak & Holderhead (2014) *Weatherill to sue over election ad*, <https://www.adelaidenow.com.au/premier-jay-weatherill-to-take-legal-action-over-liberal-party-election-advertisement/news-story/e83475a1a20b6fcea580618455a36924>

ⁱⁱ Bovill (2024) *ACT Labor forced to remove 'inaccurate and misleading' election ad*, <https://www.abc.net.au/news/2024-10-18/act-labor-instructed-to-remove-election-ad-about-leanne-casley/104489952>

ⁱⁱⁱ Ng (2024) *'Truth in political advertising' laws: Operation and effectiveness - Final report*, p. 5, <https://www.susanmckinnon.org.au/research-resources/truth-in-political-advertising-laws-operation-and-effectiveness-final-report/>

^{iv} The full report of the Democracy Agenda for the 51st Parliament of Tasmania is available at <https://australiainstitute.org.au/report/democracy-agenda-for-the-51st-tasmanian-parliament/>