Electoral communications escalation scenarios

| | | | Commonwealth law |
|----------|---------------------------------|--|--|
| Scenario | Description | Examples | infringed/issues |
| 1 | Paid electoral | Electoral ad that is not | Section 321D |
| | advertisement | authorised or is | Commonwealth Electoral |
| | without proper authorisation | authorised by fictitious person/entity. | Act 1918 Paid electoral advertising |
| | (for other unpaid | person/entity. | must be authorised to allow |
| | communications | | voters to know who is |
| | see scenario 7) | | communicating the ad. |
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| 2 | Electoral | Electoral communication | Section 329 Commonwealth |
| 2 | communication | misleads voters on how | Electoral Act 1918 |
| | (including a paid | to cast their votes, e.g. ad | Offence to publish or |
| | electoral ad) that | incorrectly advises voters | distribute any matter that is |
| | infringes other offences in the | a candidate has withdrawn from the | likely to mislead or deceive an elector in relation to the |
| | Commonwealth | election, or that a formal | casting of a vote. |
| | Electoral Act | vote is to number just | |
| | | one box. | |
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| 3 | Electoral | Electoral communication | Part 7.8 – Section 150.1 |
| | communication (including a paid | on social media by a person/entity falsely | False representations in relation to a |
| | electoral ad) that | representing themselves | Commonwealth body and |
| | impersonates a | to be a Commonwealth | injunction provisions in Part |
| | Commonwealth | entity, official or service. | 7 Regulatory Powers |
| | official, entity or service | | (Standard Provisions) Act 2014 |
| | Scrvice | | 2014 |
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| Scenario | Description | Examples | Commonwealth law infringed/issues | | | |
| 4 | Electoral communication (including a paid electoral ad) posted by a foreign person/entity | Electoral communication made by or on behalf of foreign person or entity that is registrable under the Foreign Influence Transparency Scheme Act 2018 (FITS Act). | Foreign Influence Transparency Scheme Act 2018 An intermediary for a foreign principal must register within 14 days of entering a relationship with a foreign principal or undertaking an activity on behalf of a foreign principal. If the communication is a paid ad that is unauthorised, please refer to scenario 1 for appropriate action. | | | |

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| | Description | Examples Floatoral communication | infringed/issues |
| 6 | Electoral communication | Electoral communication threatening terrorist | Anti-terrorism laws and powers activated. |
| | containing threats | action against polling | powers activated. |
| | of terrorist action | booths and/or voters. | |
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| 7 | Anonymous | Anonymous | Depends on who is |
| | electoral | communication | communicating the matter |
| | communication | promoting informal | as to whether the |
| | (other than a paid | voting | communication must be |
| | advertisement) | | authorised under the |
| | without authorisation | | Commonwealth Electoral Act 1918. An electoral |
| | authorisation | | communication must be |
| | | | authorised if it is for, or on |
| | | | behalf of, a disclosure entity |
| | | | (i.e. a candidate, political |
| | | | party or other person or |
| | | | group that is required to |
| | | | report electoral expenditure or donations to the |
| | | | Electoral Commission under |
| | | | Part XX of the Electoral Act). |
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| Scenario 8 | Description Electoral communication (including a paid electoral ad) that is defamatory | Examples Third party authorises a paid advertisement that defames a candidate so as to affect public perception of the integrity of the candidate, party, election or political system. | Commonwealth law infringed/issues Affected individual or organisation can take legal action, however, issue may be to stop the spread of disinformation during an election campaign. |
|---------------|--|--|---|
| 9 | Electoral communication (including a paid electoral ad) brings a Commonwealth agency into disrepute | Third party authorises a paid advertisement that defames a Commonwealth agency or representative so as to affect public perception of the integrity of the electoral system. | Affected individual or agency can take legal action, however, issue may be to stop the spread of disinformation during an election campaign. |
| 10 | Electoral communication (including a paid electoral ad) containing hate speech | Electoral communication on social media vilifying a person or group of people to influence voters. | Vilification or freedom of expression on the basis of race, religion, nationality, national or ethnic origin or political opinion. Some forms of online abuse may meet the threshold of cyberbullying or adult cyber abuse in the Online Safety Act 2021 and be subject to removal notices issued by the eSafety Commissioner. |
| 11 | Any other electoral communication that may not breach a Commonwealth law, but which may breach Platform policy | Video on social media promoting informal voting that provides incorrect information on the consequence of voting informally. | Other communications not covered by scenarios 7-9, where no Commonwealth law may have been infringed, but the communication nevertheless is spam or false news. |