

Introduction to the referendum authorisation scheme

Transparency, traceability and accountability of referendum communications



Legislation

The *Referendum (Machinery Provisions) Act 1984* has been amended to update the referendum authorisation scheme in Part IX

The authorisation amendments broadly align with Part XXA of the *Commonwealth Electoral Act 1918*

The *Commonwealth Electoral (Authorisation of Voter Communication) Determination 2021* also includes formatting and placement requirements applicable to referendum communications

Referendum Matter – section 3AA

Referendum matter is matter communicated, or intended to be communicated, for the dominant purpose of influencing voters in a referendum

There is a presumption that communications that expressly promote or opposes a proposed law for the alteration of the Constitution, to the extent that the matter relates to a referendum

Exceptions (e.g.):

- news media, dominant purpose is educative, academic or satire etc.

Which referendum communications need to be authorised?

- **advertisements**
 - A communication on any medium (printed, social media) for which all or part of the production or distribution is paid for
- **printed materials**
 - Posters, flyers, billboards, notices, pamphlets, leaflets etc.

- by, or on behalf of, a **disclosure entity**

Disclosure entity

Disclosure entities are, e.g.:

- Members of Parliament, Senators
- Political parties
- Electoral donors
- Significant third parties
- Referendum entities

What should an authorisation say?

The content of the authorisation particulars will depend on the type of communication and who is responsible for the communication.

A table which shows the required particulars is at section 110C(5) of the Referendum Act

Examples:

Social media post

Authorised by John Smith, An Important Charity, Sydney

Print

Authorised by An Important Charity, 1 Charity Drive, Sydney NSW 2000

Notifying entity

The notifying entity is responsible for ensuring a referendum communication has an appropriate authorisation.

For advertisements and printed materials, the notifying entity is the person who approved the content.

For communications made by or on behalf of a **disclosure entity**, the notifying entity is the disclosure entity.

What should my authorisation look like?

This depends on the type of communication e.g. print media, video, social media post, website, electronic billboard

The **Determination** outlines the formatting and placement requirements for authorisations

General principles

- Placed at the end of the communication
- Be reasonably prominent
- Legible at the distance at which the communication is to be read

If you are placing referendum communications outside, be aware of environmental factors, such as grasses, trees and frames (e.g. A-frames) – your authorisation needs to be seen

Prohibition on foreign campaigners authorising referendum matter

Foreign campaigners are prohibited from authorising referendum matter.

Civil penalties apply.

$120 \times \$275 = \$33,000$ per contravention

Further information

Backgrounder

Provides detailed guidance on electoral and referendum authorisation requirements

Available on AEC website:

https://www.aec.gov.au/About_AEC/Publications/backgrounders/authorisation.htm#A5

Flowchart

We have provided a flowchart to the meeting organisers for you to use as guidance.