

Government response to the recommendations made by the Electoral Matters Committee in its 2021 report on its Inquiry into the impact of social media on Victoria's State elections and electoral administration

Background

The Victorian Government thanks the Electoral Matters Committee (EMC) for its report on its *Inquiry into the impact of social media on Victoria's State elections and electoral administration* (Report), and acknowledges the valuable work undertaken by the EMC, which includes engagement with key stakeholders.

Response

The Government response to each of the EMC's recommendation to the Government is as follows. Note that only the EMC's recommendations 1, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 32 are directed to the Government.

Government related recommendations

EMC Recommendation	Government Response
1 That, in addressing the negative impacts of social media on elections, the Government adopt a multi-faceted approach which addresses problems through a suite of measures designed to tackle problems in multiple ways.	<p>The Government supports in full the recommendation.</p> <p>The Government supports the EMC's finding that a combination of measures is more likely to effect positive change. The Government supports the EMC's other recommendations in principle, and supports adopting a multi-faceted approach to reduce the harms of social media on elections with a suite of measures.</p>
7 That, as recommended by the Commonwealth Parliament's House of Representatives Standing Committee on Social Policy and Legal Affairs, social media companies should be required to establish the identity of users before they can get a social media account—the Victorian Government and future Electoral Matters Committees should monitor developments in other jurisdictions and undertake further investigation about options for Victoria if needed.	<p>The Government supports in principle the recommendation.</p> <p>The Government notes there is a variety of research undertaken on the advantages and disadvantages of anonymity online, or of requiring identity verification, so that authorities can take legal action against people who break the law online (for example, through harassment, defamation, or publishing unauthorised electoral material).</p> <p>The Government will monitor developments in other jurisdictions and consider whether further investigation about options for Victoria is needed.</p>

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	<p>The Victorian Government will also monitor the Commonwealth Government's proposed Social Media (Anti-Trolling) Bill 2022 as it will provide for online commenter's details to be disclosed with consent or when required via a court order.</p>
<p>8 That the Government provide funding for detailed research into the impact of social media on elections in Victoria and/or Australia. This should include a focus on the effects of advertising, efforts to amplify messages through other means (such as bots, fake accounts and high intensity accounts) and the behaviour of users. It should also consider the effects of the way platforms are designed and the impact of platform algorithms and employee decisions influencing what users see.</p>	<p>The Government supports in principle the recommendation.</p> <p>The Government notes the importance for policy makers to have an accurate understanding of the Victorian electoral environment on social media that is informed by research.</p> <p>The Government will consult with other Australian jurisdictions to understand whether similar work or research has already been undertaken. Consideration of funding for this reform will be considered against the Government's broader funding priorities.</p>
<p>9 That the Government thoroughly review the <i>Electoral Act 2002</i> (Electoral Act) to examine whether all provisions that apply to social media are appropriate. This should include considering the provisions affecting electoral matters and the liability of social media platforms for content that they host. The review should make sure that:</p> <ul style="list-style-type: none"> - social media activity is specifically and unambiguously addressed (where appropriate); and - the provisions are suitable and practicable for social media. 	<p>The Government supports in principle the recommendation.</p> <p>The Government will consult with relevant stakeholders, including the Victorian Electoral Commission (VEC), regarding a review of the Electoral Act (and regulations).</p> <p>The recommendation may be affected by reforms in relation to the liability of social media platforms for content they host which are being considered by the Commonwealth Government. The Government will monitor the developments regarding the Commonwealth reforms when undertaking further analysis of this recommendation.</p>
<p>10 That the Government encourage social media platforms to take further actions to reduce the number of fake accounts.</p>	<p>The Government supports in principle the recommendation.</p> <p>The Government will consult with other Australian jurisdictions when considering engagement with social media platforms to ensure a nationally consistent approach.</p>
<p>11 That the Government introduce legislation making it illegal to publish statements in electoral advertising which purport to be facts but which are inaccurate. In drafting the legislation, the Government should:</p>	<p>The Government supports in principle the recommendation.</p> <p>The Government will consult with the VEC and the Department of Justice and Community Safety (DJCS) regarding the appropriate means for overseeing inaccurate advertising.</p>

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<ul style="list-style-type: none"> - consider the South Australian legislation (or the alternative wording proposed during this Inquiry) as a model - set penalties sufficient to act as a disincentive, even for well funded parties, candidates or groups - include provisions making it illegal for a publisher (including a social media platform) to continue publishing an electoral advertisement once it has been determined by the relevant authority to contain inaccurate statements - allow the organisation designated to determine whether or not an electoral advertisement contains inaccurate information to publish its finding, so that information about inaccurate statements can be put in the public domain even if the original advertisers or social media companies refuse to take action or are slow to take action. 	<p>The Government, in consideration of this recommendation, will also analyse and consider the implications of any reforms on human rights under the <i>Charter of Human Rights and Responsibilities Act 2006</i> (including freedom of expression) and any impacts on the limited implied right of political communication under the Commonwealth Constitution. The Government notes that limiting any prohibition to electoral advertising may reduce the impact of inaccurate information without unduly restricting the freedom of political communication (Finding 33). The Government will also consider similar legislation in South Australia and the Australian Capital Territory, and the proposed alternatives from witnesses at the inquiry's hearings.</p>
<p>12 That the Government introduce legislation prohibiting the publication of material falsely purporting to be from an electoral commission, a political party or an election candidate. The legislation should specify details of elements that may constitute a breach of the legislation (such as names, logos and images).</p>	<p>The Government supports in principle the recommendation.</p> <p>This recommended legislative reform will require further analysis and consultation with the VEC and DJCS.</p> <p>The Government notes that the Electoral Act currently prohibits publishing and distributing material that is likely to mislead voters about obtaining, marking and depositing ballot papers and it is an offence to impersonate VEC staff members (see Part 9, Electoral Act). However, the Report notes that there remains scope for material to be produced which falsely purports to be from the VEC or which claims to be from another candidate or party.</p> <p>The Government will consider models adopted in other jurisdictions such as the Canadian legislation which the EMC highlighted in its Report.</p>
<p>13 That the Government provide funding to support an appropriate organisation to conduct fact checking during election periods. Protocols should be established to ensure that the body undertaking the work operates independently of the Government and cannot be influenced by the Government. Details of these protocols and the funding should be made public.</p>	<p>The Government supports in principle the recommendation, subject to consultation.</p> <p>The Government notes the importance of countering inaccurate information on social media, which is a risk to the health of Victorian elections, and promoting trustworthy sources of information that voters can turn to.</p>

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	<p>The Government will consult with the VEC and conduct further analysis of the options that could be implemented.</p> <p>Consideration of funding for this reform will be considered against the Government's broader funding priorities.</p>
<p>14 That the Government explore options for funding an independent organisation to develop online resources bringing together trustworthy information about candidates, parties and their policies in an accessible way.</p>	<p>The Government supports in principle the recommendation.</p> <p>This recommendation will require further analysis, including consideration of what model should be adopted to present any information, and existing work that is being undertaken in this space already in Australia. The Government will consult with the VEC regarding this recommendation. Consideration of funding for this reform will be considered against the Government's broader funding priorities.</p>
<p>15 That Victoria Police ensure officers are adequately trained in the law regarding abuse and threats through social media, including the legal avenues available to respond to such issues and changes to the law brought about by the <i>Commonwealth Online Safety Act 2021</i>.</p>	<p>The Government supports in principle the recommendation.</p> <p>The Government acknowledges the importance of skilled police in responding to reports of abuse and threats through social media, and the important ongoing work Victoria Police undertakes to enhance its specialist capabilities.</p> <p>The Government supports the recommendation's intent, acknowledging that operational decisions, including determining the appropriate training and protocols, are matters for the Chief Commissioner of Police.</p> <p>The Government will undertake further consultation with Victoria Police in relation to the appropriate method for enlivening the intent of this recommendation, acknowledging that implementation may require Government investment beyond existing levels.</p>
<p>17 That the Government encourage social media platforms to improve their processes in relation to managing abusive content directed at election candidates, in line with the <i>Online Safety Act 2021</i> (Cth).</p> <p>This should include a streamlined process for candidates to lodge complaints with social media platforms through a dedicated hotline and mechanisms to respond to complaints in a timely and transparent manner.</p>	<p>The Government supports in principle the recommendation.</p> <p>The Government notes the Report's finding that while abuse has long been part of politics and elections, concerns have been raised that social media are making the situation worse. Social media platforms' complaint processes can be slow and difficult to navigate.</p> <p>This recommendation will require further analysis and consultation with the VEC. The Government will consult with other Australian jurisdictions when considering</p>

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	engagement with social media platforms to ensure a nationally consistent approach.
<p>18 That the Government consider the evidence presented by the Victorian Information Commissioner to the Committee regarding exemptions in Victorian and Commonwealth privacy legislation, and whether changes would better protect the data of Victorians.</p>	<p>The Government supports in principle the recommendation.</p> <p>The Government notes that this recommendation will require careful analysis and consultation with relevant stakeholders.</p>
<p>20 That the Government encourage Facebook and Google to improve their political advertisement libraries to be comprehensive, to include detailed information about how each advertisement was targeted and to be designed in a way that meets the needs of political analysts, researchers and relevant government bodies.</p> <p>The Government should also encourage other social media platforms to establish publicly accessible political advertisement libraries that meet appropriate standards.</p>	<p>The Government supports in principle the recommendation.</p> <p>The Government will consult with other Australian jurisdictions when considering engagement with social media platforms to ensure a nationally consistent approach.</p>
<p>21 That the Government encourage social media platforms to continue exploring options for adding friction to the viewing and sharing of electoral content as a way of reducing the negative impacts of social media on the electoral environment.</p> <p>The Government should also work with platforms to ensure that they are transparent about what measures are introduced, how they are applied and why these particular measures have been introduced.</p>	<p>The Government supports in principle the recommendation.</p> <p>The Government will consult with other Australian jurisdictions when considering engagement with social media platforms to ensure a nationally consistent approach.</p> <p>The Government acknowledges the potential for adding “friction” to reduce some of the harms of social media (such as amplifying inaccurate and sensationalist content), without excessively limiting people’s freedom of political communication or require significant regulatory reform or public funding. If social media platforms add “friction” to election-related content they must be transparent about what is being done, who and what is targeted and why, to demonstrate the measures are applied fairly.</p>
<p>22 That the Government encourage social media platforms to conduct a trial of measures adding friction to the viewing and sharing of electoral content during the 2022 Victorian election. Platforms should be transparent about these measures and should provide data access to researchers to enable them to evaluate the impacts of these measures.</p>	<p>The Government supports in principle the recommendation.</p> <p>The Government will consult with other Australian jurisdictions when considering engagement with social media platforms to ensure a nationally consistent approach.</p>

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<p>23 That the Government monitor social media platforms' policies and actions in relation to electoral content to identify whether Government action is needed to protect Victoria's electoral environment. This monitoring should include the contents of platforms' policies, the fairness of their decisions in implementing the policies and the impact of their policies and decisions on the electoral environment.</p>	<p>The Government supports in principle the recommendation.</p> <p>The Government will consult with the VEC and undertake further analysis of this recommendation. Consideration of funding for this reform will be considered against the Government's broader funding priorities.</p>
<p>24 That the Government seek opportunities to provide input into platforms' policies by building ongoing relationships between government bodies and platforms, encouraging and influencing industry codes and working together with other jurisdictions to establish common expectations for platforms where appropriate.</p>	<p>The Government supports in principle the recommendation.</p> <p>The Government acknowledges the EMC's view that engagement with social media platforms should be the Government's first approach to reducing the harm caused by social media platforms.</p> <p>The Government will consider what work is undertaken by Australian governments to work with social media platforms to encourage improvements.</p>
<p>25 That the Government amend the Electoral Act to specify that:</p> <ul style="list-style-type: none"> - the provisions about authorisation statements apply to social media (not just the internet in general) - authorisation statements are required for paid content and candidate, party and campaign content on social media, but not personal political comments - social media platforms have a legal liability to remove electoral content that does not fully comply with authorisation requirements on notification from a relevant authority. 	<p>The Government supports in principle the recommendation.</p> <p>The Government will consider this recommendation along with recommendation 9 to undertake a general review of Victoria's electoral laws.</p> <p>The Government acknowledges that this proposed reform is aimed at increasing transparency (so that the public can properly interpret electoral messages and understand who is behind the messages) and accountability for actions on social media, as well as helping electoral authorities to enforce electoral laws. The Government will consult with the VEC and relevant stakeholders regarding this proposed reform.</p>
<p>26 That the Government introduce legislation to require authorisation statements for relevant electoral matter in the form of digital imprints embedded into the media wherever possible.</p>	<p>The Government supports in principle the recommendation, subject to consultation.</p> <p>The Government notes that incorporating authorisation statements into media through "digital imprints" can assist users to see the origin of content, even if it is copied and reposted by other users.</p> <p>The Government will consult with the VEC and relevant stakeholders regarding this proposed reform and consider what is being done by other jurisdictions who are considering similar reforms.</p>

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<p>27 That the Government introduce legislation to expand authorisation statements on electoral advertisements to include who paid for them (in addition to the currently required content).</p> <p>Platforms and publishers should be encouraged to set up systems to verify the identity of the people running political advertisements and to ensure that it matches the 'paid for by' statement on the advertisement.</p>	<p>The Government supports in principle the recommendation, subject to consultation.</p> <p>The Government notes that authorisation statements help voters to interpret electoral advertisements appropriately.</p> <p>The Government will consult with relevant stakeholders regarding this recommendation, including the VEC who would have additional responsibilities from the implementation of this recommendation.</p>
<p>28 That the Government introduce legislation requiring individuals and groups who can receive political donations under Victoria's political donation scheme to provide copies of all online advertisements to the VEC for inclusion in a publicly accessible advertising archive that is searchable, machine-readable and updated in a timely manner.</p> <p>Advertisers should also provide contextual information about each advertisement, such as who authorised and paid for the advertisement, the advertiser's contact details, which groups were targeted by the advertisement, how many people saw the advertisement, which groups saw the advertisement and how much was spent on the advertisement.</p>	<p>The Government supports in principle the recommendation, subject to consultation.</p> <p>The Government will consult relevant stakeholders regarding this recommendation, including with the VEC (whose workload and responsibilities may be impacted by this recommendation).</p> <p>Consideration of funding for this reform will be considered against the Government's broader funding priorities.</p>
<p>29 That the Government fund a suitably qualified organisation to analyse and report on social media activity during the 2022 Victorian election campaign and subsequent election campaigns. Preliminary findings should be publicly available in real-time during the election period so that voters have a clearer idea about what forces shape the social media environment and narratives around Victorian elections, including the way people and organisations are campaigning.</p> <p>This work should analyse, bring to light and report on:</p> <ul style="list-style-type: none"> - advertising by political parties, candidates and other politically active groups - coordinated campaigns to promote political messages - high-intensity accounts and their impact on political discussion 	<p>The Government supports in principle the recommendation, subject to further consideration and consultation.</p> <p>This recommendation will require further analysis. The Government notes the Report's finding that analysis and reporting on social media activity can expose poor behaviour on social media and may act as a deterrent.</p> <p>Consideration of funding for this reform will be considered against the Government's broader funding priorities.</p>

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<ul style="list-style-type: none"> - the use of bots and fake accounts - other activities intended to manipulate what political messages social media users see. <p>The Government should take lessons from similar work done in Queensland and Europe as described in this report, particularly with regards to working with platforms to ensure that analysts have access to data and partnering with local journalists.</p>	
<p>30 That the Government establish an Electoral Transparency Working Group, with representatives from the VEC, academia, social media platforms and other relevant stakeholders.</p> <p>The Group should:</p> <ul style="list-style-type: none"> - work to establish what transparency obligations Victorian society expects of social media platforms regarding election related content on their services (including what should be reported about content decisions made by platforms) - establish procedures for social media platforms to provide data access to researchers in an appropriate format that allows researchers to analyse platforms' content decisions and their impact on elections - establish procedures for social media platforms to provide data access to researchers in an appropriate format that allows researchers to analyse how people and groups are campaigning and influencing the social media environment around elections. 	<p>The Government supports in principle the recommendation, subject to consultation.</p> <p>The Government will consult with the VEC regarding the possible implementation of an Electoral Transparency Working Group, and consider the work being done in other jurisdictions, including by the UK Transparency Working Group referred to in the Report. The Government notes that it may be more appropriate for an Australian Electoral Transparency Working Group to be considered for establishment by the Commonwealth with participation by the States' and Territories' Electoral Commissioners and social media platforms.</p>
<p>32 That the Government fund social media literacy programs and general media literacy programs for Victorians.</p> <p>This should include programs aimed at the community in general, and more targeted programs for school students and teachers, journalists and electoral candidates.</p> <p>Programs should include helping people to understand:</p>	<p>The Government supports in principle the recommendation.</p> <p>The Government, through the Department of Education and Training, will consult with relevant stakeholders (including the VEC) to consider how the delivery of the Victorian Curriculum can best support improving social media literacy of Victorian school aged students, <u>and whether there are any gaps in existing resources</u>. The Government notes that this reform can promote trustworthy information and reduce the spread of inaccurate information.</p>

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- how social media platforms work and how they can be manipulated
 - how the content that a user sees is influenced by the design of platforms and the strategies adopted by other users
 - how the viewpoints that a user encounters on social media may not represent the diversity of the broader community
 - the potential consequences of their actions on social media and how not to do things that spread inaccurate information or encourage inappropriate behaviour.
-