

Our ref: EDRM054-1384576629-11674

Inquiry into the impact of social media on Victorian elections and Victoria's electoral administration

Response to Electoral Matters Committee (EMC) Report

EM	IC recommendation	VEC response
1.	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.	The VEC supports this recommendation.
2.	That the Parliament and future EMCs regularly reconsiders the issues raised in this inquiry to take into account changes in the way people use social media, changes to social media platforms, improvements in our understanding of the impact of social media on elections and changes to the regulatory environment.	The VEC supports this recommendation.
3.	That the VEC explore opportunities to grow its social media following and its status as an authoritative information source on electoral matters.	The VEC supports this recommendation. The VEC will explore opportunities to grow its social media following as the authoritative source of information on electoral matters, noting the EMC's detailed analysis of its previous posts' performance (for example, posts using humour greatly out-performed other posts in terms of reach and engagement). However, the VEC notes that investing in direct digital engagement is more effective than social media in disseminating timely and trustworthy electoral information to voters, with VEC research showing that information delivered

EMC recommendation	VEC response
	directly to voters' devices is preferred by most voters. Therefore, the VEC will build on its authority and status as a trusted source of electoral information using multiple communication channels, noting that social media forms only one part of this holistic approach.
4. That the VEC analyse prominent election commentator' Twitter strategies to identify whether there are additional kinds of content it could produce to increase its follower base and build on its reputation as a trusted and timely source of reliable election information.	The VEC supports this recommendation. However, the VEC notes that achieving engagement levels similar to those seen on Antony Green's social media accounts would be difficult, given the impartiality required of the VEC as the independent and non-partisan agency responsible for conducting Victorian elections with no remit for electoral analysis, predictions or commentary.
	The EMC acknowledges in its report that the level of engagement with Antony Green's social media accounts can be attributed to his public profile and media career outside of social media. It should also be noted that the immediacy and timeliness of social media discourse also limits the VEC's ability to emulate Mr Green's strategies. Mr Green uses his own algorithms to predict election results, whereas the VEC provides only provisional results after voting has closed and until the declarations are made – usually late in the following week. Thus, those who follow Mr Green's social media will be unlikely to look elsewhere for results. Furthermore, his engagement and follower levels are likely higher as he analyses elections across Australia, (and at times overseas) and may be acknowledged as a social media 'influencer' in his own right.
	The VEC notes the EMC's comment, 'the VEC tends not to providesimple but interesting statistical content' and notes that for the reasons outlined above, these posts are unlikely to generate engagement levels comparable to those achieved by Antony Green and other political commentators. Nevertheless, the VEC will continue to explore strategies to increase its follower base and build on its reputation as a trusted source of electoral information.
That the Parliament publish more electoral information through its social media accounts, especially during election periods.	The VEC supports this recommendation.

EM	C recommendation	VEC response
		The VEC notes that, as per EMC recommendations 3 and 4, the VEC should build on its status as an authoritative source of trusted election information, so the types of electoral information shared via Parliament's channels would need to be carefully coordinated in liaison with the VEC to avoid overlap or confusion for voters. This is particularly important as these types of posts tend to generate enquiries that Parliament's officers may not be in a position to respond to. Conversely, at times there will be enquiries that the VEC may not be able to answer if they relate to matters that are specific to Parliament. The VEC will work with the Department of Parliamentary Services to optimise use
		of its channels and followers to promote electroral information and elections while not undermining the VEC's and the Parliament's status as reliable sources of accurate information.
6.	That the Parliament share and retweet more electoral information through its social media accounts, especially during election periods.	The VEC supports this recommendation. Direct sharing of the VEC's posts regarding electoral information, such as by retweeting them, would increase the reach of these posts while also maintaining the VEC's authority as the trusted source on electoral matters.
7.	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 EMCs should monitor developments in other jurisdictions and undertake further investigations about options for Victoria if needed.	The VEC notes the EMC's recommendation. The VEC observes that the Commonwealth Government released an exposure draft of the Trusted Digital Identity Bill 2021, which aims to provide a method for individuals to verify their identity in online transactions. The VEC will continue to monitor developments here.
8.	That the Government provides 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	The VEC supports this recommendation. As noted in the VEC's written submission to the EMC inquiry, it is currently difficult to discern the impacts social media is having on elections and the behaviours of voters. As such, the VEC agrees with the need for further, ongoing research to address knowledge gaps and effectively determine and measure the impact of social media advertising and influential non-advertising activity during elections. The VEC strongly supports research focused specifically on the

EM	IC recommendation	VEC response
	way platforms are designed and the impact of platform algorithms and employee decisions influencing what users see.	role and effects of social media on Victorian and Australian elections to inform future policy making, regulation and electoral services.
		The VEC supports the research priorities outlined by the EMC, including an emphasis on the design and functionality of social media platforms and a focus on those factors, such as the use of algorithms and the decisions made by social media employees, which potentially determine the content users view. The VEC also supports research on the effects of social media advertising, the different ways employed to amplify particular messages and the behaviour of social media users.
		Given the complexities of the social media landscape, the challenges relating to transparency and reliable data and the benefits of commencing research as soon as practicable, the VEC suggests a partnership approach to support the research. Such a partnership could be led by a reputable entity such as a university or academic body, and draw on expertise from multiple sectors, including academic and research organisations, research consultancies, electoral management bodies, government agencies and potentially social media companies. The VEC is well-positioned to contribute towards such an arrangement, with significant experience conducting elections and working with social medial platforms during the electoral process. The VEC has and continues to work in partnership with academic institutions to conduct electoral research, collaborates with other electoral commissions and regularly conducts research with voters on a range of issues.
9.	That the Government thoroughly review the Electoral Act to examine whether all provisions that apply to social media are appropriate. This should include considering the provisions affecting electoral matter and the liability of social media platforms for content that they host. The review should make sure that:	The VEC supports this recommendation. The Electoral Act 2002 (Electoral Act) commenced during a time when social media was not a major factor in elections. Although the Electoral Act at times seeks to incorporate online activities, there are no provisions specific to social media.

¹ For example, the definition of 'publish' in the Act covers publication on the internet (see *Electoral Act 2002* (Vic), s 3).

As noted in the VEC's submission, the lack of clear provisions and definitions
when it comes to electoral material posted to social media creates risks related to the reliable and successful enforcement and prosecution of offences against the Electoral Act. The VEC notes that changes to the Electoral Act in relation to social media should be supported by appropriate regulatory and enforcement powers. Provisions of the Electoral Act that relate to publishing and advertising on social media should be reviewed on a regular basis to ensure currency and address the fast-moving nature of social media.
The VEC supports this recommendation.
The VEC notes this recommendation. As outlined in the VEC's submission, the key challenges of adopting South Australian-style legislation include: - The onus is on the complainant to show that a statement is misleading, and it requires a significant degree of investigative resourcing to properly follow up on complaints. The VEC has limited capacity to investigate these matters in a timely manner, especially during elections. - The volume of complaints and investigations are likely to spike during elections. This significant additional workload, particularly during elections, is likely to divert critical resources away from the delivery of elections. - Micro-targeting by advertisers on social media is a common practice. Due to the use of consumer data and highly tailored messages targeted at individuals, these messages are less likely to be detected and
T S F r f

EMC recommendation	VEC response
companies refuse to take action or are slow to take action.	The VEC notes that any proposed regulatory scheme will need to address the key challenges outlined above. The VEC will monitor and contribute to the discussion of any proposed relevant legislation.
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).	The VEC supports this recommendation. The VEC also observes the outcome of the decision of the Court of Disputed Returns in Garbett v Liu,² where the Court of Disputed Returns found the practice of displaying corflutes that have similar branding as official Australian Electoral Commission messages at polling stations is misleading or deceptive, and potentially illegal under section 329(1) of the Commonwealth Electoral Act 1918 (Cth).
	The VEC notes that similar issues may arise for State and local government elections and greater clarity in relevant legislation would help prevent the use of misleading branding. At present, section 84(1) of the Electoral Act regulates State election materials and prohibits the printing, publishing or distributing of matter that is likely to mislead or deceive an elector in relation to the casting of the elector's vote. An equivalent prohibition exists for local government elections. The VEC notes that 'misleading and deceptive' in the context of elections has generally been interpreted narrowly by the courts.
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.	The VEC supports this recommendation. The VEC notes that there is some demand for fact-checking services during election periods. The VEC considers that it would not be the appropriate entity to conduct fact-checking operations during election periods, due to the key focus of the VEC to conduct elections and the risk to the VEC's observed impartiality. Consideration should be given to the significant resources requirement to conduct fact-checking operations and the operational capability of the VEC to ensure compliance in this area during election periods. The VEC

Victorian Electoral Commission Page 6 of 15

² Garbett v Liu [2019] FCAFC 241. ³ Local Government Act 2020 (Vic), s 288(1).

EMC recommendation	VEC response
	instead offers that fact-checking, if determined as an election component, be undertaken by an accredited organisation specifically set up for the purpose, with expertise and systems in place to cover traditional and non-traditional media channels.
	Highly capable organisations whose role it is to fact-check political advertising already exist and operate in Australia, for example, the Australian Associated Press (AAP) FactCheck, who are signatory to the International Fact Checking Network. Using such a service provides an independence as journalists track back and then publish their findings as to the validity of any claims. The extent of their work and the volume of material covered is dictated by the funding being provided. Importantly, their findings are then distributed via their own media networks and the results are publicised.
	Operating since 2013, the Election Watch project at the University of Melbourne's School of Government draws on the expertise of academics, analysts and democratic stakeholders to provide independent expert analysis that 'cuts through the spin, focuses on facts, and empowers voters'. Another example is the Local Government Association Queensland's (LGAQ's) integrity watchdog, which was piloted in 2019 to combat misinformation and vet the claims of council election candidates. The LGAQ's watchdog in this instance was chaired by retired District Court and Planning and Environment Court judge John Robertson, supported by a team of staff.
	Under any scenario above, the most critical issue is the timeliness of response and the amount of work that will entail for any organisation. Government grants

Victorian Electoral Commission Page 7 of 15

⁴ Electoral material during the 2021 New Zealand general election was fact-checked by AAP FactCheck, with funding provided by a grant from Google. The VEC understands that AAP FactCheck will also be fact-checking the 2022 Australian Federal election.

⁵ For example, Anti-vaccine activists exaggerate child suicide statistics - 'Contrary to claims made in a social media video, new research hasn't revealed worrying levels of suicidal thoughts among five- to 11-year-olds.', <u>AAP FactCheck - Australian Associated Press</u>, 2021.

⁶ The University of Melbourne Election Watch, 'About Election Watch' (Web page) https://electionwatch.unimelb.edu.au/#about.

⁷ Lucy Stone, 'LGAQ launches council observer to combat 'fake news'', Brisbane Times (online, 4 December 2019)

< https://www.brisbanetimes.com.au/national/queensland/lgaq-launches-council-observer-to-combat-fake-news-20191204-p53gra.html>

EMC recommendation	VEC response
	to organisations such as those mentioned above would be more practical than the VEC undertaking this service. The VEC notes, however, that even if such an organisation is funded to fact check election coverage, its effectiveness may be limited due to the reasons noted in the VEC's written submission and repeated in the EMC's report on the inquiry. For example, without access to the micro-targeting data of a viral disinformation post, any correction issued by an organisation would not be able to reach the audiences exposed to the disinformation, and nor would it be likely to gain as much organic traction or popularity given its factual (as opposed to emotive or incendiary) nature.
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.	The VEC supports this recommendation. As noted in its written submission, the VEC supports the concept of an impartial, single source of reliable information on election candidates and parties, as VEC research has shown a majority of voters would find this helpful. The VEC does not consider that it is the appropriate organisation to act as the single source of information but rather that an independent platform take the lead on this, similar to policy.nz in New Zealand or an academic institution in Victoria, e.g the University of Melbourne.
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 Commonwealth Online Safety Act 2021.	The VEC notes this recommendation. The VEC has a strategic partnership with Victoria Police in relation to the compliance and enforcement of electoral offences. The two agencies are working to share information and resources to ensure compliance with electoral legislation.
That the Victorian Electoral Commission work with the eSafety Commissioner to establish protocols to assist candidates experiencing abuse online, so that complaints can be addressed by social media platforms and police (where appropriate) quickly	The VEC partially supports this recommendation. The VEC has approached the eSafety Commissioner to explore options to assist candidates experiencing abuse online.

EMC recommendation	VEC response
and effectively. Details should be published on the VEC's website and distributed by the VEC to all candidates.	However, the VEC notes that protocols addressing online abuse are already encompassed within platforms' terms of service, with associated reporting and complaints mechanisms. The VEC is not an appropriate organisation to support complaints related to online abuse unrelated to the administration of the Electoral Act. The VEC notes that a more efficient outcome would be achieved if political parties and candidates escalated directly with the appropriate bodies, such as Victoria Police where the content is of a criminal nature or the relevant platforms themselves via existing reporting channels.
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 Online Safety Act 2021 (Cth). 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.	The VEC notes this recommendation.
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.	The VEC supports this recommendation. The VEC notes the Information Commissioner's suggestion that the current exemptions for political parties under the Privacy Act 1988 (Cth) and Privacy and Data Protection Act 2014 (Vic) be removed. Greater regulation of Victorians' data, aiming to increase the security and protection of voters' personal information, and that enables transparency around the micro-targeting parameters used by advertisers, may help to address the issues that microtargeting presents, such as fractured political conversations, perpetuation of filter bubbles or echo chambers, and the invisibility of disinformation.
19. That the Victorian Electoral Commission continue building relationships with social media platforms (and working with other commissions to build relationships) to facilitate platforms responding appropriately and quickly when asked to remove content that contravenes electoral law in Victoria. The VEC	The VEC supports this recommendation. The VEC will continue building on its relationships with key social media platforms, along with other electoral commissions across Australia, to facilitate cooperation and responsiveness when managing breaches of electoral laws. The VEC will report in its annual reports and reports to Parliament any problems

EMC recommendation	VEC response
should report on any problems it encounters in getting cooperation from platforms in dealing with illegal content as part of its regular reporting mechanisms, with the aim of encouraging better cooperation and so that the Government can take further legislative action to compel platforms to cooperate if necessary.	encountered in getting cooperation from platforms in dealing with unlawful content and contribute to the Government's consideration of legislative action.
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. The Government should also encourage other social media platforms to establish publicly accessible political advertisement libraries that meet appropriate standards.	The VEC supports this recommendation. The VEC considers that this would help to increase transparency around public discourse during election events, facilitate the follow-up of advertising in breach of electoral law, and help lead to a clearer picture of how political advertising on social media may be impacting on elections and voters' behaviour.
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. 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.	The VEC notes this recommendation.
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.	The VEC notes this recommendation.
23. That the Government monitor social media platforms' policies and actions in relation to electoral content to identify whether	The VEC supports this recommendation.

EMC recommendation	VEC response
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.	The VEC recommends the Government encourage social medial platforms to notify all Australian electoral management bodies when any of their policies or terms relating to political content are modified.
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.	The VEC notes this recommendation. The VEC will contribute to any opportunity to provide input into platforms' policies, influence industry codes and establish common expectations for platforms.
 25. That the Government amend the Electoral Act to specify that: a. the provisions about authorisation statements apply to social media (not just the internet in general). b. authorisation statements are required for paid content and candidate, party and campaign content on social media, but not personal political comments. c. 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. 	The VEC supports appropriate legislative reforms to clarify requirements of authorisation statements on social media and the legal liability on social media platforms to comply with authorisation requirements. As noted in the VEC's response to recommendation 9, changes to the Electoral Act in relation to social media should be supported by appropriate regulatory and enforcement powers.
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.	The VEC supports this recommendation. The VEC notes the benefits of digital imprints in helping users to see the origin of electoral matter even if it is copied and reposted by other users. Any proposed reform in this area should be consistent with the requirements in relation to authorisation statements determined in response to recommendation 25.

EMC recommendation	VEC response
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). 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.	The VEC supports this recommendation. As noted in its written submission, the VEC considers this to be a simple and effective way of assisting voters to identify and understand advertising that is attempting to influence their vote.
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 Victorian Electoral Commission for inclusion in a publicly accessible advertising archive that is searchable, machine-readable and updated in a timely manner. 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.	The VEC does not support this recommendation. As noted in its written submission and in response to recommendation 20 the VEC supports further analysis and investigation into legislating requirements for social media platforms to retain advertisements (along with the associated metadata) in an online archive or repository. However, the VEC does not support the proposal for a separate archive to be administered by the VEC in conjunction with Victoria's political funding and disclosure scheme. Depending on how the scheme is designed, publishing political advertisements provided by donation recipients on the VEC's systems could mistakenly be taken as the VEC supporting particular candidates or parties. This could potentially undermine the VEC's impartial status. Creating a separate repository would rely on input and data from multiple external sources, and this would likely result in an incomplete archive that experiences significant time delays. This would reduce its reliability and usability as it would not be able to provide a responsive, up to date snapshot of political advertising at critical points during the election period. Furthermore, it would not provide a complete or comprehensive picture of the overall digital advertising landscape of an election if it is restricted only to those individuals and groups who receive political donations.
	It is also worth noting that some of the integral information required to populate such an archive (for example, reach and spend) cannot be reported until a

EMC recommendation	VEC response
	campaign has left the market, which removes the opportunity for Victorians to use the archive as a timely and accurate resource. The VEC also notes that tying such an archive to Victoria's political funding and disclosure scheme would divert significant resources from the administration of the scheme, to focus on any additional requirements to collect, verify and publish online advertisements. Conflating these distinct and unrelated activities may give rise to fragmented and inconsistent governance of the existing scheme and compromise the engagement, compliance and enforcement activities that the VEC currently undertakes in relation to donation disclosures.
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.	The VEC supports greater transparency of social media activity in real time, with the aim of supporting voters to have a clearer idea of the forces that shape the social media environment. However, the VEC notes its previous comments regarding the invisibility of micro-targeted content and suggests that, if this recommendation is adopted, social media platforms should be required to develop archives or repositories of advertising related to an election event. The VEC also notes that consideration should be given to the adequate funding and resourcing of the suitably qualified organisation analysing and reporting on this activity, particularly as to the requirement to make preliminary findings available in real-time during a time-critical election period.
30. That the Government establish an Electoral Transparency Working Group, with representatives from the Victorian Electoral Commission, academia, social media platforms and other relevant stakeholders. The Group should:	The VEC notes this recommendation. The VEC will contribute to the discussions of any proposed working group.
 a. work to establish what transparency obligations Victorian society expects of social media platforms regarding election-related content on their services (including what 	

EMC recommendation	VEC response
should be reported about content decisions made by platforms) b. 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	
 c. 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. 	
31. That the Victorian Electoral Commission run election-specific media literacy campaigns similar to the Australian Electoral Commission's 'Stop and consider' campaign at future elections.	The VEC supports this recommendation. The VEC notes that it is planning to conduct an election-specific media literacy campaign as part of its broader state-wide advertising campaign in the lead up to the 2022 State election.
32. That the Government fund social media literacy programs and general media literacy programs for Victorians. This should include programs aimed at the community in general, and more targeted programs for school students and teachers, journalists and electoral candidates. Programs should include helping people to understand:	The VEC supports this recommendation. As noted in the VEC's written submission, there is scope for digital literacy education to go beyond elections and that a broader, long-term education campaign that addresses digital literacy in general would have a more lasting and wider impact than campaigns limited to specific electoral events.
a. how social media platforms work and how they can be manipulated	The VEC also recommended in its submission that this type of general media literacy program should aim to help people understand the mechanics of social media platforms in collecting, sharing and using their personal data to allow
 b. how the content that a user sees is influenced by the design of platforms and the strategies adopted by other users 	advertisers to influence their behaviour, in addition to critical thinking skills.

EMC recommendation	VEC response
c. how the viewpoints that a user encounters on social media may not represent the diversity of the broader community	
 d. the potential consequences of their actions on social media and how not to do things that spread inaccurate information or encourage inappropriate behaviour. 	
33. That Victorian political parties work together to develop a code of conduct regarding social media behaviour to contribute to the health of Victorian elections. This code should establish standards aimed at committing to appropriate campaign practices and avoiding a variety of harmful activities, including spreading inaccurate information, abusive behaviour and inappropriate political advertising. Other participants in elections should be encouraged to adhere to the same standards.	The VEC notes this recommendation.