

ELECTORAL MATTERS COMMITTEE

Inquiry into the Impact of Social Media on Elections and Electoral Administration

Melbourne—Tuesday, 17 November 2020

(via videoconference)

MEMBERS

Mr Lee Tarlamis—Chair

Mrs Bev McArthur—Deputy Chair

Ms Lizzie Blandthorn

Mr Matthew Guy

Ms Katie Hall

Ms Wendy Lovell

Mr Andy Meddick

Mr Cesar Melhem

Mr Tim Quilty

Dr Tim Read

WITNESS

Mr Sam McQuestin, State Director, Liberal Party of Australia (Victorian Division).

The CHAIR: I declare open the public hearings for the Electoral Matters Committee Inquiry into the Impact of Social Media on Elections and Electoral Administration. I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands each of us gather on today, and pay my respects to their ancestors, elders and families. I particularly welcome the elders of the community members who are here today to impart their knowledge of this issue to the committee or who are watching the broadcast of these proceedings.

I welcome Sam McQuestin, State Director of the Liberal Party. I am Lee Tarlamis, Chair of the committee and a Member for South Eastern Metropolitan Region. The other members of the committee here today are Bev McArthur, Deputy Chair, and a Member for Western Victoria; Katie Hall, Member for Footscray; the Honourable Wendy Lovell, a Member for Northern Victoria; Andy Meddick, a Member for Western Victoria; Tim Quilty, a Member for Northern Victoria; Dr Tim Read, Member for Brunswick; and some other members may be joining us during the session.

All evidence taken by the committee today is protected by parliamentary privilege. Therefore you are protected against action in Australia for what you say here today. However, if you repeat the same things outside this hearing, including on social media, those comments may not be protected by this privilege. All evidence given today is being recorded by Hansard. You will be provided with a proof version of the transcript for you to check as soon as it is available. Verified transcripts, PowerPoint presentations and handouts will be placed on the committee's website as soon as possible. I now invite you to proceed with a 5-minute opening statement, which will be followed by questions from the committee.

Mr McQUESTIN: Thank you, Chair. Thank you for the opportunity to address the committee. I will try to address the issues raised in the questionnaire supplied by the committee in these remarks. We start by discussing the aim of encouraging social media platforms to take more action against inappropriate activities. I submit that it is important that all participants in the political process are subject to the same rules to ensure an even playing field. Recent improvements to the Facebook platform that require advertisers to go through a Know your Customer process before being able to promote political and issues campaigns on the platform are a welcome development in combating the spread of disinformation and undermining the seeds of doubt in the political process. It is important that any measures that are imposed by the Parliament are proportionate and do not create a situation where these platforms block political discourse, as has been seen recently with Twitter banning political advertising.

In terms of countering abuse and harassment, many of our candidates are subjected to abuse and harassment by others on social media platforms, and it is important that the level of discourse is about ideas rather than personal attacks. We will always encourage social media platforms to take their obligations seriously in encouraging a safe and positive environment for their users, including participants in the political process. This is why it is important that authorisation of electoral material is uniformly enforced and required across all media. This may mean that authorisation requirements need to be amended to bring them into a format that works for social media.

Turning to government funding of media literacy campaigns, I would submit that the AEC's campaign for the 2019 federal election, 'Stop and Consider', as it was called, to educate voters about the source of materials or the successful campaign to improve voter knowledge about the source of electoral material are something that should be reviewed, improved and expanded to minimise the impact of disinformation campaigns.

Moving to requiring public disclosure of all online advertising, Facebook has already done this as part of its transparency measures. This is an appropriate response to the issue. If further disclosures are required other than by way of the platform displaying a library, the technical and practical implications of this would have to be considered by the committee. Any such action should be done in a coordinated way to ensure there is harmony across the state and federal regulatory environments to ensure that there is consistency. As for the requiring of online electoral advertising to state who paid for it, this can be handled through the authorisation requirements, I would suggest, that apply to electoral material. It is important to consider that this needs to be consistent across all media.

Moving to the concept of government support for independent and trustworthy organisations that can fact-check claims or identify misinformation, given the substantial amount of information during elections that is generated it is unlikely that any organisation that was fact-checking claims or identifying misinformation would be able to adequately cover the full extent of it. Invariably this would lead to a focus on the major political parties, and third parties and decentralised disinformation campaigns would not be subjected to the same scrutiny. In a way there would be a duplication of resources scrutinising major political parties, given that journalists would already be covering this, while the really damaging disinformation campaigns would not receive the same amount of attention regardless of government funding. There is merit to government support for independent and trustworthy organisations to fact-check or identify misinformation where journalists are not doing so, in a way to address market failure. However, it is unlikely that any such measures as proposed to this committee would address the market failure but rather would create a government-funded organisation in an already competitive media market.

If we could consider the concept of using independent organisations—for example, the VEC—as a source of reliable information about electoral candidates, I submit that the independence of the VEC should be maintained both expressly and implicitly to ensure that the conduct of elections in Victoria is beyond reproach. To have the VEC publish information about electoral candidates other than that which it already does—i.e., in terms of their name and party affiliation, if they have any—could assist those who seek to undermine the electoral process in seeding doubt through misinformation campaigns in the electoral process. This is in part because the question needs to be asked as to who would provide the information to the VEC, presuming it is there; who would publish it; if it were the candidates themselves, then how is it to be decided that that information is reliable; if it is to be the organisation themselves that generate the information, how is it possible that that organisation would be able to generate the content on every candidate? We need to remember that there were 887 candidates in the 2018 election. Can it actually be reliably achieved in the very short time frame between the close of noms and the opening of early voting? Also, if a candidate themselves did not provide the information, what recourse would there be to correct any error or correct the record of course? I submit that there are too many issues in using independent organisations as the source of this information about electoral candidates as a result of what I have said there.

With regard to new laws requiring truth in political advertising, I would first refer the committee to the VEC submission on this specific issue where they oppose such new laws. The VEC highlighted the problematic nature of attempting to define and limit truth in political discussions. A similar scheme has proven to be very challenging and ineffective in the South Australian jurisdiction. Of course the Liberal Party supports a respectful and informed political debate; we are strongly opposed to any political communication that is designed to harass or abuse others or that marginalises or demeans anyone. Voters need to be informed and engaged in the political debate. The major issue with the new law that requires truth in political advertising is that it would not practically address the issue and that it would not be fast enough to stop misinformation campaigns. Instead it would likely be used as an additional tool by certain political actors to stifle debate and political communication in an increasingly litigious electoral environment.

Most untruthful advertising comes from anonymous or masked sources, which would make it hard to make any complaint against a specific person or for a party to commence enforceable action. Any such law would have to ensure that it can be enforced in a timely fashion to ensure it is effective. It would also need to ensure that it could not be used in a way to inhibit legitimate political communication. Otherwise it would result in escalating complaints and proceedings that would tie up candidates and parties during election campaigns.

In closing, when asked if there are any other things that we would like to see the government do relating to social media or online advertising in elections, my response would be to ask that we simplify authorisation requirements for digital media—for example, to make them similar to the federal requirements—to require that only a person, party and city is listed rather than the current form authorisation. In closing, I thank the committee for the opportunity to be heard today.

The CHAIR: Thank you for your contribution today. I might kick things off and start with the last part of your contribution, which was the truth in advertising. With regard to the South Australian model, which has been in operation for some time now, there are a number of ways in which it could be done. One proposal that has been suggested has been around modelling it on the deceptive and misleading advertising provisions that currently apply to businesses, which is a high bar. That way, it is not so much a situation where it captures everything; it is basically where you would knowingly make a false statement. So it is not whether you state an

opinion as such; it is more you knowingly go out there and say something that is actually incorrect. So it is quite a high bar. With the South Australian model [Zoom dropout] 17 instances in the last two elections where it has been used, so it has been proven not to be a frivolous situation. It is more designed to change behaviour, if you like. If there was a model that could be put in place that was about changing behaviour and more about that sort of frivolous change, would you be supportive of a model of that nature?

Mr McQUESTIN: I am not certain that I would have confidence that it would in fact be applied that way. There have been previous models in television advertising, where the Federation of Australian Commercial Television Stations assessed the accuracy of advertisements before they were put to air. It is now, I think, called CAD. It has now got to a point in certain spaces of being very cumbersome and difficult to deal with. We are talking about, especially in election campaigns, a very short time frame. In fact I would submit that misleading or untruthful materials on social media are quickly called out by the community.

The CHAIR: I am just conscious of the time, so I will move on to Deputy Chair Bev McArthur for a question.

Mrs McARTHUR: Thank you, Chair. Sam, what do you think are the most important things political parties have to be aware of with candidates involved in social media?

Mr McQUESTIN: What do we have to be aware of? Social media is such a broad term now. I mean, social media has become just another media. It was a disruptor a few years ago; it was an up-and-coming market. It is now basically part of the mix. All political parties need to be using the medium effectively. We need to be using it respectfully. As I said earlier, we need to make sure that it is used to encourage political discourse in a way that is reasonable—I believe that we have a good history of doing that—and, I suppose, to make sure that we are able to comply with the new requirements within Facebook and so on. If we are able to do that, I think we can make good use of it.

The CHAIR: Thank you. We might go to Andy.

Mr MEDDICK: Thank you, Chair, and thank you, Sam, for presenting today. At this point in time, Chair, I do not have any questions for Sam. I am aware of several other submissions to the inquiry and some of the content of those. When we bring those people through, some of the questions and things that we put to them may actually require us asking Sam if he is available to come back, because there might be some information that we can get his perspective on in terms of what they might have to say. So I am wondering if it is possible to impose upon Sam's time to come back at a later date perhaps.

Mr McQUESTIN: I am not sure if that was a question to me, Chair, or you.

The CHAIR: Through me to you.

Mr MEDDICK: There are subjects that will come up a bit later on in this inquiry that it would be interesting to get your perspective on once we have heard from other people. So I would like to reserve the right to ask you some questions at a later date, but I have got nothing at this point from what you have said here.

Mr McQUESTIN: Happy to assist the committee.

The CHAIR: Thank you. Cesar.

Mr MELHEM: No, I am good for the minute.

The CHAIR: No worries. Matthew Guy.

Mr GUY: All good, thanks.

The CHAIR: No worries. Dr Tim Read.

Dr READ: Thanks, Chair, and thanks for appearing this morning, Sam. I am interested in what you would think about some sort of limit on how much can be spent on social media advertising by election candidates or participants. Because it is pretty much how much you spend determines the size of your megaphone, and I am just wondering if you or your party would have a view on any kind of limitation on that.

Mr McQUESTIN: Yes. Thanks, Tim. I would submit that whenever you seek to limit any form of political expression it is a retrograde step. So I would submit that any kind of limitations would be something that we would not support.

Dr READ: So if, for example, coalminers got \$60 million to spend on social media versus, say, someone who has got \$65—it is not exactly a fair match-up. Would you comment on how that might be addressed?

Mr McQUESTIN: For as long as politics has existed in whatever country we are in, there have been, if you like, different levels of spending from different areas, and it is not necessarily always slanted one side. So I guess I repeat what I said earlier: seeking to stifle free expression is certainly not something that we would support.

Dr READ: Thank you.

The CHAIR: Katie Hall.

Ms HALL: Hi, Sam. Apologies. I am not turning my camera on because I have got roadworks out the front of my house and my internet is a bit unstable. I am really interested in the impact of trolling on political candidates, and in particular women. I just wondered if, anecdotally or otherwise, you could advise the committee on any work the Liberal Party has done in this area and if you have noticed as an organisation, I guess, a disproportionate impact on your women candidates.

Mr McQUESTIN: Thank you for the question. In my experience in Tasmania before I joined the Victorian division we had a number of female candidates who were—we had a number of candidates full stop who were trolled quite extensively. I can think of a couple of female candidates who were treated quite appallingly. We had some strategies that we employed to limit the effects of that, and that involved substantial support from within my small team and of course using the appropriate complaints mechanisms that the social media platforms have. It is a problem that is not going anywhere, and we as political organisations need to be ready to react. I guess one reflection I would make is reacting to these things quickly tends to get a resolution better than just ignoring it.

Ms HALL: Just further to that, would you support any legislative changes to, I suppose, strengthen criminal sanctions for trolling? The sort of threats that some people receive online—I know that some candidates have spoken about, I suppose, a slowness in terms of police response or Facebook response to those sorts of threats.

Mr McQUESTIN: My personal view is that the platforms have a higher responsibility than they take on, and I would support the platforms being expected to hold all users to a higher standard. I would suggest that is the most appropriate way for things to be handled in the first instance.

Ms HALL: Thanks very much.

The CHAIR: Thank you. Wendy Lovell.

Ms LOVELL: Thanks. Sam, as we know, all parties have had candidates who have got into some sort of trouble because in the past they have made comments on Facebook. It may have been when they were a student at university and they may now be in their 30s or 40s or whatever and their opinions have changed. Do you think that there should be some sort of agreement around a statute of limitations, given that people mature and their opinions do change and what you said when you were a university student it is not necessarily what you believe today?

Mr McQUESTIN: Look, we have all seen candidates, we have all seen even candidates for employment who have been caught out by things they have said on social media in the past, and that is a very unfortunate set of circumstances for that person. I am not certain that any ‘statute of limitations’, in inverted commas, is going to have a great effect in practice, Wendy, because the fact is if something is still able to be accessed online, it can still be made part of the conversation. It is a nice idea; I am just not certain how practically that could be implemented.

Ms LOVELL: The problem for everyone is that community standards and opinions change too over time, and what people may have said about the environment 25 years ago is not what they say about the environment today. You can get caught in a trap just because of what current policy and standards and opinions are.

Mr McQUESTIN: I totally agree. I mean the concept of holding people to today's standards and using comments from 10 years ago to do so is very challenging, but in practice that is a feature of modern politics. I am not certain that there is a way to necessarily remedy it by way of some kind of set of rules.

Ms LOVELL: Thank you, and I apologise; I got up and left the screen during that. I thought I had turned my camera off. I actually had a tradie at the front door, so I am sorry.

The CHAIR: Thank you. Mr Quilty.

Mr QUILTY: Some people have suggested that large social media corporations have their own personal opinions and at times they are putting their thumb on the scales pushing certain views, deleting followers from people's accounts and so on. Do you have any views on that?

Mr McQUESTIN: Tim, I could not say that I have seen evidence of that in my own personal experience. I have read a little bit about it from overseas. My view is that social media has enjoyed the fact that it is a largely unedited, or uneditorialised, medium, and that is what differentiates itself from news media. It appears that if that is to become a function of the platforms going forward, it will change users' experiences, and I think they will vote with their feet if that is what occurs.

Mr QUILTY: Thanks.

The CHAIR: Thank you. Sam, you mentioned in your opening statement the archives and particularly the Facebook archive. Would you be supportive of a more broad archive that was kept that captured sort of all political advertising, not just on Facebook, including some of those short-term ones? I know there is a lot of advertising that gets done that appears for a short period of time and then kind of disappears that may not be captured, whereas a more publicly available archive that is not held by one platform as such could capture that information, either for an election episode or something like that. That could be captured permanently and that could be searched so there is that record of what advertising had been done, including who had been targeted, how much it had cost, all those sorts of things, for transparency purposes and to see who had been targeted and all that sort of information.

Mr McQUESTIN: Chair, I thought that what Facebook have done with their library is basically searchable from when it commenced, so I was under the impression that certainly with Facebook as a platform that already exists. It is not something that I could see myself using a great deal, so I am not necessarily an advocate for such a library, but if it is there, other candidates or organisations will make use of it.

The CHAIR: No worries. Thank you. Are there any other questions from anyone before we wrap up? I will take that as a no.

On that basis, thank you for your time today and for your insights. If there are any other follow-up questions that we have, would you be open to providing some responses to those and taking them either notice or possibly coming back, as Andy suggested, if time permits?

Mr McQUESTIN: Happy to help the committee of course.

The CHAIR: No worries. Thank you very much.

Mr McQUESTIN: Thank you all.

Witness withdrew.