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**From:** 47F  
**Sent:** Wednesday, 24 April 2019 6:23 PM  
**To:** info@votetonyout.com  
**Cc:** Authorisation Section  
**Subject:** Authorisation of certain merchandise containing electoral matter [DLM=For-Official-Use-Only]

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear 47F

The Australian Electoral Commission (AEC) has received complaints regarding unauthorised electoral content and merchandise being distributed by the "Vote Tony Out" website – <https://www.votetonyout.com/>, and unauthorised advertising on the "Vote Tony Out" Facebook page – <https://www.facebook.com/votetonyout/>.

The *Commonwealth Electoral Act 1918* (Electoral Act) is concerned, among other things, that voters know who is communicating electoral matter to them. The AEC does not provide legal advice on how to comply with the Electoral Act, however, I offer the following observations in relation to the authorisation requirements in the Act. The [Electoral Backgrounder: Electoral communications and authorisation requirements](#) on the AEC website provides more information.

The Electoral Act requires the communication of certain electoral matters to be authorised. 'Electoral matter' is defined in section 4AA(1) of the Electoral Act to be a matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in a federal election.

A communication containing electoral matter must be authorised if it is:

- a paid electoral advertisement, or
- a sticker, fridge magnet, leaflet, flyer, pamphlet, notice, poster or how-to-vote card, or
- a matter communicated by or on behalf of a disclosure entity (e.g. a candidate, Senator or Member of the House of Representatives, registered political party, an associated entity or other person or group who is required to submit a return under Part XX of the Electoral Act).

It is an offence under section 321D(5) of the Electoral Act to make these types of electoral communications without proper authorisation.

The AEC has checked the Vote Tony Out campaign sites and identified the following issues.

#### **Authorisation of Vote Tony Out stickers**

The stickers for sale on the Vote Tony Out website contain electoral matter that requires authorisation under section 321D(1)(b) of the Electoral Act. Can you please stop selling and distributing the unauthorised stickers. The other merchandise for sale on the website does not need to be authorised.

#### **Authorisation of Vote Tony Out Facebook page**

The Vote Tony Out Facebook page is currently running paid advertising promoting the Vote Tony Out rally on 5 May. This electoral advertising needs to be authorised or have a link to an authorised Facebook page. The authorisation of a social media site only needs the name and city of the person authorising the site. The authorisation can be added to the "About" section in a Facebook page.

#### **Authorisation of Vote Tony Out website**

I note you have an authorisation on the [Mail chimp webpage](#) supporting the Vote Tony Out website. To be prudent I recommend adding this authorisation to the bottom of the Vote Tony Out website (alongside the copyright notice) and/or on the website "About" page.

### **Whether Vote Tony Out is or will become a third party (disclosure entity) for the purpose of the Electoral Act**

As noted above a disclosure entity must authorise all electoral communications. A 'disclosure entity' is defined in section 321B of the Electoral Act to include a person or entity who will incur electoral expenditure during a financial year above the [disclosure threshold](#) (currently \$13,800).

If you think you will spend more than \$13,800 this financial year on electoral communications then you will need to provide a disclosure return to the AEC under Part XX of the Electoral Act and also must authorise all your electoral communications. There are also other obligations on third parties in the Electoral Act, such as restrictions on receiving foreign donations.

### **Actions**

Can you please:

- Stop the sale and distribution of unauthorised Vote Tony Out stickers from the Vote Tony Out website. If you want to sell more stickers, the stickers will need to have an authorisation added.
- Authorise any paid electoral advertising on social media or elsewhere
- Authorise the Vote Tony Out Facebook page and website (and if the Vote Tony Out Twitter site and Instagram page are also running paid electoral advertising or you think you will become a disclosure entity for the purpose of the Electoral Act, these sites should also include an authorisation)

Can you please take this action by COB Monday 29 April and advise the AEC of this action.

Yours sincerely

**47F** | **Principal Government Lawyer**  
Electoral Authorisation Section | Legal & Procurement Branch  
Australian Electoral Commission  
T: **Section 47F**



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