

LEX4002

s 47F

Marque Lawyers
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Sydney NSW 2000

Dear **s 47F**

Re: Failure to authorise referendum matter

Thank you for your letter of 21 July 2023 in relation to AEC's compliance with the authorisation requirements.

Required authorisation particulars

Section 12(2) of the [Commonwealth Electoral \(Authorisation of Voter Communication\) Determination 2021](#) (the Determination) sets out the formatting and placement requirements for authorisation particulars of communications other than printed communications.

For an entity's communications on social media, the authorisation particulars must be notified in accordance with section 12(2)(d) of the Determination. Section 12(2)(d)(ii) states a communication may be authorised on a webpage that can be accessed by a URL that is included, either in whole or as a hyperlink, at the end of the communication. In our view, it is not sufficiently clear that the 'Yes23.com.au' is a URL.

We acknowledge your position outlined in your correspondence, however, it is the AEC's expectation that each individual paid advertisement on a social media platform has an authorisation embedded at the bottom of the image or included in the text post of the advertisement, given that **paid** advertisements on social media are **unsolicited**.

Although Yes23's social media account includes an authorisation in the 'About' section, the AEC notes that section 12(2)(d)(iv) is applicable when the notifying entity for the communication is an individual rather than an entity. While the AEC appreciates that you have included a general authorisation in the 'About' section, as a disclosure entity AEC is required to authorise all referendum matter communicated in accordance with the [Referendum \(Machinery Provisions\) Act 1984](#) and the Determination.

Further Action

The AEC trusts you will comply with the authorisation requirements for Referendum Matter communicated by Australians for Indigenous Constitutional Recognition Ltd, as stated in our previous letter. Please ensure that all future social media communications from the date of this letter are compliant with these requirements by including an authorisation in each post.

Further information

If you have any questions about the referendum authorisation requirements, please contact the AEC via authorisationsection@aec.gov.au.

We trust this information is of assistance.

Yours sincerely,

s 47F

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Regulatory Law, Legal Services Branch
Australian Electoral Commission
24 July 2023