



Inquiry into the operation of the 2024 ACT Election and the *Electoral Act 1992*

Answer to question taken on notice

Asked by: Mr Ed Cocks MLA

Addressed to: Mr Damian Cantwell AM CSC

In relation to: Breakdown of time to process misleading advertising complaint

Hearing: 27 November 2025

Uncorrected Proof Transcript pp 6–7

Transcript provided: 11 December 2025

Answer Due: 18 December 2025

Mr Cantwell took on notice the following question:

THE CHAIR: Okay. I think Mr Braddock made a very good point at the start of that line of questioning that AI can really be considered one of many tools for misinformation, disinformation, generally misleading advertising and statements. I think I was reading in the report there are about 32 complaints about misleading advertising. Only one of those was upheld which of course was the inaccurate misleading advertisement targeting Ms Castley. Now, from what I can see that the complaint about that was submitted on 1 October and the issue was not resolved until 18 October. I wonder if you can help me understand why it took so long to deal with that.

[...]

THE CHAIR: So I guess the question for me in considering where we can go with these things is, the time that was taken, how much of that was to determine whether the information was true or false and how much was invested in working out what channels or the more procedural elements of compliance or otherwise with the legislation.

Mr Cantwell: Well, I will have to perhaps take on notice the specifics of the breakdown of the time across the process as described, if I cannot answer it now or if I cannot recall.

THE CHAIR: And I am okay to have an estimate. That is okay.

ACT Electoral Commission: The answer to the Member's question is as follows:

It is difficult to retrospectively apportion precise percentages or approximations of actual time spent on each component of the process.

The complaint in question was received at 10:25 pm on 1 October 2024 and acknowledged the following day. A final determination was made on 17 October 2024, and a retraction was published on the morning of 18 October 2024. During this period, Elections ACT undertook a complex process involving assessment, evidence collection, liaison with interested parties, and formal determinations. The steps involved provide insight into why such determinations, when ensuring procedural fairness, can take considerable time:

1. Initial assessment and evidence gathering

After receiving the complaint, the Elections team identified the advertisement and the original statement, assessed whether the matter could constitute an offence under s297A, and sought out additional evidence where necessary. This included confirming the accuracy of the complaint claims and identifying corroborating documentation to ensure the matter could be properly investigated.

2. Engagement with the respondent

The team wrote to the alleged offender seeking comment and awaited a reply. Following the initial response, further clarification was requested regarding publication platforms, media outlets, and distribution methods. The period between writing to the respondent and receiving a reply is, by necessity, often greater than 24 hours, as sufficient time must be provided for a considered response. Each request-and-reply cycle required time for review and assessment.

3. Formal assessment and determination

Once all necessary information was received, the team assessed whether the statement was inaccurate and misleading to a material extent, applying the legislative test under s297A. This step involved careful consideration of the facts and procedural fairness obligations.

4. Resolution and enforcement

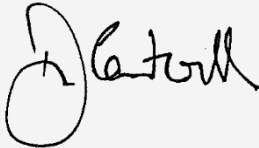
On 17 October, the Commissioner directed cessation of publication and required a retraction in specified terms and platforms. Compliance was confirmed at 12 noon on 18 October, and the complainant was advised of the outcome.

While the determination of factual accuracy was central to the process, significant time was also required for procedural steps—such as correspondence, awaiting responses, and ensuring compliance with legislative requirements and natural justice principles. These steps are essential to maintain fairness and transparency in electoral processes.

31 other misleading electoral advertising complaints were received during the key election period and, where appropriate, underwent a similar procedural fairness process.

OFFICIAL

Approved for circulation to the Standing Committee on the Integrity Commission and Statutory Office Holders

A handwritten signature in black ink, appearing to read 'D Cantwell', is positioned above the signature line.

Signature:

Date: 12 December 2025

By the ACT Electoral Commissioner, Mr Damian Cantwell AM CSC