



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

Answer to question taken on notice

Asked by: Mr Andrew Braddock MLA

Addressed to: Mr Ethan Zhu

In relation to: Private individual exemptions

Hearing: 9 December 2025

Uncorrected Proof Transcript pp 9–10

Transcript provided: 16 December 2025

Answer Due: 23 December 2025

Mr Zhu took on notice the following question:

MR BRADDOCK: And I will keep going with that one because I am very keen in this definition of electoral matter. And by lowering the bar, are we essentially precluding things like ABC's Vote Compass, which they use for federal but have not been able to utilise for local electorates, or Smartvote Australia project, which was also the issue from another contributor from ANU? Is it a case of—do you see the value of those sort of functions happening to help inform democracy, which are likely to influence how to vote, but are doing so in an informational sense rather than to achieve a political outcome sense?

Mr Zhu: I think that those are important concerns and they do have a value in our political system. But the key point that our submission makes is that this should continue to be an objective test. And there are exemptions, for example the private individual exemption and individuals acting in a private capacity. And those exemptions, for example, could be utilised to protect the ABC, for example.

MR BRADDOCK: Sorry, how would a private individual exemption apply to a corporation like the ABC or the ANU?

Mr Zhu: Could I take that on notice, please?

Response from Mr Zhu on behalf of the ANU Law Reform and Social Justice Research Hub:

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

1. Clarification regarding the private capacity exemption

The exemption in section 293A of the *Electoral Act 1992* (ACT) ('the Act'), concerning electoral matter disseminated by individuals acting in a private capacity, does not extend to incorporated entities, public authorities, or institutional bodies, including the Australian Broadcasting Corporation (ABC) and the Australian National University (ANU).

However, initiatives such as ABC Vote Compass or the Smartvote Australia project may be capable of relying on other existing exceptions under the Act.

2. Application to the ABC and Vote Compass

Initiatives such as the ABC's Vote Compass may be protected by other provisions of the Act. In particular, section 293 provides an exemption for electoral matter contained in reportage or commentary in a news publication.

The Dictionary to the Act defines a 'news publication' to include an electronic publication of a similar kind to a newspaper or periodical. The Hub considers that Vote Compass, when produced and disseminated by the ABC as part of its journalistic and informational functions, may fall within this category.

Interactive tools produced by the ABC for the purpose of informing voters, rather than advocating for a particular political outcome, form part of those journalistic and informative functions.

3. Application to the ANU and Smartvote Australia

The position of academic institutions such as the ANU is less certain. The Hub recognises that educational tools such as the Smartvote Australia project are valuable civic resources. Whether such material constitutes electoral matter depends on the application of the objective test in section 4 of the Act.

By contrast, Commonwealth legislation adopts a more explicit approach to protecting educational content. Subsection 4AA(5) of the *Commonwealth Electoral Act 1918* excludes material from the definition of electoral matter where its dominant purpose is satirical, academic, educative, or artistic. No equivalent safeguard exists in the ACT legislation.

To the best of the Hub's knowledge, the ANU Smartvote Australia project has taken steps to ensure compliance with the authorisation requirements of the *Electoral Act 1992* (ACT), proceeding on the basis that its material may be treated as electoral matter for the purposes of the Act.

4. Conclusion

While the practical impact of characterisation as electoral matter is likely to be low in fringe cases involving neutral or educational content, lowering the threshold may nonetheless improve transparency by making covert or coordinated political campaigning, including astroturfing, easier for voters to identify. Care must be taken to ensure that this transparency objective does not unduly burden legitimate civic and educational information initiatives.

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

Signature: 

Date: 23/12/25

By the ANU Law Reform and Social Justice Research Hub, Ethan Zhu