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Joint Standing Committee on Electoral Matters

PO Box 6021, Parliament House, Canberra, ACT 2600

Conduct of 2007 Elections: Postal vote applications mailed by political parties

We would like to draw to your attention a practice that has been evident at all elections at least since 2003, when we first raised it with the NSW Electoral Commission. Regrettably, the exemptions for political parties from the Federal Privacy Act means that the federal Privacy Commissioner is not able to pursue the matter. The practice is outside the jurisdiction of the NSW Commissioner, and the response we received from the NSW Electoral Commission was unsatisfactory in that it did not address the main issue, which we explain below.

During election campaigns, the main political parties, at least in NSW, but probably throughout Australia, mail voters with postal vote application forms incorporated into party political material. Voters are invited to complete a form, if required, and return it to an address which is that of the political party, although this is often not clear.

This activity appears to raise issues in relation to collection of personal information both by Electoral Commissions and the political parties.

Firstly, it seems clear that the intention of the political parties is to capture the names and addresses of voters who make their application for a postal vote through them, in order that they can contact them later in the campaign, with material customised for postal voters. There is no information in the material that we have seen about the collection and use of the personal information by the political party concerned. In the case of the forms we have seen, the mailings run a serious risk of misleading electors into thinking they would be returning the forms directly to the relevant Electoral Commission.

The collection of postal vote application information by the political parties feeds back into the compliance requirements on the Electoral Commissions. The Australian Electoral Commission is bound by IPP 2 to notify

individuals of certain matters when collecting personal information, and the NSW Electoral Commission is subject to the similar provisions of IPP 3 (s.10 of the Privacy and Personal Information Protection Act 1998 (PPIPA)). The application forms themselves appear to be a standard form based on the ones issued by the Electoral Commissions and available from Post Offices. The forms themselves do not contain any privacy statement or information, and while the versions issued by the Commissions have some explanatory text attached, the party versions have only a crudely paraphrased version of this explanation, at best (there appear to be many local variations). To the extent that the Commissions give notice in association with the forms, it is surely misleading if it does not mention the collection and use of the information by the political parties en route to the Commissions, assuming that the Commissions are aware of the practice.

We urge the Committee to seek the views of the Australian Electoral Commission and the federal Privacy Commissioner about this practice in the context of the 2007 federal election.

We also urge the Committee to seek the views of the political parties – in particular to ask them whether, notwithstanding their exemption from the Privacy Act, they regard the practice in question as ethical and responsible.

Through copying this submission to the relevant NSW and Victorian authorities we also hope that can be addressed at the state level. This would be a good opportunity for a joint response from State and Federal Electoral Commissions in consultation with the respective Privacy Commissioners.

Email: mail@privacy.org.au

Please use email for any contact about this submission – postal mail can take some time to be answered due to re-direction

cc: NSW Parliament Joint Standing Committee on Electoral Matters
Australian, NSW & Victorian Electoral Commissions
Federal, NSW & Victorian Privacy Commissioners