



9 July 2020

Electoral Commission
via email: enquiries@elections.govt.nz

House of Representatives
via email: trevor.mallard@parliament.org.nz

Dear Sir or Madam; Mr Speaker

LIKELY BREACH OF ELECTORAL ACT 1993 & PARLIAMENTARY SERVICES ACT 2000

Summary

1. We wish to seek clarification on whether the appended billboard promoting Lawrence Yule MP, which is on display in his electorate Tukituki (the “Billboard”) constitutes an election advertisement under the Electoral Act 1993 (the “Act”). If so, it appears that the Billboard constitutes electioneering under the Speaker’s directions and therefore should not be funded by the Parliamentary Service using taxpayer money. It should also have the appropriate authorisation statement.
2. The Billboard features in prominent text “Your voice in Tukituki and Parliament” (the “Tagline”) alongside a large photo of Lawrence Yule. In much smaller text is Mr Yule’s office phone number. The Billboard states it is funded by the Parliamentary Service.

Election Advertisement

3. Section 3A(1) of the Act defines “election advertisement” as:

an advertisement in any medium that may reasonably be regarded as encouraging or persuading voters to do either or both of the following:

- (a) *to vote, or not to vote, for a type of candidate described or indicated by reference to views or positions that are, or are not, held or taken (whether or not the name of the candidate is stated);*
- (b) *to vote, or not to vote, for a type of party described or indicated by reference to views or positions that are, or are not, held or taken (whether or not the name of the party is stated) and includes*

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(c) *a candidate advertisement; and*

(d) *a party advertisement.*

4. We submit that the Tagline may reasonably be regarded as encouraging or persuading voters to support Mr Yule to continue as the Tukituki member.

5. Section 3A(2) of the Act also defines what is not an “election advertisement” as

(b) *contact information (as defined in subsection (3)) published in any medium by a member of Parliament that satisfies all of the following requirements:*

(i) *the information was published by a member of Parliament in the course of performing his or her role and functions as a member of Parliament; and*

(ii) *the information was prepared for publication and published by the member of Parliament using funding received under Vote Parliamentary Service; and*

(iii) *the information was routinely published in that medium before the commencement of the regulated period and continues to be published in that medium during the regulated period; and*

(iv) *the information is published during the regulated period no more often and to no greater extent than before the commencement of the regulated period; and*

(v) *the information is published during the regulated period in the same form and style as before the commencement of the regulated period; and*

(vi) *the information is not included, combined, or associated with an election advertisement (as defined in subsection (1)), or with any other information so as to constitute an election advertisement, that is published by—*

(a) the member of Parliament; or

(b) the secretary of the party to which the member of Parliament belongs; or

(c) any other person with the authority of the member of Parliament:

[...]

6. We believe that the Billboard does not fall under section 3A(2)(b). Specifically, we understand that billboards of this style have only recently been displayed and the central focus of the billboard and therefore sections 3A(2)(b)(iii); (iv); and (v) are not met. In addition to the Billboard, we have had a report from a Taxpayers’ Union supporter who lives in the electorate that at least one other billboard identical to the Billboard was put up over the last few days. That would suggest that the behaviour section 3A(2)(b)(iv) was intended to capture is occurring.

7. If the Billboard amounts to an election advertisement it cannot be funded by or authorised by the Parliamentary Service during regulated period. Instead it appears to be a candidate advertisement and should be authorised by (and accounted for) as such.
8. We ask the Electoral Commission to investigate.

Electioneering

9. Speaker's Directions list the criteria all publicity must satisfy to be funded by the Parliamentary services. The publicity must:
 - (b) *not contain electioneering; and*

[...]
 - (e) *comply with any relevant policies, procedures, and guidelines prescribed by the Speaker*
10. The Parliamentary Services Act 2000, section 3B defines electioneering as any communication that explicitly:
 - (a) *seeks or discourages support for the election of a particulate person or people; or*
 - (b) *seeks or discourages support for the casting of a party vote for a particulate political party or political parties*
11. We are concerned that the Billboard constitutes electioneering. The Tagline, given the temporal proximity to the 2020 General Election seeks and encourages support for Lawrence Yule. Additionally, the main focus of the billboard is this message rather than Mr Yule's contact details, and the Billboard is new.
12. Similarly, we therefore ask Mr Speaker to investigate.

Yours faithfully,
New Zealand Taxpayers' Union Inc.



Louis Houlbrooke
Campaign Manager
louis@taxpayers.org.nz

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cc Laurence Yule; National Party Leader

APPENDIX 1: Lawrence Yule MP Billboard



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Level 4, 117 Lambton Quay, PO Box 10518, Wellington 6143