

Members present

Hon Andrew McGechan (President)
Ms Belinda Clark – *ex officio* (Secretary for Justice)
Dr Helena Catt (Chief Executive)

Dated: 19 August 2008

Decision Number: 2008-26

Initiated by

MIKE SMITH ON 23 JUNE 2008
DIANNE YATES ON 23 JUNE

In relation to

Election advertisement
THE NEW ZEALAND NATIONAL PARTY

Findings and Determination

National Party document entitled 'our policies so far' displayed in National MP Chris Auchinvole's office window, handed out at Fielddays, and available on websites. No contravention of the Electoral Finance Act 2007 as the document is not an election advertisement within the meaning of section 5 of the Act.

This headnote does not form part of the decision.

Subject

National Party document displayed in the window of the Chris Auchinvole MP's office at Greymouth, handed out from a stall at a Mystery Creek Field Day, and available on Chris Auchinvole and the National Party websites.

The document is headed "our policies so far" and sub-headed "here are some of the policies National has announced so far. There are more to come".

Issues raised

The Electoral Commission considered whether the document is an election advertisement within the meaning of the Electoral Finance Act 2007 and, if so, whether the provisions of the Act have been complied with.

Electoral Finance Act 2007

Section 5 of the Act defines an election advertisement to be, in summary, any form of words and/or graphics that could reasonably be regarded as encouraging or persuading voters to vote or not to vote in a particular fashion.

Comments from the National Party

The financial agent of the National Party commented that the Party does not believe the item is an election advertisement because it outlines current National Party policies.

Electoral Commission's Determination

The Electoral Commission has considered the requirements of the Act along with the items listed as exhibits (below).

On 19 June 2008 a National Party document was displayed in the window of Chris Auchinvole's office at Greymouth. The document is headed "our policies so far" and sub-headed "here are some of the policies National has announced so far. There are more to come". It proceeds to state policies in factual terms. It contains a photo of John Key at commencement and National's name and logo along with the Parliamentary crest at foot. The photograph, name and logo are small compared to the area of text. The only relevant adjoining material is a poster displaying the name and photograph of the Member of Parliament with contact details. The document also is available on Chris Auchinvole and National Party websites.

The Electoral Commission does not regard this material as an election advertisement. While statements of policy logically can be regarded as encouraging or persuading voters to vote for the party or candidate concerned, the statutory test requires that statements "reasonably" can be so regarded.

It is essential to democratic elections that parties can inform the public of the policies which will be implemented if elected. It would not be reasonable to regard statements of policy as election advertisements and subject to the restraints which follow. New Zealand Bill of Rights Act considerations arise.

Obviously, accompanying identification of the proponents of the policies must be allowed also. The Electoral Commission does not regard references to "more policies to come" as precluding this approach. While the point does not arise in this case, the addition of other non-policy material, for example party slogans or urgings to vote a particular way, or a disproportionate display of photographs, names or logos, could result in a different outcome. There may be questions of circumstances and degree.

In the view of the Electoral Commission the document is not an election advertisement for the purposes of the Electoral Finance Act, as it can not reasonably be regarded as encouraging or persuading voters to vote or not to vote in a particular fashion.

There is a second query relating to the same material handed out in leaflet form at a Mystery Creek Field Day prior to 23 June 2008 from a National Party or Member of Parliament's stall. There is no information as to accompanying signage displayed at the stall. For reasons already given in relation to the display of this material in Chris Auchinvole's office window, the Electoral Commission does not regard this leaflet as an election advertisement.

For the above reasons it is the view of the Electoral Commission that the National Party document "our policies so far" does not contravene the Electoral Finance Act 2007 as it is not an election advertisement within the meaning of section 5 of the Act

Signed for and on behalf of the Electoral Commission



Dr Helena Catt
Chief Executive and Commission Member
New Zealand Electoral Commission

26 August 2008

Exhibits

The following items were received and considered by the Electoral Commission when it determined this matter:

1. Letter 23 June 2006 from Mike Smith, raising the issue
2. Copy of photographs of the Member of Parliament's office window
3. Copy of the document 'our policies so far'
4. Letter 23 June 2008 from Dianne Yates, also raising the issue
5. Email 22 July 2008 from Mark Oldershaw, financial agent for the National Party