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Electoral Commissioner of New South Wales
GPO Box 832, SYDNEY NSW 2001

Dear Sir

Postal vote applications mailed by political parties

We spoke before the recent State election to your Privacy Officer, Mr Greg Brandtman, who suggested that we write to you with our concerns about this matter.

We became aware during the election campaign that the political parties in NSW, as part of their campaigning, were mailing voters with postal vote application forms incorporated into party political material. Voters are invited to complete a form, if required, and return it to a political party address. The particular examples I have in front of me are from the Labor and Liberal candidates for Port Stephens, but we understand the practice is not confined to this area or to these two parties.

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

Firstly, the application forms themselves appear to be a standard form based on the one issued by your office and available from Post Offices. The form itself does not contain any privacy statement or information, and while your own form has some explanatory text attached the party versions have only a crudely paraphrased version of this. We are not aware of any exemption from the Privacy and Personal Information Protection Act 1998 (PPIPA) that would excuse the State Electoral Commission from including some notice of intended uses etc in compliance with IPP 3 (s.10). Your own form may not meet all the requirements of the PPIPA, but the versions reproduced by the parties certainly do not.

Secondly, 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. Again, 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 Labor mailing we have in front of us, there might be said to be some indication of the reason for collection of the information in that the return address is that of the candidate. The Liberal mailing has even less information, with the return address being Port Stephens Postal Vote Centre at a South Sydney PO Box. Enquiries are invited to a Postal Vote information Line which when questioned turns out to be a Liberal party office. In our view both mailings run a serious risk of misleading electors into thinking they would be returning the forms directly to your office.

We understand that neither State MPs nor political parties are subject to the PPIPA or the federal Privacy Act 1988, from which they expressly exempted (s.7C). While we strongly oppose these inexcusable self-interested exemptions, we accept that this is not something over which you have any control.

The collection of postal vote application information by the political parties does however feed back into the compliance requirements on the Electoral Commission. If you are aware of the practice, then whatever notice you give to voters under IPP3 when collecting information via these forms would surely be misleading if it did not mention the collection and use of the information by the political parties en route to your office?

We hope that you will be able to address these issues and take them up with the political parties so that improvements can be effected before the next election. We look forward to your early reply. I am copying this letter to the Privacy Commissioner of NSW.

Yours sincerely

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cc: Privacy Commissioner of NSW