# Streaming services exploit loophole as broadcast ad blackout returns for Australian election



From midnight on 12 April 2024, the long-standing Australian regulation barring election advertising on traditional television and radio came into effect once again. This 33-year-old blackout rule prohibits political ads on these traditional broadcast media platforms during the three days preceding an election. However, this law, which predates internet usage in Australia, notably excludes websites, social media, and digital video-on-demand (VOD) services from its scope, creating a significant loophole in the regulation of political advertising.

Digital and streaming services like 9Now, Kayo, and Foxtel have become increasingly influential during elections due to their large audiences and advanced targeting capabilities. These platforms allow political advertisers to micro-target voters with personalised ads based on detailed user data, including shopping habits, travel locations, and demographic profiles such as whether a user is a parent or a gamer. Despite this, the transparency around how political ads are deployed on these services remains minimal compared to more visible platforms like Meta or YouTube, where users can easily view political ad campaigns and targeting details.

Foad Fadaghi, managing director and principal analyst at Australian technology consultancy Telsyte, told Crikey that the audience for Australian online video advertising has grown significantly. He explained that political advertisers use sophisticated tools similar to those employed by large tech companies to focus their campaigns geographically and demographically, for example by concentrating resources on marginal electorates or targeting young men if a party is underperforming in that group.

The shift from traditional free-to-air (FTA) television to streaming services marks a significant change in Australian media consumption habits. According to regulatory data, weekly FTA TV viewing among Australian adults dropped from 70% in June 2017 to 47% in June 2024, while FTA streaming services rose from 18% to 43% in the same period. Additionally, 69% of Australians reported watching paid streaming services like Netflix and Amazon Prime in the past week in 2024. Although major international platforms like Netflix do not permit political advertising, domestic services such as the Foxtel-owned Kayo do allow such ads, further expanding the digital advertising landscape.

This trend towards streaming content consumption and digital advertising creates opportunities for election campaigns to directly reach 'streaming persuadables'—often young and diverse voter groups who are less accessible through traditional media. A precedent from the United States was cited, where a Trump-aligned political action committee effectively targeted undecided voters through streaming services in the 2024 presidential election, ensuring ad spend was more efficiently directed than through conventional television ads.

Despite the growth of digital political advertising, Australian VOD platforms have been described by advertising data expert Shaun Lohan, founder of Adgile Media, as a "black hole" in terms of transparency. Unlike large social media companies whose political ad libraries offer public scrutiny, streaming services rarely disclose how ads are targeted, who funds them, or their expenditure. Fadaghi noted that while political campaigns have access to advanced advertising technologies, their use of these tools may not yet be as sophisticated as industries more accustomed to digital marketing analytics.

This evolving landscape reflects broader changes in how Australians consume media and how political messaging is delivered in the digital age, with streaming platforms emerging as key battlegrounds for election advertising beyond the reach of traditional broadcast blackout laws.

Source: [Noah Wire Services](https://www.noahwire.com)

## Bibliography

1. <https://www.acma.gov.au/election-and-referendum-blackout-periods> - This page from the Australian Communications and Media Authority (ACMA) outlines the election and referendum blackout periods, specifying that no election or referendum ads can be broadcast from the end of the Wednesday before polling day until the close of the poll on polling day. It also notes that this rule applies to general elections, by-elections for the state, territory, and federal Parliaments, and referendums, but does not apply to local government elections. Importantly, the blackout period only applies to broadcasters, while online services and print media can still publish election or referendum ads during this time.
2. <https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Works/Completed_Inquiries_of_the_46th_Parliament/LAND19Phase7B/Report/Section?id=committees%2Freportjnt%2F024439%2F73870> - This report from the Parliament of Australia discusses the media blackout laws under the Broadcasting Services Act 1992, which prohibit political advertising on television and radio during the three days prior to an election. It highlights that these laws do not apply to online services such as social media platforms or print media, leading to a regulatory imbalance and potential confusion among voters.
3. <https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2022federalelection/Conduct_of_the_2022_federal_election_and_other_matters/Chapter_5_-_Strengthening_Australias_electoral_system> - This chapter from the Parliament of Australia examines the media blackout laws, noting that they only apply to television and radio broadcasters and do not cover online platforms. It discusses the confusion this causes among viewers and the need for regulatory consistency across all media platforms.
4. <https://www.abc.net.au/triplej/programs/hack/how-does-political-advertising-blackout-laws-work/11115606> - This article from ABC's triple j program explains the political advertising blackout laws in Australia, emphasizing that they apply only to traditional media like television and radio, while digital platforms and social media are exempt. It discusses the implications of this exemption and the challenges it presents in the digital age.
5. <https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2022federalelection/Conduct_of_the_2022_federal_election_and_other_matters/Chapter_5_-_Strengthening_Australias_electoral_system> - This chapter from the Parliament of Australia discusses the media blackout laws under the Broadcasting Services Act 1992, highlighting that they only apply to television and radio broadcasters and do not cover online platforms. It emphasizes the need for regulatory consistency across all media platforms to ensure transparency and trust with audiences.
6. <https://www.acma.gov.au/election-and-referendum-blackout-periods> - This page from the Australian Communications and Media Authority (ACMA) outlines the election and referendum blackout periods, specifying that no election or referendum ads can be broadcast from the end of the Wednesday before polling day until the close of the poll on polling day. It also notes that this rule applies to general elections, by-elections for the state, territory, and federal Parliaments, and referendums, but does not apply to local government elections. Importantly, the blackout period only applies to broadcasters, while online services and print media can still publish election or referendum ads during this time.
7. <https://news.google.com/rss/articles/CBMikgFBVV95cUxPNFlBcmdZUHN3TS1hTmpLc0pVVnMxNldSVmdSWEQ5TDJ1dWdxdkgxZFZSMlhTZUU0allfRHE3d2dGQ2dOT3RkVmFlN2c5eDFMM3gzcnpMd096bzdqV2RmYURIYVNZcXc5b1NRN2NVZW9ZYlhkLV9HS2ozSWZvMFhRWHNXbE5yNmVvRVRnZTVwMlhmZw?oc=5&hl=en-US&gl=US&ceid=US:en> - Please view link - unable to able to access data