



3 December 2023

Karl Le Quesne  
Chief Electoral Officer and Chief Executive  
Electoral Commission

By email: [enquiries@elections.govt.nz](mailto:enquiries@elections.govt.nz)

## COMPLAINT: BETTER NZ TRUST

1. It appears to us that false advertising was published by the *Better NZ Trust* (the “Trust”) as part of the Trust’s *Don’t Pull The Plug* campaign and breached section 199A of the Electoral Act 1993 (the “Act”). As we understand the law that is a corrupt practice. Has it been, or is it being investigated by the Electoral Commission, or referred to the Police?
2. If the Commission is not investigating the matter, we ask you to do so and to meet your investigators about it.

### Offence of publishing false statements to influence voters

3. Section **199A Publishing false statements to influence voters**, states:

*(1) A person is guilty of a corrupt practice if the person, with the intention of influencing the vote of an elector,—*

*(a) first publishes or republishes a statement, during the specified period, that the person knows is false in a material particular; or*

*(b) arranges for the first publication or republication of a statement, during the specified period, that the person knows is false in a material particular.*

4. The false advertisements were promoted via paid advertising on Facebook from October 4 through to October 13 this year – i.e. just prior to the general election. That extends into the specified period (within two days of polling day). We have reason to believe that the promotion continued within that period so that the exception in section 199A (2) does not apply.

### The False Advertisements

5. We append the Trust’s false advertisements in context, and draw your attention specifically to the statements below which are false (underlining ours). The underlined words are untrue for the reasons explained below:

- (a) *"How out of touch do you have to be to scrap the Clean Car Discount? 🤔 It's working, helping us reduce our emissions and saving Kiwi families money."<sup>1</sup>*

We submit that the reference to "us" would be interpreted to mean New Zealand or society in general. This is significant, as it misleads as to the effect of the policy.

- (b) *"The Clean Car Discount: SAVES FAMILIES THOUSANDS OF DOLLARS. HELPS FIGHT CLIMATE CHANGE."<sup>2</sup>*

- (c) *"The policy is funded by a surcharge placed on imported vehicles that have high emissions, therefore contributing to the climate crisis. This means there is no cost to the government or the taxpayer to run the Clean Car Discount."<sup>3</sup>*

### False claim 1: The Clean Car Discount helps to reduce emissions and/or climate change

2. Claims a, b and c would be understood by the ordinary voter to mean that the Clean Car Discount helps reduce emission for the laudable purpose of reducing the scale or likelihood of damaging climate change.
3. New Zealand's Clean Car Discount policy does not reduce New Zealand's net emissions because of how New Zealand's 'cap and trade' Emissions Trading Scheme (ETS) functions.
4. The ETS operates under a 'cap and trade' model where the maximum number of carbon dioxide emissions (or their equivalent) are capped at a set level each period (normally a couple of years). Carbon credits are auctioned to individuals and businesses the right to emit.
5. For emissions from motor vehicles, fuel companies buy emissions credits and pass the cost to consumers in the form of higher prices.
6. The Trust must know that any reduction in emissions in the transport sector (through increased EV uptake caused by the Clean Car Discount policy) will allow more emissions to occur elsewhere in the economy leaving the country's net emissions (and therefore impact on climate change) unchanged.
7. Put another way, if motorists consume less petrol or diesel, fuel companies are required to surrender fewer credits so they will have a surplus of credits. These credits will either be sold to other emitters (for example factories using coal-powered industrial heating) or held for future years – either way these emissions will still occur. This is known as the "waterbed effect" of the ETS.
8. Whether a tonne of emissions comes from a vehicle or from a coal powered heater is irrelevant in terms of the fight against climate change.
9. For persons who know how the ETS system works it is false to tell voters that Clean Car Discount policy is "helping us reduce our emissions", "helps fight climate change", or that high emissions vehicles are "contributing to the climate crisis".

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<sup>1</sup> See appendix 1

<sup>2</sup> See appendix 1

<sup>3</sup> <https://www.dontpulltheplug.nz/about>

10. As put by the *Intergovernmental Panel on Climate Change* (IPCC): “[i]f a cap and trade system has a sufficiently stringent cap to affect emission-related decisions, then other policies have no further impact on reducing emissions.”<sup>4</sup>

### False claim 2: The Clean Car Discount does not cost the government or taxpayers

11. The latter half of claim c is also demonstrably false. The Clean Car Discount Scheme has received \$401.4 million in taxpayer funding in the form of a repayable grant.<sup>5</sup> \$119.9 million of this has not yet been recovered.
12. Even if it is contended that all of this money *will* be paid back, there are still identifiable costs to the taxpayer of lost interest (or opportunity cost) on the money or interest payment costs if the scheme is debt funded. Either way there are clearly costs to the taxpayer.

### Statements deliberate, widespread, and intended to influence votes of electors

13. The sum of money spent on this misinformation campaign was significant. *The Post* reported that the *Better NZ Trust* expected to spend “more than \$100,000 pushing electric vehicle policies.”<sup>6</sup> The extent of this influence should not be underestimated.
14. Reflecting on the campaign, a spokesperson for the *Better NZ Trust* has been quoted in media that “we were able to get our message in front of over a million voters online, run tens of digital billboards and hundreds of posters in key locations, and grab the attention of some senior politicians.”<sup>7</sup>
15. We believe that the Trust must understand their claims are false.<sup>8</sup> At the *Taxpayers’ Union*, we have issued public statements explaining the same – including as recently as 10 October 2023 when we issued a media release about the Trust’s false advertising and contacted the Trust to draw their attention to the same.<sup>9</sup> *The New Zealand Initiative* thinktank has repeatedly published reports on the redundancy of the clean car discount and subsidies for other already covered sectors with respect to reducing emissions.

### The Trust was falsely advertising to influence votes for commercial gain – and should therefore be prosecuted

16. Far from an bona fide (albeit misleading) effort to improve environmental outcomes, it appears the misleading statements were made for commercial gain. The Trust’s founder, Steve West, is also the director and shareholder of *ChargeNet NZ* – a private company that operates commercial electric car charging stations. The Trust was a registered promoter for the 2023 general election, and was therefore aware of the Act’s requirements (and on notice of the rules related to advertising contained in the *Third Party Handbook* published by the Commission for third party promoters)

<sup>4</sup> See IPCC, 2014: Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, R.K. Pachauri and L.A. Meyer (eds.)]. IPCC, Geneva, Switzerland. Page 109. [https://ar5-syr.ipcc.ch/ipcc/resources/pdf/IPCC\\_SynthesisReport.pdf](https://ar5-syr.ipcc.ch/ipcc/resources/pdf/IPCC_SynthesisReport.pdf)

<sup>5</sup> See <https://www.nzta.govt.nz/vehicles/clean-car-programme/clean-car-discount/clean-car-discount-scheme-financial-reports/>

<sup>6</sup> See <https://www.thepost.co.nz/politics/350086210/influencers-whos-spending-money-trying-sway-your-vote-election>

<sup>7</sup> See <https://leadingthecharge.org.nz/all-news/news-releases-and-press-contact/2023-election-awareness-campaign/>

<sup>8</sup> See <https://www.nzinitiative.org.nz/reports-and-media/opinion/a-point-to-the-pointless/>, <https://www.nzinitiative.org.nz/reports-and-media/opinion/new-opinion-27/>, <https://www.nzinitiative.org.nz/reports-and-media/reports/the-emissions-trading-scheme-faq/>, and <https://www.nzinitiative.org.nz/reports-and-media/reports/pretence-of-necessity/document/751>

<sup>9</sup> A copy of the relevant media release is available at <https://twitter.com/TaxpayersUnion/status/1711557571981840597>

17. There is personal financial benefit to Mr West in the continuation of subsidised expansion of EV numbers. They need charging stations We submit that making false claims to influence the election to further commercial objectives is consistent with the use of the word "corrupt" in section 199A. It puts the behaviour at the serious end of offending, so there is a need for prosecution if the public are to have trust in the integrity of enforcement and the administration of the Act. Section 199A is intended to punish and therefore to deter corrupt manipulation of public opinion and/or use false currency (misinformation) to influence electors. The Trust has coupled its false claims with greenwashing, pretending to be useful and altruistic. Such behaviour can be distinguished from a mistaken claim by a genuinely benevolent philanthropic promoter.
18. In short, we submit that because the Trust's attention was drawn to its misleading statements, but it continued to advertise them, the Trust and its decision makers were choosing to be dishonest, to influence an election, for commercial gain.

## Conclusion


19. As an organisation which also engages in political/third party advertising, we make great efforts to comply with electoral advertising laws and not mislead. It is vital to our democracy that all parties who wish to advertise around an election do so honestly, in good faith, and by the same rules.
20. In the same way as many advocates for free speech advocate for strong *ex-post* rules and defamation laws – to ensure that claims of fact (as opposed to opinion) are able to be justified, we believe that it is in the public interest to ensure that our elections are not competitions of misinformation. We submit that the actions of the Trust are precisely the sort of commercially motivated misinformation intended to be caught by the Section 199A, and should therefore be prosecuted.
21. We look forward to hearing from you.

Yours faithfully,  
**New Zealand Taxpayers' Union Inc.**




**Jordan Williams**  
Executive Director  
[Jordan@taxpayers.org.nz](mailto:Jordan@taxpayers.org.nz)

## Appendix 1: Examples of the advertisements



**The Better NZ Trust - Leading The Charge**  
Sponsored • Paid for by The Better NZ Trust - Leading The Charge  
Library ID: 6114516508649084

...



**The Better NZ Trust - Leading The Charge**  
Sponsored • Paid for by The Better NZ Trust - Leading The Charge  
Library ID: 1045332546596118

...

How out of touch do you have to be to scrap the Clean Car Discount?  
😬 It's working, helping us reduce our emissions and saving Kiwi families money.

Help us persuade politicians to do the right thing this election at [donthelptheplug.nz](https://donthelptheplug.nz)

**The Clean Car Discount:**  
**SAVES FAMILIES**  
**THOUSANDS OF DOLLARS.**

**HELPS FIGHT**  
**CLIMATE CHANGE.**

**WORKS.**  
**REALLY REALLY WELL.**

Which parties will keep the Clean Car Discount?

NATIONAL	ACT	LABOUR	GREENS
X	X	✓	✓

Authorised by The Better NZ Trust, 5 Kinapori Tce, Wellington. Party responses when asked if they'd keep the Clean Car Discount, a policy which has been shown to increase EV take up, and save families money.

[DONTHELPTHEPLUG.NZ](https://donthelptheplug.nz) [Learn More](#)

How out of touch do you have to be to scrap the Clean Car Discount?  
😬 It's working, helping us reduce our emissions and saving Kiwi families money.

Help us persuade politicians to do the right thing this election at [donthelptheplug.nz](https://donthelptheplug.nz)

**EVERYONE:**  
There's a climate crisis.

**NATIONAL & ACT:**  
Let's scrap the Clean Car Discount and make it harder to buy a clean car.

**LABOUR & GREENS:**  
Let's not.

Full scorecard: [DONTHELPTHEPLUG.NZ](https://donthelptheplug.nz)

Authorised by The Better NZ Trust, 5 Kinapori Tce, Wellington.

All of the social media advertisements on Facebook and Instagram can be seen here:

[https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=all&country=NZ&view\\_all\\_page\\_id=391751334315477&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=page&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=NZ&view_all_page_id=391751334315477&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=page&media_type=all)

The advertisements also link to their website which repeats similar false claims:

<https://www.donthelptheplug.nz/>