

Political deepfakes and the new laws in New South Wales

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Introduction

- Concerns about impacts of AI on democracy
- Deepfakes have been used to try to influence elections in other countries
- Some countries have enacted political deepfake laws (e.g. US at state level)
- Two Australian states have enacted political deepfake laws (SA, NSW)

Outline

1. What are political deepfakes?
2. Examples of political deepfakes
3. Potential adverse impacts
4. Electoral law reform in Australia
5. New offences in NSW
6. Constitutional issues
7. Law reform in other countries
8. Other measures

What are political deepfakes?

- No universally accepted definition of the terms 'deepfake' and 'political deepfakes'
- '**Deepfake**' can be thought of as digital content which has been created with artificial intelligence (AI) that depicts a person doing or saying something they did not do or say
- '**Political deepfake**' can be thought of as a deepfake that depicts either a politician or another person expressing a view about a politician or political issue.
- Political deepfakes typically take the form of images, videos or audio, or a combination of those forms

Examples of political deepfakes

1. Realistic and negative

- Difficult to detect as being fake
- Could show a politician being sexually explicit, drunk, endorsing hate speech etc

2. Realistic and positive

- Difficult to detect as being fake
- Could show a politician giving a powerful speech, battling adversity or doing something altruistic etc

3. Unrealistic and negative

- Obviously fake or clearly marked as AI
- Could show a politician as a reviled or inept 'person' (e.g., the grim reaper or as a fool)

4. Unrealistic and positive

- Obviously fake or clearly marked as AI
- Could show a politician as a revered 'person' (such as a superhero or saint)

1. Realistic and negative



The deepfake [video](#) was discussed in an [article](#) in the *Irish Times*

2. Realistic and positive



Political deepfake

This political deepfake is intended to make you believe that Pauline Hanson really gave a cheque to 'Carl', who appears to be a cleaner in a hospital.

3. Unrealistic and negative

This video was discussed in an [ABC news article](#).



4. Unrealistic and positive



This is clearly fictitious and not intended to deceive people into thinking that President Trump really is a religious figure. However, it seeks to glorify President Trump by presenting him as if he were a religious figure who is performing miracles.

Potential adverse impacts

Political deepfakes have the potential to:

- Undermine democracy by:
 - diminishing the quality of political discourse (including through the ‘Liar’s dividend’)
 - reducing public confidence in elections.
- Influence election results — although it is difficult to get clear evidence
- Cause reputational and psychological harm to politicians
- Discourage women from pursuing careers in politics

Electoral law reform in Australia

- Electoral Act 1985 (SA) amended in 2024
- Federal Government Bill in 2024 that lapsed
- Electoral Act 2017 (NSW) amended in 2026



New offences in NSW

- Two new offences (ss 189A, 189B)
- Digitally generated electoral material
- The offences only apply during an election period
- The s 189A offence is broad
- Limited defences
- Fine up to \$6,600 and/or 6 months imprisonment



Constitutional issues

- Implied freedom of political communication
- False political speech may be protected
- Debate in parliament on the NSW laws



Law reform in other countries

Electoral law reforms

- United States – state laws
- Canada – provincial and federal laws
- South Korea and Singapore – national laws

Other law reforms

- EU Digital Services Act, AI Act
- Denmark Copyright Act

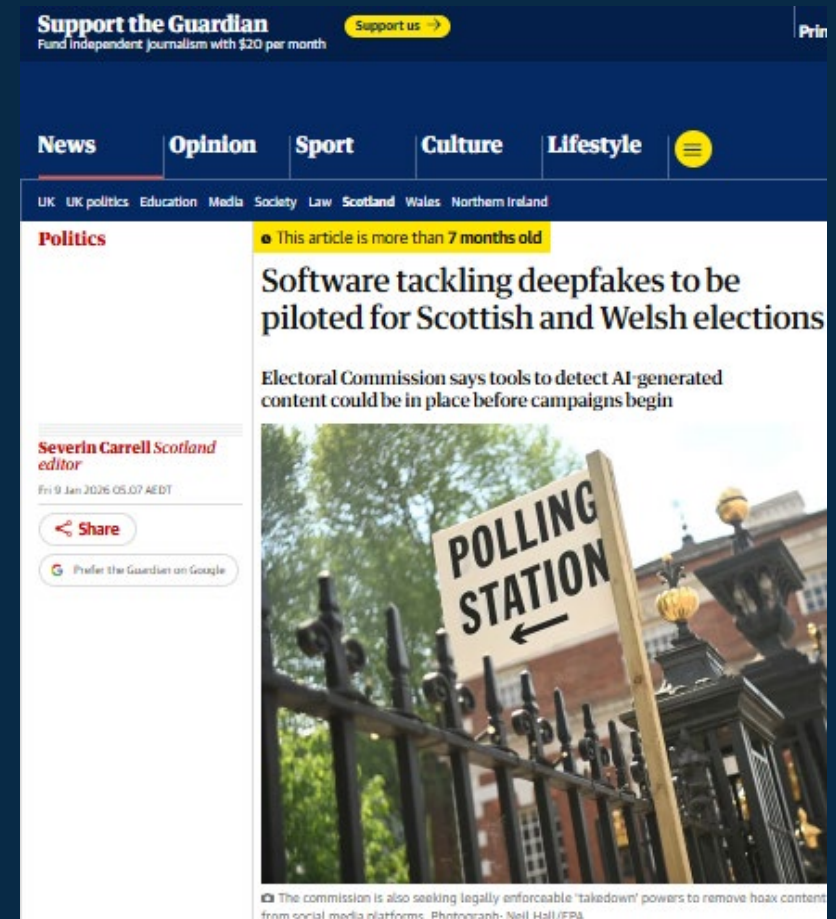
Other measures

What other measures can be taken?

- Invisible watermarks
- Deepfake detection
- Prompt takedown
- Media fact-checking
- Public education on AI

What are key organisations doing?

- Digital platforms
- Electoral authorities



Conclusion

AI-generated political deepfakes pose a new challenge to democracy

Questions to consider:

1. Will laws prevent the use of political deepfakes?
2. Will the laws be challenged on constitutional grounds?
3. Should the laws extend beyond the election period?
4. Should the laws require digital platforms to take certain action?
5. Should broader laws on truth in political advertising be introduced?

Any questions?

Thank you

