

C. Meloon for the Commission

In this case, the Enlighten Party challenged the Uplift parties Instagram post where the Uplift Party invited the public to support a charity fundraiser. The Enlighten party claims that this use of the word support violates the prohibition on campaigning one week before election day. We hold that it does not. We do so by looking at the definition of campaigning and applying the duck test to determine whether or not the use of the word support fits within the statutory definition of campaigning. The use of the word support to be a prohibited use of the word must walk, talk and act like a duck. In other words, it must be support in the sense that it is being substituted for the word vote or campaign. Here, it does not fit that meaning.

While we realize that future campaigns might abuse this loophole, this abuse would produce a good for society in the way of more philanthropic donations to organizations that need the support and help.