



	A.C.T. LEGISLATIVE ASSEMBLY COMMITTEE OFFICE
SUBMISSION NUMBER	10
DATE AUTH'D FOR PUBLICATION	18 June 09

**SUBMISSION BY COMMERCIAL RADIO AUSTRALIA**

**INQUIRY INTO THE GOVERNMENT AGENCIES (CAMPAIGN ADVERTISING) BILL 2008  
AUSTRALIAN CAPITAL TERRITORY SELECT COMMITTEE ON CAMPAIGN  
ADVERTISING**

**May 2009**

## SUBMISSION BY COMMERCIAL RADIO AUSTRALIA

Commercial Radio Australia (**CRA**) welcomes the opportunity to comment on the *Government Agencies (Campaign Advertising) Bill 2008 (Bill)*.

CRA is the peak national industry body for Australian commercial radio stations. CRA has 260 members and represents approximately 99% of the commercial radio broadcasting industry in Australia.

CRA supports the objectives of achieving legitimately authorised and non-political campaign advertising. However, it has some concerns relating to the detail of the Bill and the legislative mechanism proposed to achieve this goal.

The industry's comments are set out below.

### Summary

CRA's primary comments are:

- The industry strongly objects to the proposed prohibition of campaign advertising during the 12 week period prior to a general election.<sup>1</sup> Government campaigns are important means of raising public awareness of issues such as health, armed forces recruitment, safe driving, drugs and alcohol. There is no public benefit to be gained from banning all campaigns for so lengthy a period.
- An administrative approach would be more effective than a legislative approach in addressing this issue. The industry urges the ACT to follow the approach taken recently by the Commonwealth Government, in developing advertising guidelines set administratively rather than through legislation.<sup>2</sup>
- There is widely recognised merit in moving towards consistency in regulation between states and territories, to create an efficient and uniform regulatory framework in Australia. Any guidelines or legislation developed by the ACT should reflect the content of the Commonwealth *Guidelines on Campaign Advertising by Australian Government Departments and Agencies (Commonwealth Guidelines)*.
- The industry objects to the provision that "information in a government campaign must not include slogans or other advertising techniques".<sup>3</sup> The industry does not believe that Government agencies should be deprived of the opportunity to use proven advertising tools in non-political campaigns.

A discussion of these points, together with other comments, is below.

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<sup>1</sup> Section 14 of the Bill provides that "a government agency must not conduct a government campaign in the 12 week period immediately before a general election".

<sup>2</sup> Guidelines on Campaign Advertising by Australian Government Department and Agencies.

<sup>3</sup> Section 13(3)(c) of the Bill.

**1. No need for 12 week pre-election prohibition**

- 1.1 The Bill provides that a government agency must not conduct a government campaign in the 12 week period immediately before a general election.<sup>4</sup>
- 1.2 The industry submits that this 12 week prohibition is unnecessary and should be removed.
- 1.3 The Bill already provides that in assessing whether a government campaign is directed at promoting party political interests, the “timing” of the campaign will be taken into account.<sup>5</sup> This provision is also included in the Commonwealth Guidelines, to address “the sensitivity of the timing of advertising campaigns which could be politically favourable to the incumbent Government.”<sup>6</sup>
- 1.4 The industry’s view is that this general “timing” provision should be sufficient in the ACT. There is no need to include an additional blanket ban on all campaign advertising for a 12 week period before elections.
- 1.5 Indeed, to impose a blanket 12 week ban would be detrimental to the public interest as it would catch all campaigns rather than those that have genuine timing sensitivities.
- 1.6 Government campaigns cover a wide variety of areas – for example, health, alcohol, drugs, tourism, welfare, safe driving, defence force recruitment, domestic violence. These campaigns address important issues and should continue, notwithstanding the approach of a general election.
- 1.7 The Bill should not contain a provision that will prevent such important campaigns from being run for 3 months in a year.
- 1.8 The inclusion of “timing” as a consideration in assessing whether a campaign is political, effectively prohibits sensitive campaigns from taking place close to an election. This deals adequately with the issue, in a way that is consistent with the Commonwealth Guidelines. A blanket ban is both unnecessary and harmful.

**2. No need for a legislative solution**

- 2.1 The commercial radio industry does not agree that a legislative model is the best means of regulating the cost, timing and content of advertising by government agencies.
- 2.2 The industry submits that, before going down the legislative path, the ACT should test the effectiveness of a comprehensive administrative solution. An administrative model would be cheaper, more user-friendly and would not add to the layers of legislation already in force across Australia.
- 2.3 The Bill obliges the Minister to produce separate guidelines, the detail of which is prescribed in the Bill.<sup>7</sup> The industry submits that to implement a detailed statute

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<sup>4</sup> Section 14 of the Bill.

<sup>5</sup> Section 13(3)(e)(vi) of the Bill.

<sup>6</sup> Joint Media Release of Senator Faulkner and Minister Tanner, dated 2 July 2008 – *New Advertising Guidelines*.

<sup>7</sup> Section 13 of the Bill.

together with guidelines would be unnecessarily complicated for users and might create inconsistencies.

- 2.4 The industry urges the Select Committee to recommend that an administrative solution, in the form of guidelines based upon the Commonwealth Guidelines, is implemented in the ACT. No statute should be passed at this stage.

### **3. Need for consistency between Commonwealth, state and territory legislation**

- 3.1 Efforts have been made over the last few years by COAG and the Commonwealth Government to harmonise federal, state and territory laws where possible, in the interests of creating efficiencies and reducing red-tape.

- 3.2 It would seem consistent with this approach for the ACT to adopt guidelines (or, if necessary, legislation) reflecting the Commonwealth Guidelines.

- 3.3 The Bill does not achieve this. It is similar to the Commonwealth Guidelines, but there are significant differences. For example:

- The prescribed guidelines in the Bill differ from the Commonwealth Guidelines.
- The Commonwealth Guidelines contain no prohibition of campaign advertising for 12 weeks before general elections.
- The cost level at which the auditor-general must review and report on a proposed campaign is \$20,000. The Commonwealth Guidelines apply a figure of \$250,000.

- 3.4 State and territory government agencies frequently advertise across Australia and the existence of different regulations in different jurisdictions creates uncertainty and inefficiency.

- 3.5 For example, if an ACT government agency wishes to promote the ACT as a holiday destination by advertising in NSW, Queensland and Western Australia, then it should be able to refer to a single set of applicable guidelines across those states. We submit that those guidelines should be the Commonwealth Guidelines.

### **4. Use of slogans and advertising techniques**

- 4.1 The Bill provides that "information in a government campaign must not include slogans or other advertising techniques".<sup>8</sup> The industry submits that this restriction is unreasonable and will prevent government agencies from creating effective advertising campaigns.

- 4.2 The Commonwealth Guidelines contain no blanket prohibition relating to the use of slogans and advertising techniques. Instead, they prohibit the use of "party-political slogans or images".<sup>9</sup> The industry submits that this is a much more reasonable restriction, which is already reflected in the examples to section 13(3)(e) of the Bill.

- 4.3 Many of the most effective government agency campaigns over the years have involved the use of slogans. A famous example is the "Dollar Bill" campaign in 1966, with the decimal currency changeover jingle. More recent examples include:

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<sup>8</sup> Section 13(3)(c) of the Bill.

<sup>9</sup> Guideline 3, 20(c) of the Commonwealth Guidelines.

- the ACT's "Go for 2&5" fruit and vegetable campaign;
- Queensland's anti drug-driving campaign, which includes the slogan "*the ecstasy and the agony*"; and
- NSW's "*Live Life Well*" health campaign.

4.4 Government agency campaigns should be made as effective as possible. There seems little point in preventing government agencies from using proven advertising techniques, designed to maximise impact. Such a ban would prevent agencies from producing the most effective campaigns and hence making the best use of public funds.

4.5 The industry submits that the current prohibition on slogans and advertising techniques should be removed from the Bill. The prohibition on the use of "party-political slogans or images"<sup>10</sup> is sufficient, and reflects the Commonwealth Guidelines.

CRA would welcome the opportunity to discuss or amplify any of these points with the Select Committee on Campaign Advertising. The Government should contact Joan Warner on 9281 6577 if it wishes to do so.

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<sup>10</sup> Section 13(3)(e) of the Bill (examples).