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**Submission to the Select Committee on
Campaign Advertising**

***Government Agencies (Campaign Advertising)
Bill 2008***

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This submission is made on behalf of Grey Canberra, the Canberra operation of Grey Group, a multinational advertising agency group. We have been operating in the Canberra market for some 35 years and have worked with local government agencies under governments of various persuasions during this time.

We are currently among the panel agencies selected by the Land Development Agency to handle its business, are part of the Australian Capital Tourism panel, are the agency of record for ACTEW Corporation and have in the past developed campaigns for agencies including ACTION, the Chief Minister's Department (Live in Canberra, ACT Events and others), Elections ACT and ACTTAB.

Grey Group is wholly owned by WPP Group and, as an arm of a public company, is constrained by various corporate governance instruments including the *Sarbanes Oxley Act* to operate according to the strictest ethical standards.

Because we believe the Bill in its current form may compromise our ability to deliver a cost-effective and professional service for government clients, we would like the Committee to consider the following points.

General principles

Grey Canberra fully supports the intent of the Bill, preventing the use of public funds for advertising or other communications for party political purposes.

We are pleased to see that the Bill endorses the public's right to receive comprehensive information from government. However, we are concerned that the Bill seems to frame government campaigns purely in terms of explanation of policies and information affecting people's rights, entitlements and obligations.

There are many government campaigns that have very different objectives, for example:

- to sell something, as is the case with land sales campaigns;
- to promote awareness of an issue, as with the Asbestos Awareness program conducted several years ago
- to change behaviour, as is the case with anti-gambling, road safety, water conservation and other social marketing campaigns;
- to promote a course of action, as is the case with tourism campaigns or the well-known 'Live in Canberra' campaign that addressed Canberra's skills shortage.

If it is accepted that these are all legitimate purposes for government advertising, we suggest that a government's communication responsibilities extend beyond merely informing and explaining, and may often include an element of persuasion.

We contend that, in many instances, government entities are operating in a business environment, with business objectives, and may legitimately be expected to use business methods to achieve those objectives. We will return to this point in addressing Part 3 13 (3) of the Act which concerns the presentation of government advertisements.

It may be that Part 1 8 (c) (iii) "other routine advertising carried out by an agency in relation to its operational activities" is intended to cover this situation. If so, we contend that the intent is not clear and there remains the potential to impede normal business activities.

Auditor-general to review certain government campaigns

Grey Canberra has no objection in principle to this proposal of the Bill. However, if it is implemented, we consider it important that procedures and staffing arrangements are such that the process can be handled expeditiously.

There are often instances where timeliness is an important element of effectiveness and a drawn-out review process could prove to be extremely counter-productive.

We would also comment on the figure selected as the threshold for the referral of campaigns to the Auditor-general. Despite the significantly lower costs for media and production in the Canberra market in comparison to other capital cities, it is unlikely that any effective communication campaign could be developed for less than \$20,000. Setting the figure at this level means that virtually every communication activity would need to be reviewed, involving a significant workload and, therefore, cost.

Grey Canberra endorses, however, the suggestion that any campaign of whatever value be submitted for scrutiny if the subject matter is considered to be highly sensitive. We see this as providing more

certainty for communication agencies in the way any claims or information are framed and offering protection from allegations of being misleading. We make the point, however, that this review should happen at an early stage, before significant resources have been invested in production.

Minister to make guidelines

It is with this section of the proposed Act that we have some significant concerns. These relate to the narrow definition of the content and purpose of government advertising and the proposed limitations on 'advertising techniques'.

Relevant information

Again, in this section, there is a focus on 'information' which, indeed, needs to be relevant and accurate. However, an effective advertisement needs to be far more than informative. First and foremost, it needs to be noticed. By definition, all advertising that fails to attract its audience's attention is a waste of money.

Next, an effective communication needs to engage its audience. In fact, communication doesn't exist if people don't listen, engage and understand.

Effective communication must demonstrate through its language and its tone that it is in touch with its audience and can offer something that they want. This almost always involves an emotional as well as a purely factual element. This might involve so-called "irrelevant" information that reaches out to the audience and draws them into the communication. It might involve a "third party" making a comment or voicing an opinion that the audience can identify with. We contend that the inclusion of these elements does not make the overall communication less honest, as long as it has been prepared with honest intent and subjected to scrutiny regarding the clarity of the message conveyed.

Statements promoting the government's performance

In relation to this point, we make reference to the ACTEW Corporation "Dams" campaign, which featured in the Assembly debate on this Bill. This campaign, produced by Grey Canberra, was cited as an example of the government promoting its own performance for political purposes.

This is a misreading of the facts. The campaign in question was part of a long-term communication strategy by a territory-owned corporation, aimed at fulfilling a primary business goal – to provide the ACT with a reliable and sustainable water supply. This campaign had two parts – a summer campaign that talked about saving water and a winter campaign that explained what ACTEW was doing regarding water security. We consider both elements important to achieve the overarching communication objective, which is to encourage Canberrans to use water wisely.

The corporation has conducted extensive research into residents' attitudes to water. This research segments the population according to their attitudes towards, and inclination to participate in water conservation. Of people who are not willing to conserve water, significant among the reasons for justifying their resistance is the claim that "ACTEW should be doing more to provide us with water".

The "Dams" campaign had a critical role to play in demonstrating that ACTEW was, in fact, doing its part – therefore helping to remove a significant 'excuse' cited by resisters. Grey Canberra's strategic advice to ACTEW was that we considered the whole "mutual effort" proposition as central to the future success of water-saving measures. We therefore defend ACTEW's right to develop campaigns such as this to promote its own performance. This is a strategy that has been pursued in other states

including New South Wales, Queensland, Victoria and Western Australia. Furthermore, best-practice social marketing theory supports this approach and demonstrates that promoting the efforts of government and business increases the likelihood of the general community taking action.

The wording of the Bill suggests that this legislation could be invoked to prevent government-owned enterprises promoting their own performance, even when this is for legitimate business ends as demonstrated above.

Information must not include slogans or other advertising techniques

It is with this section of the Act that we particularly take issue. There are several points of contention:

- 1. Definition of “advertising techniques”** Grey contends that any advertisement must apply techniques of some kind. The use of a single presenter talking to camera against a plain background is, of itself, a technique. The use of simple type in a text-intensive advertisement is a technique. Similarly, at the other extreme, the use of a troop of dancing girls and people singing about the product is a technique. Thus the interpretation of what is meant in this Bill by “advertising techniques” is bound to be subjective. Other than the specific mention of slogans and jingles, no concrete guidance is provided in this area.

The use of photographs, the development of intriguing headlines, the use of expert camera people to produce professional and polished television commercials, the employment of actors to dramatise a situation are all advertising techniques. Would these techniques henceforth become illegal? If not, which ones would be permissible and which would not?

We contend that this provision of the Bill is unworkable because of the subjective nature of deciding what an advertising technique is.

- 2. Producing advertising that communicates with its audience** Leaving aside any issues of content, any advertising campaign that does not connect with its audience is a failure. Therefore, putting legal restrictions on “advertising techniques” could, if interpreted narrowly, mean that every piece of communication from the government was doomed to fail.

As we alluded to earlier, the first challenge for any advertising campaign is to be noticed. This applies to information campaigns as much as to sales campaigns. As we in the advertising profession know well, people do not listen to the radio, watch TV or pick up the paper with the intention to see what’s in the ads.

The use of advertising techniques such as engaging pictures and intriguing headlines increases the likelihood that the message will be received and understood by an audience. Similarly, the much-maligned “slogan” is used as a way to underline the key thought in the campaign and help to fix the message in people’s minds: for example, the ACTEW campaign line “Save water for life”.

Of course, advertising needs to be appropriate to the message, the advertiser’s standing in the community and the audience. Reputable advertising agencies and other communication specialists would avoid the use of inappropriate “hard sell” techniques for government communication.

However the ultimate waste of money is a campaign that no-one pays attention to or remembers. Conversely, the more memorable an advertisement is, the less frequently it needs to run to be effective. Advertising techniques are thus a vital part of making campaigns cost-effective.

- 3. Restriction on normal business activity by government agencies** As we mentioned earlier, many government agencies conduct commercial activities that require the effective use of advertising. Government agencies are involved with land sales, tourism promotion, provision of services such as water, health and safety programs, gambling and racing, community events, promotion of Canberra as an investment destination, the attraction of skilled workers to Canberra and many more important activities.

A literal interpretation of this piece of legislation would mean that none of these agencies would be able to use "advertising techniques" to further their business objectives. Floriade would not be able to use beautiful pictures of flowers. Tourism campaigns would not be permitted to use the slogan "See yourself in the national capital" – or any other slogan. ACTION would have to remove the line "Going your way" from its buses. Grey Canberra recognises that this is not the primary intent of the Bill; however, there is no clear provision for determining that certain campaigns or agencies are except from this section of the proposed law.

Accessibility to special audiences

Grey accepts and endorses the requirement that government advertising be accessible to all audiences. We interpret this to mean that there must be elements within the overall campaign that address audiences with special requirements. As a matter of course all government advertising is captioned for the hearing impaired, radio for the vision-impaired is included in most campaigns and all government printed materials include a multi-lingual panel offering translation services. The lack of ethnically-specific media that is Canberra focused is a limiting factor in our ability to communicate more directly with those whose first language is not English.

When we produce advertising materials, we are at pains to be ethnically inclusive in any photography or filming that involves the use of groups of people.

Efficiency, effectiveness and accountability

Grey Canberra expects to be accountable in terms of our ethical standards, professional expertise and cost-effectiveness. However, we would like to use this opportunity to make some comments about the procurement policies and procedures followed by the ACT Government as they apply to advertising and design agencies.

We appreciate the need for government agencies to be fair and transparent in their procurement procedures. However, there is often a significant impost on businesses in tendering for low-value contracts and the work involved can, when assessed in terms of head-hours, sometimes exceed the potential income from the project.

We are not suggesting that tendering agencies be paid for their submissions; however, we contend that tendering agencies should be given sufficient information at the beginning of the tender process for

them to make a business decision on whether to participate in the tender. This would include the following:

- The value of or budget for the project
- If it is a select tender, how many agencies are pitching?
- Who are we pitching against? (The cost structure for a full-service agency is different from that of a sole-trader designer and we may not be competitive on cost.)
- What are the criteria for decision making? (Cost alone, strategic soundness, creativity etc.)

It is important that businesses be given the opportunity to make a fair return on work performed for government agencies and including this information would help in assessing our potential to achieve this.

Identification of government campaigns

There are already regulations in place that require government radio and television campaigns to be identified. Currently, this must be done at the end of the commercial and, for television, it must be done in a prescribed manner (white type on a black background, no special effects, identifying the authorising authority and the speaker, while the voice identifies the authorising authority).

Grey Canberra contends that there is no need for further changes to this system, which is standard across all jurisdictions and is enforced by the television networks and radio stations as well as Commercials Advice (CAD). Including an identification at the beginning and end of a communication would lessen cost-effectiveness and make certain commercial lengths (15-second spots) completely untenable.

Recognising diversity

The section of the Bill relating to recognising the diversity and full participation of all sections of the community is unduly onerous. It is the responsibility of the authorising government agency to brief their communications agencies on the need to show diversity within advertising where appropriate. In instances where a number of people or groups of people are included in campaign advertising, Grey Canberra as a matter of course would seek to reflect diverse ethnicity. We also avoid gender stereotypes on principle.

It is difficult to imagine how a straightforward communication on, say, saving water, would reflect the "interests, lifestyles and contributions to Australian society" of women, ethnic and Aboriginal and Torres Strait Islander communities.

Indeed, much government advertising does not even use images of people. For example, a press advertisement containing information about housing affordability produced by Grey Canberra used simply a doormat as a key image. Would this contravene this provision of the legislation, since it does not reflect diversity, lifestyles, interests or contributions?

Outcomes

The amendments Grey Canberra would like the Select Committee to consider are the following:

- Define more specifically the agencies to which the Bill applies or the activities which are exempt from the provisions of the Bill.
- Remove the provision for all campaigns to be reviewed by the Auditor General or increase funding level at which review is required from \$20,000 to at least \$50,000. Or limit the review process to sensitive campaigns.
- Remove or re-word the section requiring all information to be "relevant to current government responsibilities".
- Remove the blanket ban on comment, opinion or "statements promoting the government's performance".
- Most significantly, remove the section which reads "a government campaign must not include slogans or other advertising techniques".
- Remove the example referring to identifying government communications "at the beginning and end" of a commercial.
- Remove the section dealing with recognising diversity or re-word this section to delete the part that reads "by realistically representing their interests, lifestyles and contributions to Australian society".

On behalf of Grey Canberra I thank you for your attention and respectfully submit these comments for your consideration.



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28 May 2009