

The Secretary  
Select Committee on Campaign Advertising  
Inquiry into the Government Agencies (Campaign Advertising) Bill 2008  
Legislative Assembly for the Australian Capital Territory  
GPO Box 1020  
CANBERRA CITY 2601



Dear Secretary

**Inquiry into the Government Agencies (Campaign Advertising) Bill 2008**

I am pleased to lodge the submission for the Inquiry into the *Government Agencies (Campaign Advertising) Bill 2008* by the Canberra Liberals.

In summary, the Canberra Liberals:

- i. Commend the Assembly for considering this important legislative reform
- ii. Recognise the right of governments to communicate with the electorate and the right of the community to be informed;
- iii. Submits that incumbent governments can and do misuse this right to promote party political agendas at the public expense;
- iv. Submits this misuse is not in the best interests of good governance, fair elections or free democracy;
- v. Submits that legislative regulation is necessary to redress this problem
- vi. Submits that the proposed legislation would be an effective and nation leading example of government campaign advertising reform
- vii. Submits that these reforms have broad support.

Our attached submission addresses these points with regard to the terms of reference supplied by the committee. Our submission also includes background and information from a variety of sources and appendices to support our submissions.

I hope the committee finds our submission to be of benefit in their deliberations.

Yours Sincerely,


A handwritten signature in black ink, appearing to read 'Winnifred Rosser', written in a cursive style. The signature is positioned to the right of a vertical line.

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**SELECT COMMITTEE  
ON GOVERNMENT ADVERTISING**



**Inquiry into the Government Agencies  
(Campaign Advertising) Bill 2008**

	ACT LEGISLATIVE ASSEMBLY COMMITTEE OFFICE
SUBMISSION NUMBER	15
DATE AUTH'D FOR PUBLICATION	18 June 09

**Submission prepared by  
Canberra Liberals**

**June 5 2009**

## **Introduction**

The Canberra Liberals believe that governments have a right to communicate with the community, and that they have a right to use public funding to do so. The Canberra Liberals also believe the public has a right to be informed about changes to programs or introductions of new initiatives that will have a material impact on their lives.

The Canberra Liberals do not believe that an incumbent government has a right to misuse public money to promote their performance, to influence an election, to counter negative press reports, to use health and education facilities for their own party political advertising, to use public servants as 'props' during an election campaign, or to use government agency advertising budgets as a blatant substitute and adjunct to party political advertising.

The Canberra Liberals believe this is what has been happening in recent years, and there are many examples to support this submission.

There is ample academic research, political writing and media commentary on the subject (a sample of which is included in the appendices), all pointing to the necessity to reform the current system so that public money is spent for the public good, not one party's greed for office.

## **The Terms of Reference of the Committee**

Under its Terms of Reference, the committee is inquiring into the *Government Agencies (Campaign Advertising) Bill 2008*. The object of the Bill is stated to be 'to regulate the cost, timing and content of government agencies and prevent the use of public advertising funds for party political purposes'.

Our submission will address the relevance and need for this Bill in light of the blatant misuse of government advertising funds by the current government, including the core areas mentioned above.

The Canberra Liberals also submit that, with the revelations that have come to light during the recent hearings of the Standing Committee of Estimates of the Legislative Assembly, the Committee would be justified and rewarded if it broadened its enquiry into aspects of misuse of public resources for party political purposes.

We refer specifically to the revelations that:

- The Canberra Hospital was used for a party political advertisement by the Labor Party, using Hospital locations and Hospital staff, in particular the Health Minister personally intervening in the matter, the acquiescence of the Head of ACT Health, Mr Mark Cormack, in unilaterally approving the use of the Hospital and staff without due process, and the conflicts of interest and unfairness to other parties that arise from this process.
- A Canberra Government School was used for a party political advertisement by the Labor Party, using operating school locations, and the conflicts of interest that become apparent, particularly when evidence was presented to the Estimates Committee by senior education bureaucrats that such a use would indeed be a conflict of interest.
- The Chief Minister ordered a government agency to prepare an advertisement for a government program because he was 'very annoyed' at a newspaper headline.
- The Labor Party invited political candidates to an opening of a police station which was attended by the Chief Police Officer, apparently for the advantage of 'photo opportunities' during an election campaign.

**Recommendation 1: That the Committee include a review of the misuses of government resources revealed during the Estimates Committee and provide recommendations to the Legislative Assembly to prevent recurrences.**

**Recommendation 2: That the Committee investigate legislative provisions to prevent the use of government resources such as hospitals, schools and police facilities, and government employees, for party political purposes, as seen during the last election.**

### **The Bill and its clauses**

We note that the Bill is based on Federal guidelines presented by the Rudd Labor government and brought into force in 2008. Such guidelines may well be influential on the practices of state and territory governments. It is a culmination of several attempts to regulate government advertising to preserve the freedoms but limit the excesses that tempt incumbents.

By giving the national guidelines legislative force, the Canberra Liberals believe this Bill is a nation-leading example of open and accountable governance. We support the Legislative Assembly's move towards limiting the more blatant misuse of public funds.

The important clauses for which we have substantive submissions are as follows:

#### **i. The importance of external scrutiny**

The Canberra Liberals believe the core of the Bill, that government advertising be scrutinised by an external party, and that scrutiny be governed by guidelines in accordance with items set out in the Bill, would create the correct balance between scrutiny of government activity and freedom of communication.

The Bill provides that campaigns that are over \$20,000 must be reviewed by the Auditor General to determine whether they comply with the new Act. We understand that this does not mean a campaign measure will automatically be 'banned' but it will be scrutinised by an independent body.

We can see no logical argument why government advertising should not be checked in this way and can only contend that to oppose such a notion calls into question the motivations of the opposing party.

**Recommendation 3: That the provisions of this Bill providing external scrutiny of government advertising be supported.**

**ii. Statement of total costs**

The Bill also requires that Ministers prepare a statement of total costs, so an assessment can be made about whether the campaign represents fair value for money, and whether the spending could be better placed on providing the actual services instead of merely promoting them.

It has been noted through studies that there have been noticeable 'spikes' in government advertising expenditure in the lead up to an election campaign.

It has been discovered by our parliamentary party, for example, that ACTEW spent \$866,000 on advertising in the lead up to the last election. We know from recent market research that water security is the number one issue concerning Canberrans (*Eye on Canberra, Grey Advertising May 2009*). A government that is instrumental in using resources in this way can combine their own market research to 'take an issue off the table' using funds not properly as the private resource of a political party. This is a clear misuse of those public funds.

One way to address this is to expand the provisions on total costs for normal advertising and consider a 'cap' on that spend, with an appropriate annual adjustment for inflation, so that all years remain the same, whether an election year or not.

This would prevent politically-motivated 'spiking' of the advertising spends on election issues during campaign years.

**Recommendation 4: That the Committee consider including a clause requiring forward spending in election years be capped at a level equivalent to the level of non-election years (allowing for inflation).**

### **iii. The Guidelines**

The Canberra Liberals support the creation of guidelines that more fully underscore the intent of the Bill and allow government agencies and the external scrutineer to operate within a known framework.

Clauses 1 (information in a government campaign must be relevant to current government responsibilities) and 2 (information in a government campaign must be presented in an objective and fair way and not include comment or opinion; or statements promoting the government's performance) do not need elaboration, and the examples provided offer fair guidance.

The operation of clause 3 will be more contentious, that information in a government campaign must not include slogans or other advertising techniques; for example, slogans and jingles.

The Canberra Liberals are aware of the attacks on this clause. However, the Canberra Liberals have also witnessed blatant misuse of government advertising resources in a way that completely 'blurs the line' between government advertising and party political advertising.

For example, advertising shot in Canberra Hospitals or public schools for health or education campaigns have become utterly indistinguishable from party political advertising filmed in the same settings. This is an issue which has been ruthlessly exploited, as can be seen from the Estimates Committee hearings.

The Canberra Liberals also recognise that this is a guideline to be applied by an independent arbiter. Not all slogans or jingles will fall foul of the Bill – only those



judged by the scrutineer to be overtly political. This is an important point that critics fail to acknowledge.

As such, we contend that a clause which allows the scrutineer to examine slogans or jingles should be included in the final Act.

**Recommendation 5: That the Bill retains provisions to scrutinise advertising techniques and jingles to ensure they are fulfilling a public communication purpose, not a party political one.**

The clause that seeks to more clearly identify an advertisement as a government communication would, we contend, serve an important self regulating purpose.

If an advertisement were identified as government-sponsored at the beginning of an ad, it would produce three results:

1. the message would be viewed by the audience with a more serious frame of mind,
2. government agencies would be more likely to adhere to the intent of the Bill, and
3. Government identification may be considered 'hidden' at the end of an ad, after the damage is done.

**Recommendation 6: The committee consider making government advertising more clearly identified as government-sponsored.**

The remaining clause on which the Canberra Liberals would seek to make a submission is the ban on campaign advertising 12 weeks out from an election.

The Canberra Liberals can see no reason why a government-sponsored campaign needs to run during the election or caretaker periods.

In the ACT, we know well in advance what our election date will be. A ban on government-sponsored advertising during this period will prevent government's co-ordinated use of taxpayer and political campaigning to gain political advantage.

### **Broad Support.**

The Canberra Liberals contend that support for restrictions on the misuse of government advertising. We include for the Committee's information a range of articles and supporting documents to support this claim, and the submissions made in this document.

### **Conclusion**

The Canberra Liberals recognise it is not the intent of the Bill to ban government advertising, nor to impose undue restrictions. It is intended to guarantee scrutiny of government advertising, with appropriate guidelines. The spirit of those guidelines apparently has Federal Labor approval.

This is an important Bill that will redress some of the most extreme examples of government misuse of advertising resources that have ever been uncovered.

The Canberra Liberals offer their full support to the Legislative Assembly for considering this Bill, and our parliamentary colleagues for having the courage and conviction to present it.

**Recommendation 7: That the Assembly support this important Bill to end misuse of government resources.**

**SELECT COMMITTEE  
ON GOVERNMENT ADVERTISING**

**Inquiry into the Government Agencies  
(Campaign Advertising) Bill 2008**

**APPENDICES**

**Submission prepared by  
Canberra Liberals**

**June 5 2009**

## APPENDIX 1 - EXTRACT

Research Note no.62 2003-04

Federal Government Advertising

Dr Richard Grant

Politics and Public Administration Section

21 June 2004

### Introduction

Government advertising is a contentious issue in modern democracies. In Australia, both Commonwealth and State governments are entitled to taxpayer money to provide the public with information about their programs. This is allowed for under the *Commonwealth Electoral Act 1918*.

At one level, government advertising has an important democratic function. The public has a right to be informed about the programs which their taxes fund. Equally, governments have a right to establish a framework for delivering this information, subject to parliamentary scrutiny.

But the distinction between government and political advertising is often blurred. This creates claims of political bias and that the funds would be better spent on the advertised services themselves.<sup>1</sup> Although governments' campaign advertisements generally cease once the Parliament is dissolved for an election, their style is often similar to parties' election advertisements.<sup>2</sup>

Not all government advertising is contentious however. A proportion of the government's advertising budget is labelled 'non-campaign' which includes job vacancies in Australian government organisations, public notices and tenders. These are 'one-off' advertisements.

### The system of government advertising

There are two main bodies responsible for government advertising: the Ministerial Committee on Government Communications (MCGC) and the Government Communications Unit (GCU).<sup>3</sup>

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<sup>1</sup> See R. Garran, 'Medicare campaign enrages Hewson', *The Financial Review*, 2 February 1993; F. Brenchley, 'Ministry of Propaganda', *The Bulletin*, 16 February 1999, pp. 30-32; M. Metherell, 'Opposition condemns \$109 million marketing blitz', *Sydney Morning Herald*, 27 May 2004.

<sup>2</sup> This is known as the 'caretaker convention'. Government advertisements may continue through the election campaign if 'they are required to inform the community of entitlements or obligations'. See 'Taxation Reform: Community Education and Information Programme', Auditor-General, *Audit Report No. 12*, 1998, p. 23.

<sup>3</sup> The MCGC replaced the Labor Government's Ministerial Committee on Government Information and Advertising (MCGIA). The GCU replaced the Office of Government Information and Advertising.

## **The Ministerial Committee on Government Communications**

In 1997, Prime Minister John Howard established the MCGC. This committee makes the key decisions relating to information activities undertaken by government departments and agencies governed by the *Financial Management and Accountability Act 1997*. Under the guidelines, major and/or sensitive information activities are to be approved:

- first by the responsible minister
- then for discussion with the GCU, and
- then by the MCGC for approval.

The MCGC applies the *Guidelines for Australian Government Information Activities*, established in 1995. The principles governing these guidelines include:

- equality of access to information about government programs, policies and activities
- an expectation that each government department will have a public information program 'particularly where programs concern the individual's benefits, rights and obligations', and
- efficient and effective use of information staff and communication techniques.

## How much have governments spent?

The following table presents aggregate expenditures on government advertising (1991–2004). The data includes both campaign and non-campaign advertising registered through the CAS. The third column converts nominal expenditure to 2003–04 prices.

**Table 1: Government advertising expenditures 1991–2004**

	Nominal \$m	2003–04 prices: \$m
1991–92	\$48	\$61
1992–93	\$70	\$88
1993–94	\$63	\$79
1994–95	\$78	\$97
1995–96	\$85	\$103
1996–97	\$46	\$55
1997–98	\$76	\$89
1998–99	\$79	\$92
1999–00	\$211	\$240
2000–01	\$156	\$170
2001–02	\$114	\$122
2002–03	\$99	\$103
2003–04	\$109	\$109
<b>TOTAL</b>	<b>\$1234</b>	<b>\$1408</b>

**Source:** 1991–2 to 1995–6: Department of Administrative Services, *Annual Reports*. 1996–7 to 97–8: requested from GCU. 1998–9 to 2002–03: Department of Prime Minister and Cabinet, *Annual Reports*. Figure for 2003–04 taken from Senate Estimates, Department of Prime Minister and Cabinet, 25 May 2004.

Expenditures on government advertising placed through the CAS rose fairly steadily over the years of the Keating Government (1991–96). The exception was the 1992–93 financial year when there was a sharp increase in outlays. Government advertising expenditure over the first eight years of the Howard Government (see Table 1, shaded) is marked by a major increase in 1999–2000. Expenditures for that year increased by 265 per cent on the previous financial year. This reflected expenditure on the goods and services tax advertising campaign. Still, the level of government advertising expenditure in the past two financial years is similar (in real terms) to outlays in the last two years of the Keating administration.

## ANAO reports

There have been two major enquiries into the conduct of government advertising by the Australian National Audit Office (ANAO).

In 1995, the ANAO conducted an efficiency audit of departmental campaign advertising. The purpose of the report was to 'make recommendations designed to encourage better practice in managing difficult and complex campaigns'.<sup>4</sup> The report 'questioned the extent to which campaigns that only provide facts and are not designed to influence attitudes or change behaviour actually help achieve program objectives'.

In October 1998, shortly before the federal election, the Audit Office reported on the GST advertising campaign at the request of the Leader of the Opposition in the Senate. The report noted that:

*there are no Commonwealth guidelines or protocols on information and advertising campaigns [...] covering matters such as distinguishing between government and party-political advertisements, the distribution of unsolicited material and conduct of campaigns in the lead up to an election [...] It is not a matter that officials can duly decide for themselves. [H]istory shows it is not uncommon for Government advertising to increase in the period immediately preceding an election.*<sup>5</sup>

## Pre-election spikes

Table 1 supports this claim of pre-election spikes in expenditure on government advertising. The 1993, 1996, 1998 and 2001 federal elections were preceded by sharp increases in government advertising outlays:

- The bulk of the Keating Government's \$3 million advertising campaign on Medicare Hospital Entitlements was spent the month before the 1993 poll<sup>(14)</sup>
- The Keating Government spent \$9 million in the three months prior to the 1996 Federal election campaign<sup>(15)</sup>
- The Howard Government spent \$29.5 million in the three months before the 1998 election campaign.<sup>(16)</sup>
- Half this expenditure (\$14.9 million) was on the GST campaign. Still, pre-election spending on GST advertising accounted for only 13 per cent of total expenditure on the GST campaign, and
- In the four months before the 2001 election, the government spent roughly \$78 million.<sup>(17)</sup>

This trend of pre-election spikes in government advertising seems likely to continue. A May 2004 Senate Estimates Committee heard evidence of various plans for commencing new and continuing existing government advertising campaigns.

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<sup>4</sup> Department of the Prime Minister and Cabinet, *Annual Report, 2003–04*, p. 77.

<sup>5</sup> G. Hogan et al., 'Efficiency Audit, Commonwealth Government Information and Advertising', Australian National Audit Office, *Report No. 30, 1994–95*, p. xi.

## ENDNOTES & FURTHER READING.

J. Koutsoukis, 'Now for the really hard sell', *The Age*, 29 May 2004, Insight, p. 3.

S. Brook, 'Fed's \$150m the big spend', *The Australian*, 27 February 2002.

S. Young, 'Killing competition: Restricting access to political communication channels in Australia', *Australian Quarterly*, May-June 2003, p. 15.

Senator J. Faulkner in V. Burgess, 'Ad campaign ignored auditor's advice', *The Canberra Times*, 5 July 2000.

*Government Advertising: A Review by the National Audit Office*, April 2003.  
[http://www.nao.org.uk/publications/gov\\_advertising.pdf](http://www.nao.org.uk/publications/gov_advertising.pdf)

'Canadian Government Cleans Up Ad Rules',  
<http://canadaonline.about.com/cs/govpurchasing/a/fedadrules.htm>

The Victorian Auditor-General, 'Framework for Government Advertising and Marketing',  
*Report on Government Agencies*, June 2002.  
[http://www.audit.vic.gov.au/reports\\_better\\_practice/agbp01.html](http://www.audit.vic.gov.au/reports_better_practice/agbp01.html)

Senator Robert Hill, 'Government Advertising: Return to Order', Senate, *Debates*, 12 February 2004, p. 20,168.



## **APPENDIX 2.**

### **ABC ONLINE**

Posted Tue Dec 6, 2005 7:17pm AEDT □ Updated Tue Dec 6, 2005 9:22pm AEDT

**A Senate report into Federal Government advertising has recommended there should be new guidelines on how expenditure is allocated.**

The inquiry has found spending on advertising has climbed steadily since the early 1990s. It says between 1991 and 1996 the Government spent an average of \$85 million a year on advertisements.

Expenditure has risen to \$126 million a year under the Howard Government.

The Government has been criticised for spending as much as \$55 million on its industrial relations campaign.

Labor's Michael Forshaw says under the proposed guidelines, the Government would need Parliament to approve legislation before a public information campaigns.

"Of the top 10 advertising campaigns since 1991, nine of them have all occurred under this Government and particularly we note campaigns for the GST and the more recently and outrageous expenditure on the WorkChoices campaign of \$55 million," Mr Forshaw said.

Coalition senators on the inquiry have defended the expenditure, saying Governments are obliged to inform citizens of their rights and changes in Government policy.

## **APPENDIX 3.**

Media Release | Spokesperson Bob Brown  
Thursday 11th October 2007, 12:00am

### **Greens move law to shame governments over political advertising**

If Parliament resumes next week Australian Greens Leader Bob Brown will introduce a private members bill requiring the total amount of taxpayers' money spent on government advertising to be included in every advertisement.

"The aim of the bill is to name and shame governments who use taxpayers' money on blatantly political advertising. It will allow taxpayers to see exactly how much of their money is being spent by self-serving governments," Senator Brown said.

"The government will not be able to hide the amount it spends on advertising. The 'Climate Clever', 'Better Super' and 'Net Alert' ad campaigns will cost taxpayers \$52 million, \$69 million and \$21.5 million respectively. The Greens' bill will amend the Commonwealth Electoral Act 1918 and the Financial Management and Accountability Act 1997 to require the total cost of a government advertising campaign to be displayed in all the advertisements in that campaign, alongside the authorisation," Senator Brown said.

"Some government advertising is necessary to impart information to the public, but by displaying the cost of these advertisements governments will think twice before abusing taxpayers' money," Senator Brown said.

Senator Brown also warned voters to watch out for the barrage of propaganda from sitting MPs, following changes to the printing entitlements which allow MPs to accumulate a \$220,000 printing war chest to spend during elections. "It's a straight-out raid on taxpayers' money, enabled by the government winning control of the Senate in 2004, to fund sitting members' election campaigns," Senator Brown said.

"At 5 cents per printed sheet, the government has enough to print 258,000,000 pieces of paper – equivalent to 25 pieces of junk mail in every Australian household letterbox," Senator Brown said.

## APPENDIX 4 – RECENT GOVERNMENT ADVERTISING FIGURES.

Media Statement - 2nd July 2008

John Faulkner, Lindsay Tanner

### Australian Government Advertising Placed Through The Central Advertising System

Financial Year	Campaign \$	Non-Campaign \$	Total \$
<b>2008 (to Mar 2008)</b>	<b>17.9m</b>	<b>16.9m</b>	<b>34.8m</b>
2007	281.2m	87.6m	368.8m
2006	139.6m	73.6m	213.2m
2005	134.0m	60.4m	194.4m
2004	94.4m	45.8m	140.2m
2003	63.9m	50.1m	114.0m
2002	60.4m	35.2m	95.6m
2001	117.3m	31.3m	148.6m
2000	177.6m	21.4m	199.0m
1999	91.4m	22.1m	113.5m
1998	57.6m	21.6m	79.2m
1997	50.3m	19.6m	69.9m
1996	36.1m	18.6m	54.7m
1995	54.9m	23.6m	78.5m

Financial Year	Campaign	Non-Campaign	Total
<b>2007 - 2008 (to Mar 2008)</b>	<b>184.7m</b>	<b>53.9m</b>	<b>238.6m</b>
2006 - 2007	196.4m	84.8m	281.2m
2005 - 2006	137.8m	70.7m	208.5m
2004 - 2005	88.0m	49.7m	137.7m
2003 - 2004	97.8m	45.5m	143.3m
2002 - 2003	51.8m	47.7m	99.5m
2001 - 2002	83.9m	31.1m	115.0m <sup>^</sup>
2000 - 2001	133.2m	29.9m	163.1m
1999 - 2000	186.8m	24.1m	210.9m
1998 - 1999	54.0m	19.4m	73.4m
1997 - 1998	55.1m	21.5m	76.6m
1996 - 1997	29.4m	16.9m	46.3m
1995 - 1996	47.6m	23.4m	71.0m
1994 - 1995	43.1m	23.1m	66.2m

\* Non campaign advertising comprises job advertising, tenders and routine advertising related to their operational activities

<sup>^</sup> The 2000/01 Financial Year Non-Campaign figure is \$6.6 million higher than reported in the PM&C Annual report for that year as the non-campaign placement agency had failed to include expenditure by untied government agencies in their end of year reporting.

## **APPENDIX 5: SHANE RATTENBURY 4 AUGUST 2008**

**Media Statement: ACT Greens**

**Author: Shane Rattenbury**

**Date: 4 August 2008**

### **ACT Labor acting like Howard Government**

Using taxpayers funds to advertise itself is making the Stanhope government look a lot like the dying days of the Howard government, according to Greens candidate for Molonglo, Shane Rattenbury.

“Over the weekend, I received two glossy brochures in my letterbox advertising the government. One was on the government’s new health investment, reinforcing the money already spent on TV advertising. The second was on schools in the area. This is on top of the glossy brochure advertising the Budget that came around two months ago.”

“The Howard government became notorious for using record levels of taxpayers money on so-called government information campaigns, which was nothing more than thinly disguised political advertising.”

“The Stanhope Labor government is heading down the same path.”

“These brochures do not contain important practical information like how and where to access services, or deadlines for enrolments in school, they are simply self promotion for the government.”

“The community rightly became cynical about the Howard government when it adopted this practice, and the Labor government in Canberra is inviting the same response.”

The Greens call on the government to stop this blatant political advertising, and instead focus on providing services and real information such as where we can get easy access to a doctor and a dentist, and how we can enrol our kids in our local neighbourhood school