



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Reference: Role of the Auditor-General in scrutinising government advertising

WEDNESDAY, 13 MAY 2009

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JOINT STATUTORY
COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT
Wednesday, 13 May 2009

Members: Ms Grierson (*Chair*), Mr Georgiou (*Deputy Chair*), Senators Barnett, Mark Bishop, Bushby, Feeney and Lundy and Mr Bevis, Mrs Bronwyn Bishop, Mr Bradbury, Mr Briggs, Mr Butler, Ms King, Mr Neumann and Mr Robert

Members in attendance: Senators Mark Bishop, Barnett, Feeney and Lundy and Mrs Bronwyn Bishop, Mr Briggs, Mr Georgiou and Ms Grierson

Terms of reference for the inquiry:

To inquire into and report on:

The role of the Auditor-General in scrutinising government advertising

WITNESSES

**HOLBERT, Mr Robert, Senior Director, Performance Audit Services Group, Australian
National Audit Office..... 1**

McPHEE, Mr Ian, Auditor-General, Australian National Audit Office..... 1

**WHITE, Mr Michael, Executive Director, Performance Audit Services Group, Australian
National Audit Office..... 1**

**WHITE, Mr Peter, Group Executive Director, Performance Audit Services Group, Australian
National Audit Office..... 1**

Committee met at 12.05 pm

HOLBERT, Mr Robert, Senior Director, Performance Audit Services Group, Australian National Audit Office

McPHEE, Mr Ian, Auditor-General, Australian National Audit Office

WHITE, Mr Michael, Executive Director, Performance Audit Services Group, Australian National Audit Office

WHITE, Mr Peter, Group Executive Director, Performance Audit Services Group, Australian National Audit Office

CHAIR (Ms Grierson)—I welcome the Audit Office to our inquiry and I open today's hearing, which examines the Auditor-General's role in scrutinising agencies' compliance with guidelines on government advertising campaigns. In June 2008, the government announced new guidelines for its advertising, including a formal scrutiny role for the Auditor-General for all campaigns over \$250,000 to help ensure that the guidelines are being met. Today the committee will investigate how the Auditor-General is discharging this new responsibility and any issues that may be arising.

I welcome Mr McPhee and the other witnesses from the Audit Office. Firstly, I ask participants to remember that only members of the committee can put questions to witnesses if this hearing is to constitute formal proceedings of the parliament and attract parliamentary privilege. Secondly, given the short time available today, statements and comments by witnesses should be relevant and succinct. I remind witnesses that the hearing today is a legal proceeding of the parliament and warrants the same respect as proceedings in the House and the Senate. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege. Are there any opening comments or statements?

Mr McPhee—No.

CHAIR—Thank you. We will go straight to questions. I would just firstly ask a member to move that the documents listed at page 111 be formally accepted as evidence. That having been moved and seconded, it is resolved. Deputy Chair, do you wish to start the questions?

Mr GEORGIU—Welcome back, Mr McPhee. What does 'material should be presented in a manner free from partisan promotion of government policy' mean?

Mr McPhee—The guidelines explain the specifics of that particular principle which you have articulated, Mr Georgiou. I would refer you to guideline 3 and the material in paragraphs 19 and 20 of the government's guidelines.

Mr GEORGIU—What does it mean that it must be 'free from partisan promotion of government policy'? What is 'partisan promotion of government policy'?

Mr McPhee—It is in the interests of the party rather than in the interests of good government in this country.

Mr GEORGIU—Can I draw your attention to ‘material should be presented in a manner free from partisan promotion of government policy’. ‘Partisan promotion of government policy’ is the partisan promotion of government policy. It is not anything else. There are other things involved, but the partisan promotion of government policy on a plain meaning is that the government is promoting its policies in a partisan fashion. That implies that there is a division between the government and the opposition—whoever happens to be whom—and that the government says, ‘We are promoting on something on which the opposition differs,’ at a minimum.

Mr McPhee—The way I read it, Mr Georgiou, is that ministers and governments in this country are expected to govern for all Australians. Their role is to promote policies and do exactly as I stated. Therefore, for instance, in the current government, you would not expect to see a reference to the Labor Party in that context.

Mr GEORGIU—I am still pursuing the issue of what the partisan promotion of government policy is. If the government has one policy and the opposition has another, and the government puts to air ads promoting its policy, which is a partisan policy, is that not the partisan promotion of government policy?

Mr McPhee—I am just looking in the guidelines, Mr Georgiou. There are other aspects of the guidelines which bear on this—

Mr GEORGIU—Yes there are, but I am specifically focused on this. They should not be party political—that is fine. This says, ‘Material should be presented in a manner free from partisan promotion of government policy.’ If government and opposition are at odds over a particular policy and the government advances its policies through advertising, which are not accepted or indeed attacked by the opposition—whoever the opposition may be—is the government not engaging in the partisan promotion of government policy?

Mr P White—You say ‘attacked by’. Looking at paragraph 20 of guideline 3 in relation to promoting party political interests, it says:

The information and material presented in a campaign should not:

... ..

b. directly attack or scorn the views, policies or actions of others ...

Mr GEORGIU—I understand what ‘party political’ means. I am asking: what do you mean by and how do you interpret the partisan promotion of government policy so that you can say, ‘No, this is not the partisan promotion of government policy. Tick.’?

Mr McPhee—Perhaps in the underlying principles 3b is fairly helpful in this context. It says:

b. governments may legitimately use public funds for information programs or education campaigns to explain government policies, programs or services and to inform members of the public of their obligations, rights and entitlements;

That is the role of government.

Mr GEORGIU—What is the partisan promotion of government policy?

Mrs BRONWYN BISHOP—I think there might be some useful judicial statements on this. I am going back to 1988; I am going back to the referendum; I am going back to the provisions that existed at that time which permitted government paid advertising in support of a referendum proposal. It has been a while since I last looked at it, but it had words in the legislation which were not dissimilar to this. There was not allowed to be any partisan or promotion for the political party in it. I have to check the exact words. The matter went to the High Court, and it was agreed between the parties that there would be a declaration and that the parties would abide by the declaration. There were two particular television advertisements which the Labor government of the day had made that were to go to air for promotion of the ‘yes’ case for the mini bill of rights, basically. Peter Reith initially sought an injunction. As I said, the parties agreed to a declaration. It is an unreported judgment, but a copy of the judgment does exist in the library. Great sections of the proposed advertisements were struck out and were not permitted to go to air. When you look at the nature of the advertisement, they were partisan, and therefore struck down, because of the way in which they were worded—without using the word ‘Labor’ or whatever.

Senator FEENEY—What criteria did the judiciary set the ads against? Were there government guidelines at the time?

Mrs BRONWYN BISHOP—There was an act of parliament. I suggest that it would be worth looking at it because it is the only piece of judicial varying we have on this sort of area—that I can think of anyway.

Mr GEORGIU—Have you got legal advice on the meaning of ‘a manner free from partisan promotion of government policy’?

Mr McPhee—No, we have not.

CHAIR—If it is desirable to have that advice, it should be taken in the context that the sentence says ‘free from partisan promotion of government policy and political argument’. I think they do add meaning to each other in that way.

Senator FEENEY—On that point, are we not looking at what could be construed to be some criteria about what—

CHAIR—The definition may be.

Senator FEENEY—Right. So information and material presented in campaigns should not include party political slogans. Have we not really got there a test of how ‘partisanship’ is used in this document?

Mr GEORGIU—I have no problem if that is the definition. This is the most brutal test. You say, ‘does it mention the government by name? Fine.’ That is not acceptable. ‘Does it directly attack?’ Not acceptable. That is not paragraph 19.

CHAIR—I think, in fairness to the deputy chair, there would be extremes in defining partisan. Partisan at one extreme could mean anything the government does; I take that point. You cannot take one word and separate it from the whole as we do when we look at acts of parliament. We always look at acts in the whole, and I think that is an important consideration to note.

Mr GEORGIU—You thought it was sufficiently self-explanatory not to require a legal opinion on what it meant?

Mr McPhee—No. We have certainly used 19 and 20 plus the other principles to form an opinion.

Mr GEORGIU—This is why we are having this hearing. This has always been my concern about this. The issue at the fundamental level is if a government promoting its policies using public money through advertising in the face of opposition rejection of those policies amounts to partisan promotion of government policy. That is a fundamental issue. I have no problems with 20—it strikes me as being halfway workable—but 19 strikes me as being something that we need.

Senator FEENEY—You are using a very expansive definition of what is partisan.

Mrs BRONWYN BISHOP—I think the chair is right. You have to read it in whole—‘partisan promotion of government policy and political argument’—and in objective language. That is why I suggest you take a look at that High Court judgment.

CHAIR—I think, too, those guidelines that say it must be relevant to government responsibility would always find that—

Senator FEENEY—If we rely on the magnificent authority of Wikipedia—

CHAIR—Wikipedia? You have looked it up for us, have you? Thank you!

Senator FEENEY—I have. Partisan ‘refers to fervent, sometimes militant support of a party, cause, faction, person or idea.’ Partisan in this document is really trying to convey the notion that an ad cannot be fervent, party political or militant in support of a cause, person, faction or idea.

Mr GEORGIU—This is partisan promotion of government policy.

Senator FEENEY—Right—which means militant, fervent—

Mrs BRONWYN BISHOP—With respect—

Senator FEENEY—I did cite my source at the outset!

Mrs BRONWYN BISHOP—I think I prefer the High Court to Wikipedia.

Senator FEENEY—And I respect that.

CHAIR—Excellent information, but we will move on and allow the Auditor-General to comment.

Mr McPhee—I was going to suggest that, if the committee feels this could be better expressed or whatever, the minister has said to me and I am sure to others—particularly when I put forward some suggestions where the guidelines might be revised or supplemented—that he is happy to take those on board but he would wait until the committee’s inquiry has completed in case the committee itself has some suggestions.

CHAIR—And you will be happy to take that point that has been raised, consider it, take advice on it and come back to us on it?

Mr GEORGIU—I would like you to seek legal advice on the meaning of ‘a manner free from partisan promotion of government policy and political argument and in objective language’.

CHAIR—As you have already exceeded the budget, do not spend too much on it.

Mr McPhee—I was going to say that we could perhaps do that in conjunction with the Department of Finance and Deregulation because it is their particular responsibility.

Mr GEORGIU—But you have to know it is not their particular responsibility. You have to attest to whether this guideline is being met.

Mr McPhee—Correct.

Mr GEORGIU—Maybe they can pay for it, but it is your joint responsibility.

Mr McPhee—Yes. That was the point I was trying to make.

CHAIR—So we will leave you to seek that from them. Mr McPhee, in the letter you wrote to the Cabinet Secretary, you mentioned that access to key staff and documentation was vital. Could you give us a bit of an overview of how that has been working? Have you had the degree of access that you need and have you been getting access to the documentation? Is there any process in place to make that very easy for your staff, at this stage?

Mr McPhee—I might ask one of my colleagues to respond but, in brief, we provide agencies with a clear indication of what we expect to find. We are looking to get an efficient process going on our part and on their part. We provide them with our expectations and we certainly do get access, including, from time to time, discussions with secretaries to make sure that we are getting a good outcome and we understand each other’s perspective. In the broad, there are no problems.

Mr M White—I will give you an idea of where we start the process with each agency in each campaign. Following advice from an agency that a campaign is being developed or they have ideas, we immediately recommend that we have an initial, or opening, meeting with them. We

provide them with a reference to our guidance on the website and to the Department of Finance and Deregulation's guidance. We also have a section 20 contract, which is the agreement under which we are performing these reviews. We then establish a contact within the actual campaign—the campaign manager—and allocate one of our managers to the role of overseeing that campaign. We then sum that up in what we call an 'opening letter' and provide that to the branch head of the department or agency.

Mr GEORGIU—The degree of intimacy of that interrelationship gives me considerable cause for concern, on the basis that if you have someone signing off on all of these stages at the level of assurance that applies to this sign-off then it will be very difficult to overturn your judgment, endorsed at every stage by your staff, in a performance audit. You say in your testimony and in your letter that you do not believe that this will be compromised. What I am saying is that you are actually deeply involved in the administration of these advertising campaigns. You are intertwined.

Senator FEENEY—Deeply involved in the oversight, not in the administration.

Mr GEORGIU—That is a fair enough point.

Mr McPhee—That was the point I was going to make. We are certainly not involved in the administration. Our job is to do a review and we are letting agencies know the information we require to get the support, the evidence, to form our own opinion.

CHAIR—In the letter that I referred to earlier you said that steps are being taken by ANAO to improve the review methodology. Could you comment on what areas you feel need to be improved in the review methodology?

Mr McPhee—We have said that our processes are evolving over time. I particularly recall the initial discussion about advertising with this committee—an informal discussion—and we went away and we actually expanded, for instance, the form of our opinion to better explain the sort of approach we adopted in the review report. That is one example. We continue to revise the information we provide departments, so that they are getting the benefit of our collective experience, as we get more of these campaigns under our belt. The other thing that we are doing now, as in the example I provided, is seeking a representation from chief executives that their certificate is based on their opinions and that they have not been directed by ministers or their officers in relation to the implementation or delivery of the particular campaign.

CHAIR—So you are requiring them to sign off on separation of powers?

Mr McPhee—I am requiring a personal representation from them that they are their views.

CHAIR—There was some mention about seeking research on the use of colour advertisements.

Mr BRIGGS—Chair, can I just follow up on your last question? I trust the secretaries, but how would you ever prove it was wrong if they signed off on the assurance? As you say in your letter to the Chair on 25 March, the minister ultimately has the authority to approve and to be briefed along the way. If the minister says halfway through the process, 'What if we do this or

add this', and it changes the campaign significantly and the secretary still says it was free from interference, how would you ever prove it?

Mr McPhee—There are two things that I am relying on. Firstly, the reason I am doing this is against the context of previous experience where there was a blurring of responsibility between ministers and departments in this space. For me, doing this work is a high-risk area. The question is: as an auditor, how do we endeavour to get the support?

Mrs BRONWYN BISHOP—Can I propose a suggestion? If you are doing the review, it is actually a function which you ought not to be asked to do.

CHAIR—Can we just pursue this question from Mr Briggs first.

Mr McPhee—There are two things that I can rely on. Firstly, the certificate that the guidelines require—understand that all secretaries and members of the public service have particular responsibilities under the Public Service Act—and, secondly, by requiring a personal representation from them, I am doing everything I possibly can to get the highest level of assurance from them that there has been no interference in the key areas of the campaign that I am particularly interested in.

Mr BRIGGS—That being who gets the contract—the methods of delivery?

Mr McPhee—The methods of delivery. For instance, if a minister's office said, 'I think it'd be a good idea to have television in this campaign,' I want to know from the secretary that it is their view, based on research, based on support, that television is supported and not something coming from the minister's office. So I have done everything that I can reasonably do.

Mr BRIGGS—This is where it gets awkward though. I would not suggest this will ever happen of course, they would not do it, but what if, leading into an election, there is a pressure issue—

Senator FEENEY—You are speaking from experience, Mr Briggs; I respect that.

Mr BRIGGS—or a significant issue that the government is dealing with, and there is a need for a campaign because of a new program out of the budget, for instance. Say it is the pension increase. The government says, 'We want to advertise and tell people'—I presume the minister can still suggest to the department that some advertising should be done on this because it is a new entitlement so it fits into your guidelines—and the department's view is, 'We'll do newspaper ads to tell people,' and the minister's view is, 'Actually, it would be good to do some nice ads with some oldies bowling and so forth.' They can buy some new bowls or whatever.

Senator FEENEY—I am taking notes; this is good.

Mr BRIGGS—That is where it is awkward, isn't it?

Mr McPhee—It is. And if we just take a minute or two, I will ask one of my colleagues to explain the sort of support we look for with design of campaigns.

Mrs BRONWYN BISHOP—Just before you do, taking that example, there is no need for the advertisement because the pension increase is going to be paid so nobody is going to miss out, which is one of the reasons you give for advertisements—that is, so that everybody knows about their entitlement. But in the example you have used, there is no risk that anyone is not going to get it. So the purpose of the advertisement cannot be a legitimate one to inform people. How would you deal with that question?

CHAIR—The processes may not be good enough to make sure everyone gets it.

Mr Holbert—What we would generally do in relation to a campaign is track it right back to the earliest discussions around the campaign within the department that were evidenced by documentation. Most campaigns will have a conceptual research phase where the department seeks to establish the need for the campaign and the most appropriate methods of addressing those needs.

Mr BRIGGS—Do you see that research?

Mr Holbert—Yes.

CHAIR—Is there generally some sort of brief written from those initial discussions?

Mr Holbert—Yes, there would have been briefing documentation to inform the researcher which we would examine. There would be the report from the research which we would examine and we would track that forward through the conceptual research and through the market testing to establish whether any of the elements of the campaign were unexplained or were not consistent with the initial research.

CHAIR—Or suddenly just appeared without any warning.

Senator BARNETT—Could research include qualitative or quantitative data?

Mr Holbert—Yes.

CHAIR—Is there a consistency?

Senator BARNETT—And often does?

Mr Holbert—It often does. Levels of awareness are critical. If everybody is aware of the program and the detail that is entailed we would be looking for where the knowledge gap and the lack of understanding were that warrant the campaigns. The research goes to both the shape of campaign and the need for the campaign.

CHAIR—Departments have had a lot of experience in this. Is there a consistent approach or are you finding it is different across different areas?

Mr Holbert—It is generally a consistent approach which falls in line with the guidance that has been issued by the department of finance in relation to this matter.

CHAIR—Are you seeing evidence of general oversight?

Mrs BRONWYN BISHOP—What about part B?

CHAIR—Sorry, part B, yes.

Mrs BRONWYN BISHOP—How do you deal with it?

Mr McPhee—It is a question of need. Part B is one where, on the face of it, there could be an increase coming.

Mrs BRONWYN BISHOP—You do not even have to do that because the increase would be paid automatically you are not going to miss out.

Mr McPhee—Yes, but I think there is an obligation on government to inform recipients.

Mrs BRONWYN BISHOP—Hang on. Why? The reason you have a campaign is that you do not want anyone to miss out on their entitlement. Therefore you have a campaign to tell them so they can apply. If there is no risk, then the aim of the campaign is to get glory for your decision.

CHAIR—You are making assumption, Mrs Bishop, that departments always have their correct information on almost every correct thing.

Mr BRIGGS—It would be nice to get that picture. If we use the pension example, they clearly get their pension.

Mr McPhee—They clearly do, but I think I am right in saying that there is a longstanding practice of people being informed of adjustments to pension rates. It has gone back—

Mrs BRONWYN BISHOP—Where?

Mr McPhee—Mrs Bishop, I think it is—

CHAIR—Information kits that go out from members' offices.

Mr McPhee—I think it is quite longstanding.

Mrs BRONWYN BISHOP—I am serious; give me an example of one campaign on an increase in pensions.

Mr GEORGIU—That is not the response. You are right, but that is not the response.

Mr McPhee—I found this advertising area quite illuminating.

CHAIR—We love to see people enjoy their work.

Mr McPhee—I think we need to respond to Mrs Bishop. Where on the face of it you might think a letter would do the job—

CHAIR—Can you give us an example?

Mr Holbert—A payment was made to pensioners last year of the \$900 bonus payment. It was advised to pensioners in writing as part of the campaign. When we looked at that and queried why that was necessary or what form that should take, we were provided with a number of previous letters that had been sent to income support recipients by ministers advising them of the changes to their entitlement, and we were advised by the department that it was the usual practice when there was—

Mr GEORGIU—That is not addressing the issue that Mrs Bishop has raised. The question is not what was past practice—

Mrs BRONWYN BISHOP—It is perfectly valid.

Mr GEORGIU—The question is: as we turn the page over to the golden new age how can you say that past practice justifies present activity? I think the point is very pertinent with respect to pensioners.

CHAIR—Are you making an assumption that a response of government is to inform people?

Mr GEORGIU—I am not arguing about that. I am saying, if you have a diversity of ways of communicating the message, your cost effectiveness will differ. If the benefit automatically gets transmitted there is less demand than in some cases, which we have had in the past, where people actually need to register to get the money, which justifies in my view a totally different sort of campaign. It does concern me that, while we have all these fine things about value for money, the response is, 'Those miserable people in the Howard government did it so let's keep on doing it.'

CHAIR—So you would like some more clarification of the appropriate mode of information or advertising. Are there any guidelines to that?

Mrs BRONWYN BISHOP—It worries me enormously that you are now being placed in the position where you are, I think, going to use a rigour which is less than the rigour you apply to your ordinary auditing in both project and ordinary auditing business. It is something that is going to detract from your authority and your perceived impartiality. It drags you into the political process in a way that I think is unforgivable. The questions we are dealing with here just confirm that view. You have no option but to be dragged in. If you are doing the review of how it should be done better it would be lovely if we could say you should not be doing it.

Mr McPhee—We have had an enormous positive influence in this space and it needed a positive influence.

Mrs BRONWYN BISHOP—Have you ever said no to an ad?

Mr McPhee—We have said that there are some matters concerning us, which—

Mrs BRONWYN BISHOP—Did the campaign not go ahead because you said no?

CHAIR—It is important to hear the answer.

Mr McPhee—There was one campaign that did not come back when we raised questions. There have been other campaigns that had been modified.

CHAIR—Are you saying that campaign did not continue?

Mr McPhee—It did not continue. There have been other campaigns which have been modified as a result of our enquiries and concerns—including my discussions with senior people in the organisations. Every time, to date, our position has prevailed and the department has modified its position. You could argue that we should not be there but I can tell you that if we were not there those campaigns would have proceeded as planned. That is the difference we are making.

Mrs BRONWYN BISHOP—Where do we see the report of that, and which campaign did not go ahead?

Mr McPhee—It is not public because it did not proceed.

Mrs BRONWYN BISHOP—Would we get that under FOI?

Mr McPhee—You could.

Mrs BRONWYN BISHOP—We could get it under FOI.

CHAIR—But you will continue to report to us in this way. You will also advise the department's secretary of these sorts of things too?

Mr McPhee—Of course.

CHAIR—We would think that is a positive outcome.

Mr GEORGIU—Mr McPhee, my problem with what you just said is that Mrs Bishop pursued you on the issue of negotiations quite significantly in the context of the last hearing.

Mr McPhee—Correct.

Mr GEORGIU—Like any audit report, your bottom line is, 'I put them up and they are my recommendations'. At the end of the day it is up to the executive to decide whether to accept them or not. But we have not ever seen any recommendations on the record. I have gone through every one of your compliance reports and there is not one recommendation. We now learn that there has been an advertising campaign that you have effectively bounced—which you have always denied that you could—and there is no public knowledge of that.

Mr McPhee—I give people my views about matters. They can proceed, I have no veto and I am not involved in the administration. I provide an opinion.

Mr GEORGIU—Absolutely, but the point was—

CHAIR—Let Mr McPhee finish his answer.

Mr McPhee—I have always made the point, even if I qualify an opinion the executive government can decide to proceed. I just provide an opinion.

Mrs BRONWYN BISHOP—But you report on everything else. Why do you not report on this?

CHAIR—Is there documentation of these sorts of discussions or questions or of your staff raising issues so that then we would be able to link that outcome to those?

Mr McPhee—Yes, there is.

Mrs BRONWYN BISHOP—Are you forbidden to report?

Mr McPhee—I am not prohibited from reporting. It is just that the campaign, or the issues relating to campaigns, have not proceeded and I have always dealt with that in a generic way. I have raised these issues in the letter to the minister, as you are aware, and in our submission to the committee in a generic way because I think that is the way to get the change going. There are issues around cost effectiveness and I have mentioned the issues around representation.

Mrs BRONWYN BISHOP—That is fine, but I am going to formally ask you now to give the committee details of the campaign, or campaigns, which did not go ahead as a result of your comments. And I am formally doing that as a member of the Public Accounts Committee, with you being responsible to this committee.

Mr McPhee—Mrs Bishop, let me reflect on that, because it goes to the—

Mrs BRONWYN BISHOP—That is the first political answer that you have ever given to me!

CHAIR—I do not think it is a political answer, Mrs Bishop. It is a wise answer.

Mr McPhee—I have to be able to have conversations with people and if they do not progress then that is that. There are lots of conversations I have that do not appear in reports.

CHAIR—I think it is important to know that—

Mrs BRONWYN BISHOP—But this is a report that—

CHAIR—Mrs Bishop, I think it is very important to note that these relationships are important in terms of access to information and that you do not ever want to have the Auditor-General, or his office, locked out of those relationships.

Mr GEORGIU—Oh, that is a very long bow. I have some sympathy, but that is a very long bow.

CHAIR—I am not saying protection; I am not at all suggesting protection. And the Auditor-General has offered to consider that.

Mr GEORGIU—Everybody has problems of access.

CHAIR—Let me say that one thing you will be doing, Auditor-General, is looking at trend data—

Mrs BRONWYN BISHOP—That is getting off my question. I have asked that—

CHAIR—And if you are looking at trends—

Mrs BRONWYN BISHOP—Excuse me, I would just like to finish my question.

CHAIR—I am still relating to this question—

Mrs BRONWYN BISHOP—I am not into trends. I have asked a specific question. The Auditor-General wants to discuss it; I want an answer back.

CHAIR—This relates to what you raised. Has there been a trend in this regard, or was there an instance?

Mrs BRONWYN BISHOP—He said one.

Mr McPhee—I think our message is getting through. As you know, I have worked hard, written to the minister, spoken to key secretaries, and everyone is getting the message about our expectations and the standards we are looking for. I think the office has done a very good job in this space. So I am confident that we are conditioning the system to this new environment and how we expect agencies to work.

CHAIR—Building up a culture.

Mrs BRONWYN BISHOP—When may I have an answer to my question?

Mr McPhee—Mrs Bishop, I said to you that I would like to reflect on it. You have to understand that I need to be able to have discussions with people—

Mrs BRONWYN BISHOP—I understand entirely.

Mr McPhee—I need to be able to have discussions with people in the system on a confidential basis.

Mrs BRONWYN BISHOP—Do they include ministers?

Mr McPhee—And to ministers, in terms of getting a good outcome—

Mrs BRONWYN BISHOP—For you to discuss that question with a minister makes it a political activity.

Mr McPhee—Sorry, I did not discuss—

Mrs BRONWYN BISHOP—You just said ‘minister’.

Mr McPhee—I am talking generically.

Mrs BRONWYN BISHOP—No.

Mr McPhee—In relation to these campaigns I have not spoken to ministers in relation to any of these particular campaigns.

Mrs BRONWYN BISHOP—Any discussion you have with a minister means the minister goes into a master relationship.

Mr McPhee—Mrs Bishop—

CHAIR—The Auditor-General has stated that he did not have discussions with ministers on this issue.

Mrs BRONWYN BISHOP—We are talking about the future. He is going to have a discussion, and I say, no.

Mr BRIGGS—Auditor, I think that is the point. I think our concern for your position, frankly, is that I understand you have a genuine concern about this and you want to improve the system. I know you know this, that in the fire of a difficult election campaign governments are going to be tempted to do things that are more difficult than they would try to do two or three years out. The whole strength of what you are trying to implement is the Theodore Roosevelt principle of ‘speak softly and carry a big stick’—the big stick being that you can make it public when there is an issue. That is the big stick; that is the political embarrassment. You have said that on occasion there have been concerns with campaigns, and our concern is that if there is no public knowledge of that it takes away from the whole role of it—except you are trying to get biodynamic change—or whatever Senator Feeney wants to call it. But it reduces the size of the stick significantly and it also raises questions in our minds about how effective these guidelines actually are.

CHAIR—Could you just elaborate something for us—I think it is important to elaborate what the process is that that initiates. What comes to you in that initial phase that you may raise

concerns and they then may say, 'Yes, we take that advice. It is not going to proceed.' What formally comes through?

Mr McPhee—It is generally highlighted by a lack of research to support—

CHAIR—But what do they give you? What do they present in that initial phase of considering a campaign?

Mr Georgiou—Are we talking about the initial phase, however? In the case that you have raised, did you raise your objection at the initial campaign or after it had been signed off by the CEO?

CHAIR—Just talk us through the process.

Mr M White—The initial concept that is provided to us may be only that. There may be no paperwork provided in the initial meeting.

CHAIR—So it may just be a discussion?

Mr M White—It might be that they have put an idea forward, it has been considered within the department and they want to talk to us about what processes they will need to go through to move further. They are not even at the stage of having provided us with any details. They are often coming to us as a learning experience, saying: 'We have seen your guidance on your website and we have seen the department of finance's guidance. Could you give us some advice on these things from an assurance perspective?'

CHAIR—So they are encouraging you to have a proactive role or you are taking a proactive role in this relationship and task.

Mr M White—Absolutely. These campaigns often have very tight deadlines—

CHAIR—It is getting deeper and deeper.

Mr M White—and, if there are issues there that take time to correct, it could be Commonwealth expenditure that is lost because bookings have been made. So if we are not proactive from the beginning we are actually putting our clients at risk in terms of that style of management.

Mr GEORGIU—What does 'putting your clients at risk' mean? How can you put them at risk?

Mr M White—If they do not have sufficient understanding that I can assist them with—

Mr GEORGIU—Why is it you that is putting the clients at risk?

CHAIR—If they are seeking your advice, you have to be able to give that, obviously.

Mr GEORGIU—Yes, but we get back to the issue of the interpenetration of what appears to be an audit function with what is actually an administrative function.

CHAIR—Exactly, and you are becoming inured to it.

Mr McPhee—Look, the analogy is, as you know, that we have sought to report objectively but be constructive contributors to better public service going forward. The classic example of that is that we do our audit reports and we issue better practice guides. Better practice guides are about improved administrative performance. We do that to get our experience out there for the population of agencies where the benefits are large compared with an individual audit of an individual program in one agency.

Mr GEORGIU—Absolutely.

Mr McPhee—We seek to convey the benefit of our experience broadly, and the same applies in the advertising space as well.

Mr GEORGIU—But that is not comparing like with like. In the advertising area, you are actually intimately involved in the day-to-day unrolling of campaigns, which is on your testimony.

Mr McPhee—It is no different from our intimate involvement in the audits of financial statements at the end of each year. We are in there auditing while agencies are preparing financial statements. That is the way the system works.

Senator FEENEY—It is compliance, is it not? You are making sure that the campaign complies.

Mr GEORGIU—And you are really lining that up with statements such as, ‘This is not the partisan promotion of government policy’? Really?

Mr McPhee—You were referring to the way the office works with agencies. The analogy is similar. We have to work at the same time to get through these jobs within the timelines that are required—whether it is financial statements, advertising campaigns or anything else.

Mrs BRONWYN BISHOP—The very nature of this advertising is political, and that is why you were hauled into it: because it was seen to be political.

CHAIR—Is there a question in this, Mrs Bishop?

Mrs BRONWYN BISHOP—You have to be Caesar’s wife, and you cannot be while you are doing this.

Senator BARNETT—I have a question, and it relates to this. It is in response to an answer to some questions that I put on notice. You kindly answered them on 20 April. They are set out on pages 107 to 110. The question that I asked related to the appropriateness of market research and opinion polling, and what assurances can be given that these initiatives are not being used for party political purposes.

CHAIR—Those page notes will not mean anything to the witnesses.

Senator BARNETT—It is question No. 3. You say in your answer: ‘The ANAO does not conduct a general examination of the production and use of market research by departments.’ Your last sentence says, ‘The ANAO is unable to comment more broadly on the use of market research by departments.’ What assurances can we as politicians and the public have that these are not being conducted for party political purposes if you are not undertaking any assessments?

CHAIR—I assume it would be if they are part of a campaign or are not part of a campaign.

Senator BARNETT—I am sorry, Chair, I was asking Mr McPhee.

Mr McPhee—We look at the research that is relevant to the campaign proposed. I think this is just saying that we do not look more broadly at other research that the departments might be doing in other areas of their responsibilities.

Senator BARNETT—But it may be relevant. The question is, ‘What guidelines with respect to party political purposes?’ If you say that you are unable to comment more broadly on the use of market research by departments and that you do not conduct a general examination of the production and use of market research, then, frankly, that rings all sorts of alarm bells for me and for members of the public.

Senator FEENEY—I wonder whether Senator Barnett has missed a salient point here. All the ANAO is saying is that they cannot attest to the production or use of market research that is commissioned in non-advertising related activities.

Senator BARNETT—Market research, Mr Holbert indicated before, is done in advance of the campaign. You do some market testing and perhaps some qualitative and quantitative polling to assess the market in terms of how the campaign will be received.

Senator FEENEY—But that will not be the whole body of market research in the department

Senator BARNETT—This is directly related to an advertising campaign.

Mr Holbert—That is the distinction that we are attempting to draw, and the answer is that where the market research relates to a campaign that comes before us for review we will examine the market research. We will examine the tendering and the procurement around it. But if there is market research undertaken by departments and it does not relate to a campaign that is brought to the ANAO for review, we are not in a position to comment unless we conduct an independent review.

Mr BRIGGS—Mr Holbert, with the market research that you are talking about, say that you reviewed a bit of market research that a department did—let us go back to our pensions advertisement again—and a question slipped in was, ‘Who do you view more favourably to look after pensioners, Labor or Liberal?’ Would you report that, or would that just slip through because it is not related to the television advertising? This is just in the event that a market research company added that question, for instance. Not that I would suggest that the government would do that.

Mr Holbert—If that were included in the research report I certainly would be raising it internally as an anomalous—

Mr BRIGGS—Yes, internally, but is it something that you would report, Mr McPhee?

Mr McPhee—It would not feature in the formal review opinion that we provide. It would be a matter about which we would write to the agency, and potentially it is a matter we would include in the general report we propose to put into the parliament in due course.

CHAIR—I would like to ask more about that general report.

Senator FEENEY—A wild hypothetical.

CHAIR—I think you have said, Auditor-General, that you do plan to report periodically to parliament on activity in this area.

Mr McPhee—Correct.

CHAIR—Have you thought more about how that might happen and how this committee can assist that process?

Mr P White—Yes. We are hoping to put a report to the parliament and it is hoped that this committee will have a look at it. We are planning to do that in about August or September. So we will report back to the parliament on our first year's experience.

CHAIR—Some of our members are concerned for the integrity of the Auditor-General and the integrity and independence of the Audit Office, and we respect that. As you are reviewing your methodology and you are giving feedback continuously now to the relevant minister and to us, I assume that you would report on any reservations and concerns you might have about your function and involvement in this process in this report's context as well.

Mr McPhee—That is correct. I guess I am saying to the committee that, if there is a better way of doing this in the system we all work in, I am all ears, and I am sure that the government would, as Senator Faulkner has flagged, take on board the views of this committee. It is problematic and you do not have many options. You can leave it with ministers if you want, or you can try to get the administration working effectively, relying on the strength of the Public Service Act and their obligations to perform their responsibilities impartially. We get the certifications and we get the representations. I do not know what else to do to get a better system going forward. There no doubt will be other ways to do it, but we need to get those on the table.

CHAIR—I think the need for a better system has been well demonstrated by your performance audit reports.

Mr McPhee—I believe it has.

Mr GEORGIU—But there is a huge difference between a better system and the involvement of the Auditor-General in this system. May I reflect on your letter to the Prime

Minister suggesting what may have been if not a better than an equivalent system which would not have embroiled the Auditor-General in this.

CHAIR—But you still would have had to audit the actions of that independent committee.

Mr GEORGIU—And that is fine, but you are at arm's length; you are not implicated. I would like to follow up one thing. This case where you had questions—

Mr McPhee—The proposal was raised and it did not proceed.

Mr GEORGIU—How far up the line had it gone?

Mr Holbert—We had not received certification from the department in relation to compliance with the guidelines. It was well in advance of that. In a normal campaign review process this would have been about a third of the way through. In the early stages of the review process we asked a series of questions in relation to the campaign.

Senator FEENEY—So at an embryonic phase you decreed it a bad idea and that was the end of it?

Mr GEORGIU—Are you a decision maker?

Mr Holbert—We asked a series of questions to which the response was that the campaign was withdrawn—

Senator FEENEY—The idea failed a compliance test. That advice was provided and the idea disappeared. Isn't that an example of the system working?

Mr BRIGGS—No, we are not clear on that actually.

CHAIR—Did the questions you posed go to compliance?

Mr Holbert—The questions we posed were: how would we demonstrate compliance? How did the department propose to demonstrate compliance with the guidelines for the campaign that was proposed?

Senator FEENEY—Chalk that up as a success.

CHAIR—I think that is a good outcome.

Mr BRIGGS—So did it rule out the whole campaign or did it rule out the aspect?

Mr Holbert—At least for the time being the department advised us that they were suspending work on the campaign.

Mr BRIGGS—And then what happened?

Mr Holbert—It is in abeyance at the moment.

CHAIR—But you have documented that in your own workings.

Senator FEENEY—It went to the cemetery of bad ideas.

CHAIR—Can I move on to costs, because I think the public interest is always—

Mr GEORGIU—Madam Chair, I am sorry but this is a fundamentally important issue. I am not happy to have it moved on. What we have is a situation where a third of the way through the process an officer of the Auditor-General's office tells an officer down the line in a department that, in effect, something will not get clearance.

CHAIR—Is that what occurred, Mr Holbert?

Senator FEENEY—You are putting words in the witness's mouth. A number of questions were asked and they could not be answered.

CHAIR—Is that what occurred, Mr Holbert?

Mr Holbert—That was not the nature of the advice to the department. The nature of the advice to the department was to outline the sort of additional evidence, the documentation that we would expect to see that would enable the department to demonstrate compliance. That is a very normal element at the early stages of a campaign. We would outline to departments what we expected to see during the development process to show compliance with the guidelines. In this instance the department chose to withdraw the campaign.

CHAIR—And if that campaign were to come back with further documentation? Is that a possibility, or does it just start the process again?

Mr Holbert—In revised form, sure.

Mr McPhee—It is always open to agencies to seek to bolster the case.

Mr GEORGIU—You do not think that puts you in a position of de facto interference in the development and implementation of campaigns? You could have fooled me.

Mr McPhee—We are doing the job that we have been asked to do.

Mr GEORGIU—I am easily fooled then.

Senator FEENEY—It is compliance management, isn't it? At various phases—

Mr GEORGIU—There are issues.

CHAIR—Could I go on to costs. I think it is important and I need some information from you. I want to know how the \$250,000 limit is working in practice. Is there any distortion of it?

Does it apply to a whole campaign or just to one aspect of the campaign? Is it working as a limit and how is it working as a limit?

Mr M White—I would have to believe that it is working and working well at the moment, although I should note that the department of finance is generally the very first port of call with agencies. If there are questions on limits or on how they calculate a cost for a campaign I think generally that advice has been provided by the department of finance, which then refers the agency to us with the understanding that a campaign review needs to be undertaken. Obviously, where there are large campaigns in different phases there may be some component parts that would be under it, but collectively we are looking at the whole campaign. From where I am sitting at the moment, I think it is effective.

Mr BRIGGS—In relation to the economic stimulus plan—I presume the last one, or maybe both of them together—there was a set of advertising posters following that to tell people about the \$900 bonus. Is that right?

Mr McPhee—That is correct.

Mr BRIGGS—In that, was the economicstimulusplan.gov.au website picked up as part of the campaign?

Mr M White—No, it was not included with the campaign. Initially it did not exist when we were looking at campaign materials. Campaign materials did not include it.

Mr BRIGGS—The website exists now. My attention was drawn to it this morning. It is quite an interesting website as far as the information that is provided goes. Say the relevant department adds the www.economicstimulusplan.gov.au to the bottom of the material, would that then be picked up as part of your review? Do you see my point here? There is a cost, although not a significant cost, to develop a website. You need to buy the domain name and so forth, but I would not have thought it would get you to \$250,000.

Senator FEENEY—It very well may do, of course.

Mr BRIGGS—It might, but it is unlikely for that sort of—anyway, there would be expertise within government to develop that, so I would not have thought it would get to \$250,000 in itself, but it is clearly part of a broader package because the website can be added to anything. I guess my concern is: is that then missed out? Does the political material go on this website that everyone has been directed to through other advertisements? Do you see my point? What I am getting at is that I think it is questionable.

Mr M White—One of the major issues that we have discussed with the Department of Finance is the identification of a boundary around materials for campaigns. Quite a bit of that discussion has gone to the depth of review through things like websites where links are attached. Certainly there is a rule that all of the government campaigns refer to either an agency or the .gov.au website, and that is the only website that the campaign materials go directly to. We do look at the prime websites of agencies, if they are included with those materials, to ensure that those requirements have been followed. If there has been an additional link to another one, I am not aware of it at this stage.

Mr BRIGGS—On this specific case, you do not think that website has been picked up as part of your review into the advertising of the economic stimulus plan?

Mr M White—We certainly have not reviewed it—if I am thinking of the same website that you are referring to—

Mr BRIGGS—It has a Google map. You put a postcode in and it zooms down to the postcode and it says how wonderful the Rudd government has been in this area.

Mr M White—That has not been presented to us within any campaign materials.

Senator FEENEY—It sounds like a splendid service, though.

CHAIR—Absolutely!

Mr GEORGIU—I am really impressed. Mr McPhee, could you bear with me on this issue. It seems to me that we are talking about two distinct things. What you are trying to do is to establish a set of processes that guarantee, as far as possible, that the departments look at what they should be doing and trying to get a degree of security at that level, that it is documented, that there is some research to back it up. That strikes me as a process analysis, which is basically what you are doing. It strikes me also that you are basically being presented as somebody who is giving an imprimatur to this as being apolitical, a non-partisan promotion of government policies. I think that that is where I probably have the problem and where you probably have the problem as well. If all you are certifying, which I think is all you are certifying, is that, ‘We check, we try to make them follow due process to document their decisions to do all the operations properly’—

Senator FEENEY—The guidelines are a bit more particular than that, aren’t they.

CHAIR—There are things that you have to tick off, obviously, and they are all listed.

Senator FEENEY—But there is no party logo and no partisan language.

Mr GEORGIU—No, but I take it that that is actually done by the department, not by you. Do you assure yourself that, what is it—?

CHAIR—That the material should not ‘mention the party in government by name’, should not ‘directly attack or scorn the views’—

Mr GEORGIU—You don’t do that?

Mr McPhee—Of course we do.

Mr GEORGIU—Sorry, I thought you were worried on the certification from—

Mr McPhee—No, I was just trying to deal with the high level control issue from the department. But we are doing work in all of this space. We actually look at the ads. We compare them to the guidelines.

Mr GEORGIU—Okay.

CHAIR—Have you ever got to the point where you have required any expert advice to make a decision? Have you called in any consultants at all?

Mr McPhee—I think there was one ad that we got some specialist advice on.

Senator FEENEY—I think Crosby|Textor used to provide that sort of advice to government.

CHAIR—I think they did, yes.

Mr GEORGIU—So, given now that you are redeveloping my understanding, how do you come to the conclusion that that ad was not a partisan promotion of government policy? You just said that you did that, okay? But you did not actually—

Senator FEENEY—Didn't your cross-examination start, Mr Georgiou, where you now are? We are back to the definition of partisan.

Mr GEORGIU—Yes, I have been trying to pull out of problems in all this, but I am sure that they actually reached that conclusion that this is not a partisan piece of political communication. So I am asking: how do you determine that?

CHAIR—Would you like to answer that question, please?

Mr McPhee—We used the guidelines.

CHAIR—Have you found them deficient at this stage, or have you found them adequate?

Mr McPhee—Except in the matters that we have previously raised in our submission and to the minister. The words that I think we used were that they were 'holding up well'.

Mr GEORGIU—So when there is a matter of political contention between government and opposition, and the government puts to air ads saying, 'We are having an economic stimulus package because the economy is in dire straits,' that is a partisan piece of political—

Senator FEENEY—You see, this is the definition of 'partisan' and, as we discussed earlier, and as I understand it, all the Auditor-General will do is attest to the fact that not in a militant—

CHAIR—Or fervent—

Senator FEENEY—Not in a fervent, not in a—

Mr GEORGIU—He is not even saying that, because he has no opinions as to what it means.

CHAIR—Committee and witnesses, could I just point out that we have already passed our time. I am—having spoken to the deputy chair—going to pose a way forward, and I ask the

Audit Office if you would feel comfortable about this too? I suggest that at our next public hearing we look at a series of campaigns—one that was put forward as best practice and that had no problems and which we might look at right through, and one that had problems. I would like us look at one that required a lot of intervention—which is what you are there for—or feedback to shape, as you mentioned before, a better outcome. That is my suggestion. I will take any other suggestions. So I ask the audit office and the committee to consider those sorts of campaigns and to put forward to secretariat some of the campaigns that you suggest we might look at.

Senator FEENEY—Can I make a suggestion, Chair?

CHAIR—Certainly.

Senator FEENEY—While I would welcome the opportunity to look at a best practice example, I do not know whether we want to put the Auditor-General, or indeed anyone, in a situation of looking for a worst case.

CHAIR—Oh, no, we are not looking for a worst case!

Mr GEORGIU—It's a fair point! Some of us will find a contentious case.

Senator FEENEY—Let us have a positive model and not a negative one.

CHAIR—Let us look at ones that had different modes of advertising or where different modes of advertising were used et cetera so that we get a bit of a feel for what your staff are having to go through in these processes.

Mr McPhee—Can I say that I am pleased that the committee is doing that because I would like you to hear from the agencies about what they think of the current arrangements and how they are working. I think it is very important to inform your judgment. So we will be more than happy to provide a selection of campaigns. I think I will take Senator Feeney's advice. I would not like to rank them in order, just to give a selection.

CHAIR—But we want some diversity in the modes, et cetera, and costs. That would be interesting for us. If you can advise the secretariat, we will come to a decision. Mr Briggs has one last question.

Mr BRIGGS—On the website issue I raised before: could you have a look and see whether www.economicstimulusplan.gov.au has been reviewed as part of an advertising campaign and, if not, why it was not?

Mr M White—It has not been presented to us as a part of any campaign materials, and we have not reviewed it from that basis.

Senator FEENEY—It may come under the threshold, of course.

Mr BRIGGS—This gets to my issue, I guess. If it fits in clearly, it is the same branding as another advertising campaign that has gone on. How does it miss out—

Mr M White—I have not seen the same branding—

Mr BRIGGS—'Economic stimulus plan' is the branding that the government has given—

Senator FEENEY—It is a separate communications activity—anything with the government crest.

Mr BRIGGS—Hang on here. We said before that it was not.

CHAIR—Mr Briggs, you do want to ask the Audit Office if they could just have a look at that area and be prepared to report back to us.

Mr BRIGGS—I am particularly interested because during the last discussion—you will remember, Mr White—I used the South Australian example about the premier appearing in ads, and we discussed how they would go—

Mr P White—A hypothetical, and I got confused between state governments and federal governments—

Mr BRIGGS—Of course. In that respect, bear in mind that there are politicians on this website.

Mr P White—Is that website part of a campaign?

Mr BRIGGS—That is why I am asking for your advice.

Mr P White—I also understand that there are government guidelines put out by AGIMO, I think, which govern the use of websites.

Mr BRIGGS—Let me explain my point. It is a very cheap and effective way to advertise, and it will avoid the threshold, as Senator Feeney has rightly identified. But my question is: if it is a similar brand as other ads that you have had to approve, how does it miss out? If you could look at that for me.

Mr McPhee—It is a good question.

CHAIR—Thank you very much, everyone, for today. I would like to thank the witnesses who have given evidence.

Resolved (on motion by **Senator Barnett**):

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 1.12 pm