



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

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

WEDNESDAY, 11 MARCH 2009

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**JOINT STATUTORY
COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT**

Wednesday, 11 March 2009

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

Terms of reference for the inquiry:

To inquire into and report on:

The role of the Auditor-General in scrutinising government advertising

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Committee met at 11.11 am

CHAIR (Ms Grierson)—Thank you for your attendance today. I open today's public 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 other witnesses from the Audit Office, in addition to witnesses from the Department of Finance and Deregulation, and the Commonwealth Independent Auditor, Mr Wilson, of KPMG. 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. If other participants wish to raise issues for discussion, I would ask them to direct comments to the committee. It will not be possible, of course, for participants to directly respond to each other. Secondly, given the short time available today, statements and comments by witnesses should be relevant and succinct where possible. I do remind witnesses that the hearings today are legal proceedings of the parliament and warrant 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 contempt of parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege. The committee has received a submission from the Auditor-General that has been circulated to members. I ask a member to move that the submission be authorised for publication.

Mr GEORGIU—So moved.

[11.12 am]

WILSON, Mr Geoff, Independent Auditor, Private capacity

CROSSLEY, Mr David, Executive Director, Performance Audit Services Group, Australian National Audit Office

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

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

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

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GRANT, Mr John, First Assistant Secretary, Procurement Division, Department of Finance and Deregulation

LEWIS, Mr Simon, PSM, Deputy Secretary, General Manager, Asset Management Group, Department of Finance and Deregulation

VAN VEEN, Ms Laurie, Branch Manager, Communications Advice Branch, Department of Finance and Deregulation

CHAIR—Thank you. Does any of the witnesses present wish to make an opening statement before we proceed to questions?

Mr McPhee—I have an opening statement.

CHAIR—We would appreciate that.

Mr McPhee—On 2 July 2008 the government announced new guidelines which would apply to government departments and agencies undertaking information and advertising campaigns. From that date all campaigns have been required to be certified against the new guidelines by the chief executive of the commissioning department or agency, and, where that campaign has planned expenditure in excess of \$250,000, I provide a report on our review to the relevant minister on compliance with the guidelines. The guidelines and certification process aims to increase accountability and transparency, ensure the government advertising campaigns provide objective, factual and explanatory information, and are free from political bias. As at 5 March 2009, the ANAO has issued 28 reports to responsible ministers for 18 discrete advertising campaigns conducted within 11 portfolios. I have put in place arrangements with departments to respond to the guidelines. We are continuing to refine the arrangements in the light of experience and in consultation with the Department of Finance and Deregulation. The government's

guidelines are generally holding up well and have been particularly useful in establishing the expectations that all government advertising campaigns must meet. However, I have highlighted to the Special Minister of State some areas where, in the light of experience, the guidelines might be able to be refined or supplemented by additional guidance. These areas included providing greater clarity regarding the boundary between the normal business activities of agencies and those activities subject to the guidelines, including campaigns undertaken under outsourcing arrangements; providing greater clarity as to the requirements of the cost benefit analysis; further enhancing transparency by requiring departments to present campaign information, including the CEO certification on their websites; and clarifying the requirements of the CEO certification, including the scope of the relevant government policies which need to be considered in the context of the guidelines. The minister has advised me that he is happy to consider any recommendations the ANAO puts forward, as well as any views the committee may have following its inquiry. Our submission provides further information relating to our review of campaign advertising. My senior staff and I are more than happy to assist the inquiry with its work.

[11.16am]

CHAIR—Do any other parties wish to make any brief opening statements? We will go straight to questions. You have certainly been particularly focused on the role of advertising over this last 12 month, two-year period, and your recent audit report focuses on some of the problems that we see over and over again in terms of contract management. Having just released that report, do the new guidelines give you any comfort in terms of contract management or the sorts of business processes that are occurring, or is that problem one that is maintained?

Mr McPhee—The guidelines assist, but there are a range of other pre-existing requirements which relate to agencies' responsibilities in relation to contracting and procurement issued by the Department of Finance and Deregulation and they are expected to be followed. Our report just released showed some particular problems where agencies did not move quickly to tie down contractual arrangements following the decision to engage a particular contractor. Some of these problems do not relate specifically to advertising. We found them in advertising, but they could exist elsewhere as well.

CHAIR—To Finance as well on that question, do the new guidelines make it easier for you to follow direct processes and therefore to check that your agencies are following the correct processes?

Mr Lewis—A number of the recommendations in that report and the findings of the report relate to a function prior to it being assumed by the finance department. I am talking about the functions of the Government Communications Unit, which was transferred from PM&C. A number of the issues that were drawn to our attention in that report relate to some of the contracting and related requirements in relation to how contracts were managed in PM&C. We are very alive to the need for effective contract management in relation to each of the contracts we inherited from Prime Minister and Cabinet. As you may be aware, we are in the process of finalising tender processes in relation to both the campaign and non-campaign advertising tenders at the present time.

Mr GEORGIU—I would like to say that I have expressed my reservations about this process, so I am not blind siding anyone. I would like to refer to your letter to the Prime Minister of 26 November, and I would compliment the Audit Office for being so prompt after the election to send him a letter on this. I was really impressed by this, and I am not being facetious. It says:

Given the sometimes controversial history of government advertising there is a real risk that whoever administers the guidelines could be drawn into the policy and political debate as an active participant in, and possible defender of the processes of executive government. To preserve both the real and perceived independence of this office, I and my predecessors have actively sought placing the ANAO in such a situation.

They are sentiments that I share entirely. You go on to say:

Against this background I would propose a model involving a small independent committee with an executive or advisory role in relation to government advertising.

That is, not the Auditor-General's Office. Have I misunderstood something?

Mr McPhee—I believe you are quoting me.

Mr GEORGIU—I have got to say that your opening position is one that I share, even without knowing that it was your opening position. This had the potential to compromise the apparent independence of the Auditor-General and the Auditor-General's capacity to be an appropriate auditor. You made this point to previous governments with respect to the Electoral Redistribution Committee and Tax Agents Registration Board and previous governments had accepted that. When you tendered your advice to the Prime Minister what happened, and how did you end up in this position?

Mr McPhee—I have a couple of comments. The important point was that I did not wish to be in a position to administer the guidelines. The Labor Party, prior to the election, and certainly from some of the commentary, suggested the Auditor-General could approve, for instance, advertising campaigns or subsequently the word 'vet' was used. It is clearly inappropriate for the Auditor-General to be an executive and decision maker in this space. It is clearly inappropriate. I have no decision-making roles in terms of government administration, other than within my own agency. That was the distinction I was drawing there, that it is inappropriate for any auditor to take an executive role when they have also got an audit role. That was the point I was making, and the proposal I had was to deal with the suggestion that was around that the Auditor-General should be the decider in these campaigns.

Mr GEORGIU—No, the word was 'vet'. You have substituted the word 'review' and you say that you are not a decision maker, but in fact if you say that something crosses the line, there are consequences in terms of the ability of the ads to go to air. To me, that puts you in a significant decision-making position.

Mr McPhee—I have to make decisions most weeks of the year in terms of my audit responsibilities. There is no question about that. Sometimes those decisions have consequences for agencies and sometimes for governments, but that is performing my audit role and not performing an administration role to say that a campaign should proceed.

CHAIR—Is the role different because it is now an assurance role based on assurance standards?

Mr McPhee—Correct.

CHAIR—Can you elaborate on those for us?

Mr McPhee—I would just like to say that the traditional approach, which I proposed initially to the Prime Minister, was very much the historic way the office had operated. That is, we would continue to review campaigns, as we have done so, through our performance audit approach. That was what I put on the table.

Mr GEORGIU—Absolutely.

Mr McPhee—The government wanted a more timely audit review of the campaign arrangements. That is, if I can interpret its position, it was not comfortable to wait a year or two for the Auditor-General to come by and say, ‘I’m not very happy with some of these campaigns.’ The alternative, and quite legitimate, audit approach is to have this review opinion which says: the chief executive signs off against the guidelines; I provide a review opinion to say whether I believe the guidelines have been satisfied, or anything has come to my attention to suggest they have not been applied; and then the minister takes the decision on the campaign. I am not making a decision about whether the campaign runs or not. I am providing an opinion on whether the chief executive and his or her agency have abided by the guidelines.

Mr GEORGIU—You proposed an alternative mechanism?

Mr McPhee—Correct.

Mr GEORGIU—In line with the traditional strictures regarding the Auditor-General?

Mr McPhee—Yes.

Mr GEORGIU—What was the government’s response?

Mr McPhee—The government wanted a campaign-by-campaign approach.

Mr GEORGIU—That is what you proposed.

Mr McPhee—No. From memory, I proposed that we would review the arrangements on a periodic basis through performance audits.

Mr GEORGIU—No. You proposed an independent group of experts.

Mr McPhee—Sure.

Mr GEORGIU—What was their response to that?

Senator FEENEY—The Auditor-General was certifying an activity before it takes place rather than reviewing it after.

Mr GEORGIU—I want to know when you made the proposal, given the high regard that we all hold the Auditor-General in and respect for the distinction between his role and involving the executive. You said, ‘I’m really uncomfortable with this because this is an apparent politicisation of the role. My advice to you, Prime Minister, is to set up an independent group.’ I will read you the letter again if you like. His advice was:

I would propose a model involving a small ‘independent’ committee with an executive or advisory role in relation to government advertising.

Not the Auditor-General.

Mr McPhee—Correct.

Mr GEORGIU—You said, ‘I don’t really like this. Here’s my suggestion.’ What was the response?

Mr McPhee—I think I covered that.

Mr GEORGIU—No, you have not.

Mr McPhee—I did not get a formal response to that specific suggestion.

Mr GEORGIU—You, as Auditor-General, put forward a proposal expressing your significant concern about taking over this role. The government proposed an alternative model and the government did not even respond.

Mr McPhee—I can understand the government’s perspective because prior to the election they had a policy position which said each campaign will be vetted or approved, or whatever the words are. That is each campaign. What I was proposing in my response really did not deal with the campaign-by-campaign approach that the government had in mind for the audit role. It does not surprise me that they looked for an alternative, which was acceptable to me.

Mr GEORGIU—Which would be well assessed proposals for their adherence to agreed guidelines, including more complex elements. That was what you were proposing, that the role of a campaign-by-campaign analysis actually should be conducted by somebody else.

Mr McPhee—Yes. That could have worked and the government could have adopted it, but as is their right, they did not adopt it. They preferred the campaign-by-campaign option.

Mr GEORGIU—Did they direct you?

Mr McPhee—No.

Mr GEORGIU—What was the response?

Mr McPhee—The minister spoke to me about what would be an acceptable model in terms of this campaign-by-campaign approach.

Mr GEORGIU—What did he say about your proposed model?

Mr McPhee—I do not recall it and I do not think it was specifically addressed.

Mr GEORGIU—What happened was that you said, ‘I’m very concerned. I’ve got an alternative model.’

Mr McPhee—Yes.

Mr GEORGIU—You sent the letter through to the Prime Minister.

CHAIR—Before you go on, I would like to say that your major concern was to avoid placing the ANAO in a situation of being both ‘decision maker and auditor’?

Mr McPhee—Correct.

CHAIR—That is the main point you made.

Mr McPhee—Clearly that is a fundamental point. You can never be a decision maker and an auditor of that decision.

Mr BRIGGS—So the policy was wrong. You could never be a vetter is what you are saying. They were misleading in their policy.

Mr McPhee—Vetting is not a word in the audit lexicon. Auditors provide assurance, basically. What I was able to do was to provide my technical advice to the government on an option that would work having closer regard to their policy position that was not offensive to the auditing standards and accepted principles, and yet could be done on a campaign-by-campaign approach, which was where the government always was. That is where it has turned out to be and after that, of course, we have had the guidelines and we have been doing it. It is an acceptable approach. Both approaches are acceptable. I guess the point I did not appreciate as much at the time was that the current government was willing to resource the office to do the more intensive campaign-by-campaign approach to advertising campaigns. My earlier model was based on the scenario that the Audit Office would have its existing funding arrangements and we would work into the program a performance audit every year or two, or whatever—an audit on government advertising. The government wanted a more intensive approach, were happy to fund it, it was acceptable to me in terms of the auditing standards, and that is where it has progressed from there.

Mr GEORGIU—It is a misperception to believe that you are somehow clearing these ads?

Mr McPhee—I am providing an assurance opinion in relation to whether the guidelines have been applied by the chief executive.

Mr GEORGIU—No, you are not. Can you quote the words of your assurance? You are not providing assurance. You are saying nothing has been drawn to your attention.

Mr McPhee—Nothing has come to my attention, but that is an assurance opinion.

Mr GEORGIU—No, it is not an assurance that the guidelines are being complied with. Seriously, this is a very important point.

CHAIR—In all audits there can never be 100 per cent guarantees in that way. There are assurances.

Mr GEORGIU—I will go to the independent auditor? What is the standard that we are applying? Is it ASAE 3000?

Mr Wilson—Yes.

Mr GEORGIU—The assertion made by the government is that this gives the public a high degree of confidence that the guidelines are being complied with. That is a quote from Senator Faulkner's media release. Does the application of this standard, which is actually a negative judgment—'nothing has been drawn to my attention'—give that degree of confidence?

Mr Wilson—Could you read the original definition on the high degree of governance?

Mr GEORGIU—Yes, bear with me.

Mr Wilson—I can talk a little bit about it and how that fits from an audit perspective. The standard does provide an auditor to conduct a review, provide assurance in relation to a set of guidelines in these circumstances and to apply various procedures. The standards can provide for a reasonable level of assurance or a limited level of assurance. In this case, a limited level of assurance is provided, which means that certain procedures are undertaken by the auditor, and that involves reviewing the chief executive certificates, having interviews with relevant parties during that process, reviewing the plans and making themselves familiar with various documents that are key to that process, but stopping at that point.

Mr GEORGIU—Can you put that in layman's terms for us?

Mr Wilson—Yes.

CHAIR—I will just mention to the committee that on page 28 of the briefing papers you will find a copy of the standards from the ASS.

Mr GEORGIU—What does it mean? Does it mean that if somebody tells me that this is an ad that does not involve partisan promotion of government policy, then I can have a degree of confidence? What degree on a one to 10 scale?

Mr Wilson—Unfortunately I cannot apply a one to 10 range to that auditing standard because it is not constructed in that way.

Mr GEORGIU—Can you give us as much illumination as possible?

Mr Wilson—Sure. The difference between reasonable assurance and limited assurance—

Mr GEORGIU—Do we have reasonable assurance here?

Mr Wilson—We have limited assurance.

Mr GEORGIU—So there is limited assurance, which is the lowest level?

Mr Wilson—There are only two choices in the standard.

Mr GEORGIU—There are only two?

Mr Wilson—That is right.

Mr GEORGIU—Can I put in a plea that you actually refine your scales just a bit?

CHAIR—That would take a bit of work.

Mr GEORGIU—So there is limited assurance here.

Mr Wilson—Yes.

Mr GEORGIU—Tell us about that.

Mr Wilson—The choice, from an auditor's perspective, is that you are engaged to do a piece of review work or audit work, and that is to meet the objectives of a stakeholder, in this case the department. Let us call it the Department of finance. They have an interest to say, 'Have these guidelines been complied with?' That is a discussion between the engaging party, so the Department of finance, and the auditor in terms of what level of assurance you are looking for from the auditor in terms of compliance with those guidelines.

Mr GEORGIU—If they were to give a reasonable level of assurance, that would involve breaching the Auditor-General's distinction between involvement in administration and audit. Is that correct?

Mr Wilson—I can elaborate. In just talking theoretically—it is for Ian to respond to the facts in this situation—that is a stretch of the standard. The difference between limited assurance and reasonable assurance is the amount of work that you actually do. In a limited review you are doing certain discussions and reviewing certain documents. In terms of reasonable assurance you are increasing the level of work that you are doing, including reviewing and testing various systems. That is a choice that is part of the engagement.

Mr GEORGIU—If the Auditor-General tells me that this is a coalition ad that is not partisan promotion of government policy then how much faith can I have in that statement? What level of confidence?

Mr Wilson—In layman’s terms you would have the comfort that an independent person has reviewed the facts and circumstances, against a—

Mr GEORGIU—At what level?

CHAIR—A reasonable person, perhaps?

Mr Wilson—I can go back to the definition in the standard. This is going to be a little bit technical, so let me read this, and then I will try to put it in layman’s terms.

The objective of a limited assurance engagement is to reduce the risk of material being wrong to a level that is acceptable in the circumstances of this engagement.

Mr GEORGIU—When the minister says that this examination by the Auditor-General should give the public confidence, what it means in technical terms is that the public should only have limited confidence that this complies with the guidelines.

Mr BRADBURY—The word was ‘acceptable’.

Mr GEORGIU—Limited.

Mr Wilson—Acceptable in the circumstances of the engagement.

Mr GEORGIU—Tell me again about limited and reasonable.

Senator FEENEY—There is an issue here about the fact that limited in common parlance has one meaning and limited in accounting parlance has another meaning.

CHAIR—And acceptable given all those circumstances of that inquiry.

Mr GEORGIU—Coming back to the Auditor-General, the situation is that you told the government to do it this way and get a high level of confidence.

Senator FEENEY—That is a much better phrase.

Mr GEORGIU—Yes, a high level of confidence. They did not bother responding to you. They said, ‘No, we’d like you to do it.’ You said, ‘Well, I can’t do it at that level because it would be in breach of my auditing.’

CHAIR—I do not think we can verbal our witnesses.

Mr GEORGIU—No.

CHAIR—I do not think that is what he said. I think he said he had discussions.

Mr GEORGIU—Mr McPhee is more than capable of defending himself.

CHAIR—We have to be accurate.

Mr GEORGIU—He is not a 14 year old. You wrote to them and said firstly, ‘I’m really uncomfortable with this.’ Secondly, ‘I think that this is a preferable way of doing.’ Thirdly, they did not respond as you have no recollection of what the response was. We fell betwixt and between in a limited assurance level, not even reasonable assurance level, and the government is prancing around saying that the public can now have confidence. That is a concern to me, in terms of all the things I said before this: one, that I think it does bring the office of the Auditor-General into question. I am a real supporter of your office, not uncritical, but a real supporter. Two, I am concerned that there is simply no way in which you, as an auditor, even try to say, ‘Is this partisan promotion of government policy?’

CHAIR—Before we move to another area, we will just deal with that first area. Mr McPhee, you have already said that a new system was put in place that was based on a campaign-by-campaign, proactive approach, that you had to actually work through the delivery and the development of these campaigns rather than post the campaign and make a judgment performance audit. Are you comfortable that this process does not reduce your responsibilities and your independence?

Mr McPhee—Yes, I am. Just to respond to Mr Georgiou’s point, firstly, my review is based on the professional standards. Secondly, the basis on which I form my opinion is set out in my report for people to read. Ministers may want to say other things, but I am not accountable for what ministers say. I am accountable for this opinion that I provide and I am happy to be accountable for it.

CHAIR—Not only have you been accountable, but you have also made suggestions to reform it, revisit the guidelines and review it. Deputy chair, you wanted to go on to the next point in terms of political partisan activities.

Mr GEORGIU—Mr Wilson, just for my education, do you think that the amount of information provided in the Auditor-General’s report meets that standard?

Mr Wilson—I have had an opportunity to review the sample report and that is a very consistent way for an auditor to report for the type of engagement that was conducted here.

CHAIR—Thank you. Mr Bradbury had a question, but also you highlighted another issue that will come up in terms of partisanship. Certainly, Auditor-General, you also highlighted the differentiation between normal business and advertising campaigns and I know that they are areas that the committee will want to explore. Mr Bradbury?

Mr BRADBURY—I had some questions in relation to Performance Audit Report No. 24. In establishing the degree of confidence that the public can have in this process, it is relevant to have a look at the process that was in existence prior to this. The report, in its examination of a number of previous advertising campaigns conducted by the government, sets out some of the issues that require some attention from this committee. In particular, I would like to ask a few questions in relation to the Ministerial Committee on Government Communications, MCGC. I wonder if I could have a brief explanation of the composition and the role of that committee?

Mr BRIGGS—So they are responsible for that committee now?

Mr GEORGIU—Can you also tell us about the relevance of that?

CHAIR—Mr Bradbury has put a question and he has a right to have an answer to that question.

Mr GEORGIU—He is entitled to do whatever he likes, but I would also like, in terms of that report, to see whether it will be followed up in terms of the current administrative arrangements.

CHAIR—Mr Bradbury, you wanted a question answered and the Audit Office are going to answer that question.

Mr Holbert—As of November 2007 the membership of the Ministerial Committee on Government Communications included Gary Nairn MP, as chair and Special Minister of State; Mr Petro Georgiou MP; the Hon. Ms Sussan Ley MP; the Hon. Andrew Robb MP; the Hon. Mr Tony Smith MP; and Mr Tony Nutt from the Prime Minister's office. In brief terms, our observations as spelt out in the audit report, are that the MCGC took key decisions relating to major or sensitive information activities, including approving strategies and briefs.

Senator BARNETT—What page are you on?

Mr Holbert—Page 18, paragraph 9, discusses the relative responsibilities in brief terms of the parties involved in the administration of advertising from our observation of those campaigns. The MCGC was taking decisions to select consultants in certain situations and to approve final creative materials and media plans prior to materials going to air.

Mr BRADBURY—I observed from the report that there seems to be some divergence of opinion on the extent to which decisions were taken by that body, as to whether it was an advisory body or whether it had issued directions in respect of certain changes that may be made to proposed campaigns. In particular, I note on page 47 the report states:

... at times...the MCGC took decisions that completely reshaped campaign strategy and timing, extensively edited creative materials and set requirements for the frequency of advertising.

I ask the question: on what evidence is that conclusion based?

Mr Holbert—An examination of the minutes of the committee and departmental records relating to campaigns administered.

Mr BRADBURY—It sounds like more than an advisory role. I would like to quote from page 47 of the report, which goes on to further tease out the role of this committee in the context of decisions that were taken by government. Paragraph 1.8 states:

Under this model, the MCGC, which had specialist experience in government campaign advertising, exercised considerable discretion as to the extent of its involvement in particular campaigns.

My question is about the reference to the specialist experience in government campaign advertising. What is that statement based upon? What specialist experience did this committee have to bring to the table on those matters?

Mr Holbert—Particular members of the committee had experience in the private sector, in terms of advertising. They were familiar with the field, techniques and processes associated with advertising.

Senator FEENEY—When you say ‘private sector’ are you referring to their services as officials of political parties?

Mr Holbert—I am just meaning generally.

Mr BRADBURY—I think there are at least three state and federal directors of the Liberal Party that were members of that committee. I am not sure whether that is what you are referring to when you refer to specialist experience. I am not aware of any other experience that extends beyond that.

Senator FEENEY—Were they executives of Clemengers that we do not know about?

Mr BRADBURY—That is a relevant consideration, particularly when we consider Mr Nairn.

CHAIR—We will not have cross conversations.

Mr BRADBURY—As I understand it, Mr Nairn made some fairly strong comments to the effect that this committee was only advisory in nature, yet there are some examples set out within the report that support the conclusion that I referred to earlier in relation to that committee completely reshaping campaign strategy and timing. Clearly this goes to the involvement of the politicians in the decision-making process and I think that the process that is now being set forward is one that seeks to try and separate the politicians from that process.

CHAIR—Auditor-General, would you like to do the comparisons for us?

Mr McPhee—I would like to pick up on Mr Bradbury’s point because he has put his finger on an issue which is a point that I have been pressing, as well. That is, it is important that departments be allowed to provide the best advice they can in relation to the campaigns. I have to say, without the involvement of ministers and their officers so that government gets the best advice they can from departments, then after that if governments want to do something different with a campaign, then that is fine, that is their decision and they should be accountable for any adjustments to that. We need this process to allow departments to follow the guidelines set out and independent of any other views that ministers or their officers may have in the details of the campaign.

Mr GEORGIU—Can I just pursue that?

CHAIR—I would like to pursue that too.

Mr GEORGIU—I would like to ask, in terms of the campaign on climate change, can Finance advise us who initiated it, who was involved, who were the current members of the GCU, or the GCU equivalent, and what transfer was there from Prime Minister and Cabinet to the department of finance?

CHAIR—As you are going to talk us through that process, which will be a good example for us to look at, would you also address that issue of Finance and other agencies feeling comfortable that they interpret the purpose and directions of those and not ministers?

Mr GEORGIU—Just before we go off on a false tangent—these are from your regulations:

The cabinet secretary is responsible for campaign policy and the guidelines. In this regard the cabinet secretary is not directly involved with each campaign, but should a matter arise that affects the government's broader messaging or policies which cannot be resolved at official level, then the cabinet secretary's advice will be sought.

CHAIR—Would you like to go ahead and answer the original questions?

Mr GEORGIU—Yes, but let us not go off on a side track.

CHAIR—It is not a side track. It is raised by the Auditor-General in one of his comments.

Mr Lewis—I might start by providing an overview of the committee, its role and functions, and then I might turn to Mr Grant for a few specifics on that campaign. This committee was established in July—

Mr Grant—No, it was later.

Mr Lewis—We will get the month—the third quarter of last year. It is a committee of deputy secretaries. I chair this committee at the deputy secretary level in the finance department and there are five members of that committee in total. There is a colleague from Defence, Health and Ageing, Human Services, Prime Minister and Cabinet, and myself. They are the five members of the committee. We meet on a monthly basis. We also have a meeting on a contingent basis every fortnight between times if there are issues that need to be dealt with and we have found that we have usually needed to have that meeting, but it tends to be a shorter meeting than the monthly meeting. We have an observer from the Audit Office that sits in on the meetings that usually is of observer status but is hearing the discussion happening between the committee.

CHAIR—Auditor-General, is that someone specifically involved in the advertising interviews?

Mr McPhee—Yes.

Mr BRIGGS—Can you use information from those meetings in your reviews as your observer role?

Mr P White—We try to make it very distinct. I attend as an observer. From our review process it is very distinct from the role of the committee, but if something came to my attention then we would use it as part of our review role.

CHAIR—Keep going, Mr Lewis.

Mr Lewis—We will have agendas for each of our meetings. We will have different agencies come along at different points through the course of their campaigns. We will, of course, be encouraging them to come early. We work very proactively with agencies through the branch that has been established in the finance department to deal with these matters to ask agencies to bring material forward early so that we can consider the context of the guidelines, particularly in its early phase, because these are relatively new guidelines and we are keen to make sure agencies are aware of them and they are working to their various terms.

Mr BRIGGS—You just said a branch in the Prime Minister's department.

Mr Lewis—I did not mean to if I said that. I meant in our department. It is the Communications Advice Branch inside the Asset Management Group of the Department of Finance and Administration.

Mr BRIGGS—All the functions that the PM&C used to have, have been moved?

Mr Lewis—That is a different question. Let me tackle that because I have previously given evidence to Estimates hearings on this very point. On the change of government, two contracts were transferred to the Department of Finance and Deregulation and nothing more. We assume responsibility for the campaign advertising and the non-campaign advertising contracts previously managed by the Department of Prime Minister and Cabinet.

Mr GEORGIU—The GCU?

Mr Lewis—The GCU was largely abolished. We inherited—

Mr BRIGGS—What do you mean by 'largely'?

Mr Lewis—I will come to that. There were a few people involved in the management of that contract. It had a section of about four people and several of those came across. We currently have four people from the old GCU in that branch of about 15 or 16 people and one of those leaves this week. We do have a few people from the old GCU, but those were the people that were involved in managing the contract. We needed some continuity there because those are a couple of pretty important contracts with HMA Blaze and Universal McCann. So our role was, in a sense, managing those two contracts until the government announcement on 3 July in relation to the establishment of the campaign guidelines and the new role that Finance took from that point on. The committee was established after that. Is that helpful by way of broad commentary in terms of our role?

Mr GEORGIU—Yes.

Mr Lewis—I can assure you that this committee is strictly a committee of officials. We have had no-one attend this committee at ministerial level or ministers' offices at any point.

Mr GEORGIU—Tell us about the climate change campaign.

Mr Lewis—If that is enough broadly, we will turn to the climate change.

CHAIR—Yes, we will turn to the specific.

Mr Grant—Perhaps I can describe that. I will do it from memory as I do not have the details in front of me. The climate change campaign, from my recollection, actually initiated prior to the establishment of the Interdepartmental Committee on Communications. Its development went along a process you would expect, which is that the need for a campaign was identified.

Mr GEORGIU—Who by?

Mr Grant—The agency and its minister, so the Department of Climate Change.

Mr BRIGGS—Did the minister's office have a direct role in deciding that there was a need for the campaign?

Mr Grant—That is consistent with the process that we put forward.

Mr GEORGIU—We are just referring to politicians and their staff not being involved.

Mr BRIGGS—That is right. They were never involved.

CHAIR—To clarify, governments do decide what they want to be advertised. It usually involves a minister.

Mr GEORGIU—We have absolutely no problem with that.

CHAIR—We will now move on to the purpose. Please continue, Mr Grant.

Mr Grant—The process then without the IDCC was that the communication—

CHAIR—I am sorry, let us clarify. You have started off a process on the climate change campaign, saying that it was identified by the minister and her department—

Mr Grant—That is right.

CHAIR—That there was a need for an advertising campaign.

Mr GEORGIU—Or her office.

CHAIR—Her office, I should say.

Mr Grant—The department approached my communications—

CHAIR—Which department are we talking about?

Mr Grant—The Department of Climate Change approached my Communications Advice Branch, and my Communications Advice Branch first provided them with the guidelines to make sure that they were aware of it and then gave some assistance as they went through the process of engaging the relevant consultants, and then obviously moving towards media placement.

Mr BRIGGS—Do you test the needs for the campaign?

CHAIR—Was the purpose of the campaign identified clearly?

Mr Grant—As far as I am aware, for that particular campaign they would do the normal thing, which is identify the need, undertake the research about the message, and whether people understood what they needed to know. For that particular campaign, because the IDCC did not exist and because it was very early after the announcement so we were still going through the process of developing and establishing the branch, we did not have the review process that it now goes through.

Mr BRIGGS—Mr White was not in on these meetings?

CHAIR—Mr Briggs raises a good point. You just wanted to say that this is pre the involvement of the Auditor-General. Is that right?

Mr P White— Just a point of clarification. From memory I think the IDCC did not meet until around September.

Mr Grant—I think so too.

CHAIR—And this is prior to that?

Mr Grant—That is right.

CHAIR—Please continue, Mr Grant.

Mr Grant—The process then is the department developed the campaign and undertook the relevant work. They then submitted a chief executive's declaration and other work to the Audit Office and then, from my recollection, the Audit Office provided its letter and the campaign moved forward.

CHAIR—Could someone—Auditor-General, Mr Holbert, Mr White—tell us your involvement in that process?

Mr Holbert—Yes. The department contacted us first on 3 July, being the day after the guidelines were announced, and we met for the first time with the department to discuss the processes that they were undertaking on 4 July.

CHAIR—As it was already underway, did you have to satisfy yourself on the process that had already occurred and, if so, how did you do that and what was the outcome?

Mr Holbert—The department provided us with access to their staff, research findings, the contracts, the procurement documentation around the appointment of their research and creative consultants and the various research and strategy documents that had been prepared. The creative materials themselves were provided to us early in their development, leading ultimately to a report to the Auditor-General on 16 July recommending that he issue a report in relation to the campaign.

CHAIR—Did it then proceed as being reviewed to be within the guidelines?

Mr Holbert—Yes.

CHAIR—Auditor-General, did you sign off on that?

Mr Holbert—Yes.

CHAIR—Did you have to revisit that in any way?

Mr McPhee—As Mr Holbert has mentioned, it was early days, in a sense. Some of these campaigns had been progressed before the announcement of the guidelines, so there was a bit of a catch-up with some of this sort of stuff. We were paying particular attention to that and my staff briefed me on matters. I did sign the report. I know it was a clear opinion and things went from there.

CHAIR—Mr Holbert, did you want to add something?

Mr Holbert—I just wanted to mention that the Department of Climate Change made a minor revision to the materials after 16 July, which they discussed with us. We reviewed the materials simply as a matter of changing the final refinement of the creative materials, in changing the timing of a series of frames as they progressed through the screen. We did not have any difficulty with that.

CHAIR—We are not talking content?

Mr Holbert—No.

CHAIR—We are talking format in some way.

Mr Holbert—A production-type change. Regardless of that, at that stage we wanted to make sure we were being reasonably conservative in our approach and the Auditor-General issued an updated report on 18 July so there was no confusion about materials being finalised after the Auditor-General's signature. They were all authorised before the Auditor-General issued his final report.

CHAIR—Finance, were you aware of those changes as they happened?

Mr Grant—Yes.

Mr McPhee—I will just give an example of how our own processes have improved as a result. I recall getting an email or a letter from a citizen out there saying, ‘In those ads those stacks aren’t coal stacks.’ They were actually something else.

CHAIR—You have got to love the public.

Mr McPhee—You do, and you learn from it. So after that we made sure we got representation from the departments about the factual accuracy of information being portrayed. It is just a small illustration, but we will learn. As our submission states, we are learning and we are seeing some scope for the guidelines to be improved, as well. It is a new experience for everyone involved.

Mr Grant—I would like to clarify the starting date for the IDCC. The first meeting of the IDCC was on 6 August 2008.

CHAIR—Mr Bradbury and then Mrs Bishop.

Mr BRADBURY—I wanted to go back to the Performance Audit Report, because there are a couple of aspects of that report that disturbed me about campaigns that had been run in the past, and it is important to ensure that steps are taken so that does not occur in the future. The late execution of contracts is something that struck me as a particular issue. If my mathematics are correct, we are looking at somewhere in the order of \$11 million worth of invoices or work being undertaken prior to contracts having been executed in relation to the specific contracts that underpinned these campaigns. What was unclear to me in the report was whether or not work had simply been undertaken and invoices were generated, or in fact payment had commenced in respect of the work that had been carried out. Had any payment been undertaken at that point or was it simply a case of work having been carried out and invoices rendered?

Mr Holbert—There were instances of invoices having been paid prior to the execution of the contracts.

Mr BRADBURY—On what authority would moneys be paid out prior to the execution of a contract?

Mr Holbert—The records that we had available to us suggested simply that an invoice was provided to the department and an appropriately authorised officer within the department authorised the payment of that invoice.

Mr BRADBURY—Do we have any sense of the quantum of invoices that were paid in those circumstances? That seems to be an extraordinary breach of fairly fundamental principles of good public administration.

Mr Holbert—I am just checking the details. It is some millions of dollars.

Mr BRADBURY—Millions of dollars paid. Presumably someone within departments somewhere has stuck their hand up and authorised that without any due authority to do that. Is that what we are talking about?

Mr Holbert—Certainly there was no written contract in place.

Mr GEORGIU—Is that like no due authority? I think the question deserves an answer.

Mr Holbert—I understand the officers who authorised the payment were appropriately delegated to authorise the payment.

CHAIR—I am going to move to Mrs Bishop if she is ready.

Mr GEORGIU—I just have one question. Given your deep involvement in advertising subsequently, can you give us an assurance that these problems have been addressed on the basis of your investigation of what has happened since you took on this role?

CHAIR—If we are going to explore this area, I would just like to ask the Auditor-General, because he is raising in a letter to the Special Minister of State an issue that he says could be revisited. It says:

Departments need to better align business processes to support effective compliance with core requirements of the guidelines.

I guess that also goes to this matter and we are all interested to see what you are observing already happening within agencies and departments.

Mr GEORGIU—In terms of contract administration.

CHAIR—And compliance.

Mr BRADBURY—I would like to quickly ask a follow-up question on that. It flows from the response that the amounts of moneys concerned here are in the millions of dollars. I note on page 86 of the report that in some cases the value of invoices that had been rendered prior to execution of the contract actually exceeded the fee cap in the contract. Am I reading that table correctly?

Mr Holbert—Yes.

Mr BRADBURY—The contract that was subsequently executed had a fee cap that had already been exceeded prior to that contract being executed.

Mr Holbert—What we found in those instances is that there would then be subsequent contract variations to continue to cover the work that had been completed.

Mr BRADBURY—I find that to be remarkable that invoices could be rendered that are greater than the contract fee cap for a contract that has not been executed. My question is: what action is being taken to ensure that does not happen again?

Mr GEORGIU—Absolutely.

CHAIR—Could you elaborate on those issues you raised, Auditor-General, with the Special Minister of State?

Mr GEORGIU—What have you found with respect to contracts in the current environment?

Mr Holbert—One of our standard processes in relation to the reviews is to seek copies of contracts and procurement documentation relating to the campaign in question where the review is occurring to assess whether or not the contract was undertaken in a timely manner. From the ones that I have been directly involved in, there has been a very high degree of compliance.

CHAIR—Finance, you wanted to make a comment. Have there been any variations that you have seen of a similar kind where contracts are changed in that way or expenditure is authorised?

Mr Lewis—As to a specific comment about the query as to what we have done to make sure agencies are aware of their requirements—

Mr GEORGIU—No, the query was to the Auditor-General about what he had found. It was not to you. It was not about your processes. Given that these problems did arise, what has the Auditor-General to report to this committee?

Mr BRADBURY—I asked the question and I was not limiting it in that way.

CHAIR—There have been several questions and if Finance can give us some information that they think is relevant to those questions I am very happy to take it, and I know the Auditor-General will want to put forward information as well.

Mr Lewis—The general point touches on responsibility. Agencies retain responsibility in relation to contract management. If there are deficiencies in contract management then that is their accountability. On rare occasions that may even be the finance department if we have an advertising campaign, but generally it will not be. It will be the responsibility of whichever agency has responsibility for the campaign. The IDCC responsibility is advisory in nature. It is an advisory committee. We provide advice to agencies and as needed we will provide advice to the Minister for Finance and Deregulation and to the Special Minister of State. Once the guidelines were issued on 2 July, the acting finance secretary wrote to all agency heads. We briefed all the key agencies in relation to guidelines and reminded them, in particular, of their obligations, some of which are longstanding. Guideline 5, as you would note if you have the guidelines in front of you, does refer to the need for agencies to comply with legal requirements, including the matters that have been touched on just before, because FMA breaches, of course, are caught by that.

CHAIR—Auditor-General.

Mr McPhee—We made some recommendations about the importance of agencies completing contracts in a timely fashion and at the very end of the audit report in paragraph 27 I tried to draw out a few messages for departmental administration. The last one was:

... to protect the interests of the Australian Government (and taxpayers), departments need to ensure that contracts are executed in a timely manner, include appropriate safeguards to secure performance, and are actively administered.

I go on to say:

None of these matters are new but this audit highlights that agencies need to continually reinforce good practice in relation to government procurement.

Mr BRADBURY—Were there any explanations provided in terms of justifying that delay in the execution of contracts? It is not clear to me from the report whether or not any explanation was provided.

Mr McPhee—It is very hard to justify the delays that we are talking about here. In fact, I would say it is impossible. In our recommendation No. 2, where we talk about departments examining the ways to improve the timeliness, we put a second part in that recommendation that said:

Where it is determined that an imperative exists which requires work to commence urgently prior to having signed a contract, [the department should] document the urgency and agree in writing with the contractor the key terms prior to work commencing.

We accept that there will be times that there will an imperative or there will be some level of urgency where you need to work on the basis of an oral understanding. We are saying capture the key points and then clearly move to get the contract in place as soon as you can. In many of these cases I do not think there was an imperative that justified, and certainly even if there was, it would not justify delays of weeks and months.

CHAIR—Ms King, was your issue different?

Ms KING—Yes.

CHAIR—Mrs Bishop.

Mrs BRONWYN BISHOP—I want to go to the role of the Auditor-General as set out in this 2009 document. It states, 'For those campaigns with an expenditure in excess of \$250,000'—

CHAIR—Could you give us a page reference?

Mrs BRONWYN BISHOP—It is on page 24. Attachment A states:

Government campaigns can be approved for launching by a Minister only when:

the Chief Executive of the agency undertaking the campaign certifies that the campaign complies with the Guidelines and relevant government policies; and

for those campaigns with expenditure in excess of \$250,000, the Auditor-General provides a report to the Minister responsible for the agency undertaking the campaign on the proposed campaign's compliance with the Guidelines.

Does that mean that you can supply a report and the report may say these are areas where it does not comply and then the minister can negotiate with you?

Mr McPhee—We could issue a qualified report to say that the guidelines have not been followed in respect of certain matters. I could issue that report. Conceivably, the minister could say to his or her department, ‘You’d better address what the Auditor-General is saying.’ I would like to have thought that we could have addressed it before, but the minister has that authority, and if the department was to revise the campaign to my satisfaction I could then issue a subsequent report dealing with the matter.

Mrs BRONWYN BISHOP—You are potentially involved every time in a negotiation with government?

Mr McPhee—We are involved in providing advice and letting agencies know our views on matters constantly in this space.

Mrs BRONWYN BISHOP—I just want to hone in on this particular issue. You are involved in negotiation with government.

Mr McPhee—It is not negotiation. We will let them know our views.

Mrs BRONWYN BISHOP—Supposing you issue your report and you say, ‘No, you don’t comply’ and the minister says to you, ‘Yes, we do and my department says we do.’ What happens then?

Mr McPhee—It is with the minister. I think what you are saying there was that under the government’s own guidelines the campaign cannot proceed.

Mrs BRONWYN BISHOP—It does not say that. All it says is that you have to provide a report. It does not say what sort of report. It just says a report. You provided it, the government does not agree with it, so they can presumably go ahead and have a campaign. Does your report get published?

Mr McPhee—Yes, on our website.

Mrs BRONWYN BISHOP—It just says a report on the compliance. It does not say that you have to say that it has complied. All you have to do is give a report and they can go ahead.

Mr McPhee—Yes. The reality is that it is like any audit report. I put them up and there are my recommendations. At the end of the day it is up to the executive to decide whether to accept them or not.

Mrs BRONWYN BISHOP—I have to say that I feel very uncomfortable with the Auditor-General being placed in what I think is an unethical position. The reason that you were drawn into this argument in the first place was because there was criticism of the GCU and the way we operated, so a political statement was, ‘The Auditor-General will do it because the Auditor-General is beyond reproach.’ You were drawn into the politics of it straightaway, which I feel very uncomfortable about. I do not want you to comment because you cannot.

Mr McPhee—I am happy to.

CHAIR—If the Auditor-General wants to comment then he certainly can. Mr McPhee, did you want to comment?

Mr McPhee—This role is not without risk, but I happen to think that we are working towards a better system based on experience than we have ever had before. It is not perfect. I have written to the minister and said that there are some areas that we can improve on. We are using our influence to try to keep this system as straight as it can be. My people have done a terrific job in this space. It is just not a walk in the park. To date, we have managed to get the campaigns designed and so on in a way that I find acceptable in terms of the guidelines. I happen to think that the system is on the right track and, with some further amendments to these guidelines and so on, we can do even better. There is a clarity of the responsibilities of departments on the one hand and ministers on the other. At the end of day I am the first to say that governments can do what they wish, but each party should be responsible and accountable for their particular element of the decision making for each campaign.

Mrs BRONWYN BISHOP—The bottom line is that these guidelines do not prevent a campaign going ahead, even if you say it does not comply with the guidelines.

CHAIR—But that report would become public.

Mrs BRONWYN BISHOP—That is what I am saying. The campaign can go ahead. If the Auditor-General says, ‘This campaign does not comply with the guidelines’ and the minister says, ‘I don’t agree with you. I think it does. I’m going ahead with it anyway’, the minister can go ahead with it.

Mr McPhee—That is a matter for the government.

Mrs BRONWYN BISHOP—That is what I am saying. The fact that you have put a report up on the website or anywhere else that it does comply does not stop the campaign.

Mr P White—It does not stop the campaign, but it is on the public record.

Mrs BRONWYN BISHOP—Has that happened yet?

Mr P White—No.

CHAIR—Ms King, you wanted to raise a point.

Ms KING—I note that you are also reporting to the parliament in relation to this, so can you perhaps expand on that? It is a little more than putting reports up on the website.

Mrs BRONWYN BISHOP—Can I just finish my line?

Ms KING—It is related to your line.

Mrs BRONWYN BISHOP—I would like to go back to the question that I was putting to you. Your report will go up. Supposing you have found that the campaign does not comply with the guidelines and the minister puts it back to the department and they say, ‘All right, well if we change this bit and this bit, will you then agree to that, Auditor-General? Will you say that then complies?’ Supposing you say, ‘Not quite’, do you then say, ‘But if you do this, this and this it will comply’ or do you stand back and wait for them to come to you and say, ‘If we do this, this and this will you give us a tick?’

CHAIR—These are scenarios that have not occurred, but project for us please.

Mr McPhee—We would give our view on matters and each time if the department was to modify their approach we would give another view about whether that is acceptable. It is not out of court for us to say, ‘And if you were to take out that section dealing with blah then that would take away our concerns.’ We are not there just to respond to stuff given. We try to be constructive in our approach.

Mrs BRONWYN BISHOP—Is the record of those negotiations published?

Mr McPhee—No. I will use an analogy in our financial statement work where agencies adopt particular accounting policies or approaches, and if we do not agree with it then we will say we do not agree with it. They might go away and modify it and then we will talk about an acceptable outcome. That happens constantly.

Mrs BRONWYN BISHOP—That is part of an audit process. What you are being asked to do is to give a tick so that the public are led to believe that the Auditor-General, who stands above the political fray, in fact has given this a tick and says, ‘This is truthful and okay to go.’ That is a hell of a duty to put on the Auditor-General.

Mr McPhee—It is, but if you want a relevant Audit Office—we are doing the same thing on the Defence major projects review. It is not without risk. If you want an Auditor-General that sits back and does financial statements and all that sort of stuff—we are about—

Mrs BRONWYN BISHOP—No, I will not argue. I do not have a problem with what you are doing in the Defence area or any other government department. What we are talking about here is the ability of government, whether we go back to the Keating era, or whether we go to our GCU. This system was designed to try and say that this government is relying on you, the Auditor-General, to say that this government is in no way being political in its advertising. In my view that is a dreadful thing to ask an Auditor-General to do.

CHAIR—Let us get to some of those other issues. We have two major issues. One has been raised, in terms of how you differentiate between normal advertising activities and advertising activities that come under these guidelines. The other one is assurance that it is not party-political promotion. I think we might go to the first issue, and that is deciding that we really are using this process for the right advertising campaigns. I would welcome some comments on that? Did you want to specifically raise a matter?

Ms KING—That is fine if you want to pursue that.

CHAIR—We will do those two issues and then others can be raised.

Mr P White—In terms of what is normal business for a department and what is campaign advertising, we regard the department of finance as the gatekeeper. It is referred to us by the department of finance. That is not to say that we do not have discussions with the department of finance. Most of it is fairly clear. I will let Mr Lewis talk about examples of the IDCC in terms of agencies coming along trying to get clarity between normal publicity by a department and campaign advertising.

CHAIR—Thank you. Mr Lewis.

Mr Lewis—I will just build on Mr White's commentary just for a moment before I go to what we are using as our broad definitions. Part of the reason we will want to issue a bit more guidance to agencies shortly is to avoid some things that are coming to us that we think is probably out of scope rather than in scope of the committee. We have already done some of that and we will be doing some more. In just going to the definition for a moment, we are happy to talk to you about that.

CHAIR—Do you think the \$250,000 limit is influencing that? Do people get concerned?

Mr Lewis—The \$250,000 limit is in the guidelines. The guidelines have been issued recently and the government has already said it is going to review them no later than June next year. We are happy to talk to the Auditor-General and his team about whether there is an issue with the guidelines. Our initial view is the guidelines are pretty workable, but we may want to make sure there is enough guidance to agencies in their adherence to the requirements of the guidelines.

CHAIR—Are they acting on the side of caution?

Mr Lewis—Can I just give my definition first of all?

CHAIR—All right.

Mr GEORGIU—A lot this is controversial, by the way.

Mr Lewis—You are probably already familiar with a lot of this. In terms of campaign advertising, it is all Australian government advertising that informs the community and/or specific target audiences about their rights, entitlements and obligations, and may encourage consideration of particular issues; for example, giving up smoking. It does not include advertising for specific jobs, tender advertising or other routine advertising carried out by government agencies in relation to their operational activities. I will just give you an idea as to some of the demarcation areas that arise. None of these are new, of course, but Centrelink will have any number of mail-out programs run as part of its ordinary business activities, but you could also have a mail-out that is part of a broader advertising activity, which involves TV, radio advertisement, plus a mail-out. The mail-out component of that would be regarded as part of our campaign and we would want to consider that, but we are keen to ensure that the ordinary business activities of departments are not regarded as campaign advertising.

CHAIR—The deputy chair has a keen interest in that last campaign. Auditor-General, or Audit Office, do you feel that the guidelines with Finance collaborating could be improved in that area to make it easier for agencies to decide which category it falls in?

Mr GEORGIU—I would like to pursue one point that Mrs Bishop raised.

CHAIR—I would like to have the Audit Office answer that question.

Mr McPhee—the short answer is yes.

CHAIR—Mr Briggs, do you want to raise a point on a similar matter?

Mr BRIGGS—I want to get to promoting party-political interest.

CHAIR—Are we all happy to move on to promoting party-political interests?

Mr GEORGIU—Can I just pursue one last question?

CHAIR—About the guidelines, certainly.

Mr GEORGIU—This is to the Auditor-General. The point about your involvement in campaigns and giving limited assurances: you know your organisation, do you believe that makes it more difficult for you to do a performance audit, given that throughout the process you have certified all these campaigns?

Mr McPhee—We are looking at the information on a timely basis as it occurs, rather than in a bulk situation subsequently.

Mr GEORGIU—Yes, but you will be doing and you indicated that you would be doing the performance audits. Do you think that the fact that you have ticked off on a limited assurance time after time limits your detachedness in doing a performance audit on this particular issue?

Mr McPhee—You raise a good issue. I do not know about detachedness.

Mr GEORGIU—Objectivity?

Mr McPhee—We tend to program our performance audits based on risk, significance and so on. This approach is giving us information on a regular basis about how the system is working and we tend to focus our efforts in areas where it is not working so well. We could either use the information we have to better target a performance audit, or we might decide that it is working sufficiently well and delay the frequency of performance audits.

Mr GEORGIU—So a limited assurance, not a reasonable assurance, may lead you to defer. Can I suggest that, given the dynamics of organisations, it is very difficult to review your own decisions and your decisions time after time with this campaign is tick, tick, tick. I think that is a genuine problem.

CHAIR—Auditor-General, in your original advice to the government you did talk about an annual report. Has that been pursued in any way?

Mr McPhee—We are proposing to do a periodic report on our role in government advertising, yes.

Mrs BRONWYN BISHOP—I would like to follow up on that question.

CHAIR—Yes, then we will have to move to the next topic.

Mrs BRONWYN BISHOP—It was just along that line of how you audit yourself. I think that brings into question the independent auditor. It may be that in the appointment of the independent auditor he has to have a special role in this endeavour, because as I said, you have now been brought into the political process. Governments only advertise if they think it is of benefit to themselves and staying there, and that is just a matter of fact. Your giving a tick or not giving a tick means that you have made a decision which is going to benefit that government and that political party one way or the other. There is always going to be a component that says, ‘Yes, this is a legitimate thing for telling the people. They are entitled to know’, but at the end of the day the fact that the government is seen to be doing something good and it has got your imprimatur on it has made it even more valuable to that political party. That is the ethical problem I see.

CHAIR—I am sure the independent auditor will show a great deal of interest in this, but I will just move on. Mr Briggs, you wanted to raise party-political partisanship. I would like you to move on to that.

Mr BRIGGS—I refer to guideline 3 on page 27 of the finance book. In 19 and 20 the guidelines state that material should not be directed at promoting party-political interests. In particular, 20 states:

The information and material presented in a campaign should not:

- mention the party in government by name;
- directly attack or scorn the views, policies or actions of others such as the policies and opinions of the opposition parties or groups;
- include party-political slogans or images;
- be designed to influence public support for a political party, a candidate for election, a Minister or a Member of Parliament; or
- refer or link to the websites of politicians or political parties.

In the event that a politician, a minister, a Prime Minister or indeed a premier put their head in an ad, would that be in breach of that provision? That is, their head or their voice in an ad. A letter in a newspaper, for instance, is an ad, which has been used occasionally. This question is directed at the Auditor’s office. Would you say that would breach those provisions?

Mr P White—We look for it in terms of our review process. What we are focused on is whether or not there is material there that is directed at promoting party-political interests, so to look for it we are guided by the guidelines.

Mr BRIGGS—I understand. What I am asking you about is, say, a radio ad with a minister talking about a government policy, directly related to their portfolio, but explaining a government policy with the minister's voice. Would you say that breaches 19 and 20?

Mr P White—Is it part of a campaign?

Mr BRIGGS—It is part of a campaign.

Mr P White—Yes, we would question it.

Mr BEVIS—Can I repeat that you said yes to the question and not yes to the breach?

Mr P White—It is likely that it would.

Mr BEVIS—I am not trying to verbal you. I am just trying to make sure the record accurately shows your answer.

Mr P White—I think we are just going through a hypothetical.

Mr BRIGGS—We are.

Mr P White—I am just trying to make a distinction between ministers on radio and—

Mr BRIGGS—Let me give you a scenario. A campaign run by a state government in my home state where the premier of the state is in a TV ad talking about the Premier's Reading Challenge, which is a long-term schoolkids thing. He is in the ad presenting the government policy. Would you say that is in breach of your guidelines?

Mr P White—Yes, if it is the federal government. It is a breach of the government's guidelines.

Mr BEVIS—I could give you another example like the former Minister for Industry conducting advertisements on in-flight airlines. I might ask a question as well just to clarify that we are on the same page. I understand you have got a state political agenda to run.

Mr BRIGGS—I am highlighting the point that the state government are using government advertising to highlight the Labor Party.

Mr BEVIS—You are asking whether or not a state political event would contravene federal guidelines.

Mr BRIGGS—If it was used in the federal parliament, absolutely. I am making sure that in the event that you guys decide to go down this path—

Mr BEVIS—I thought it might be more appropriate to have a federal example, which would be your former Minister for Industry in the advertisements that were run that many of us saw sitting on airlines, which is actually a federal example, rather than a state example.

CHAIR—Did you want Mr White to comment on that example as to whether it would be outside the guidelines?

Mr BEVIS—If we are using examples, it seems to me a far more relevant example, given we are talking about federal legislation.

Mr P White—Maybe I misunderstood the question. I thought you were using a state example.

Mr BRIGGS—No, I was using a current example—

Mr P White—A federal minister appearing in a campaign?

Mr BRIGGS—Sure.

Mr P White—Yes, we would regard that as a breach of the government's guidelines.

CHAIR—You were asked about the Prime Minister. I would have thought that there may be exceptions. We are all talking about imaginary scenarios here, but I can imagine extreme circumstances where a Prime Minister may be in some sort of campaign to assure people or around security issues. I can see some legitimate opportunities for those. It is very hard for you to answer, but continue.

Mrs BRONWYN BISHOP—It does not stop at that, if there are breaches, and there are no sanctions.

CHAIR—Did you want to add anything else, Mr White?

Mr P White—No.

CHAIR—I would like to ask the Finance and Audit Office, have you had to raise those issues so far in either campaigns? Have there been times where you felt that has come close or you wanted to alert a department or an agency to that risk?

Mr P White—No. To use the specific example, we have not had one where there has been a picture of a politician in a campaign.

CHAIR—No, but other crossing of boundaries. Mr Lewis, you wanted to comment.

Mr Lewis—We are in a similar situation to Mr White. I would just make one point, remembering that the IDCC role, as I mentioned before, is advisory to agencies and reports to key ministers. The ANAO does have separate communications with the agencies, as you would expect, through the development of the campaign.

CHAIR—Is this an area that you think will become more sensitive as we approach election times? Are you alert to those sorts of historic trends and do you think you have powers to address that sufficiently under these guidelines?

Mrs BRONWYN BISHOP—After the election.

CHAIR—I am putting it up there. It is a historical trend that needs to be addressed.

Mr McPhee—Our only power is the power of reporting at the end of the day. Having said that, people listen to what we say on the way through and we are being as firm as we believe we need to be in this space. Quite frankly, if something comes up that we are uncomfortable with, I will qualify the opinion. The reason I say this is because I have heard ministers say, ‘This campaign is fine, it is approved by the Auditor-General.’ If ministers are going to say that then that is fine, but it gives me a bit more influence as well and I will use that as appropriate in terms of our reporting.

CHAIR—The fact is that the Special Minister of State pointed to this committee as having a role in supporting you and the accountability of government through your processes. I think it is one that we do take very seriously and welcome.

Mrs BRONWYN BISHOP—It is very important to make the categorical statement that the Auditor-General cannot prevent a campaign which does not comply with the guidelines and there is no sanction against the government for putting that campaign into the public arena even though the Auditor-General has not given that sanction.

CHAIR—I would question sanctions and say democracy is a wonderful thing. I note the media have been here today and I think there are always those sorts of checks and balances. There is an exception in the guideline for a non-complying campaign. Non-complying campaigns can be brought about by the Special Minister of State in extreme circumstances like security risk and so on that do not have to go through that process. Indeed, we all hope that would never happen.

Mrs BRONWYN BISHOP—It would be open to a minister to say, ‘We had negotiations with the Auditor-General and, although he said this little bit, overall it’s approved’ and then you have no comeback, but you are part of the political process. I honestly say it has to stand condemned.

CHAIR—Auditor-General, did you want to make a point about being part of the political process or independence of it?

Mrs BRONWYN BISHOP—He can’t help it.

Mr McPhee—I obviously do not agree. I understand Mrs Bishop’s point, but I do not agree with her conclusion. There are many cases where we qualify opinions in the financial statement area.

Mrs BRONWYN BISHOP—Absolutely. That has nothing to do with advertising.

Mr McPhee—Sometimes agencies could take the decision to change its accounting policy and avoid the qualification. Sometimes they do and sometimes they do not.

Mrs BRONWYN BISHOP—That has nothing to do with advertising to get someone elected.

Mr McPhee—It is the same thing. I am giving an opinion, as we have previously discussed, and it is then up to the government to be accountable for the decisions it takes.

Mrs BRONWYN BISHOP—But it is in your name: that is what offends me.

CHAIR—Mr Bradbury, did you want to raise a point on a different issue?

Mr BRADBURY—Yes, a different issue.

CHAIR—Go ahead.

Mr BRADBURY—Once again, I just hope we can learn some lessons from some of the previous examples of what has occurred. I note that in the report there was the case of the national security campaign. I thought it might be useful to just track through what did occur in relation to that campaign, specifically the matters that are set out on pages 149 and 150 in relation to the booking of placement for ads that was then subsequently cancelled, and there was an outstanding liability that that particular agency had and they were looking to see who they might be able to recoup that from. Would we be able to very quickly go through the sequence of events that led to that particular situation?

Mr GEORGIU—Can you outline the nature of the campaign? It was a campaign about what?

Mr Holbert—The national security campaign.

Mr GEORGIU—What was the object of the campaign?

Mr Holbert—I do not have the precise words to hand at the moment but it was about raising awareness of—

Mr GEORGIU—The threat of terrorism and terrorist actions.

Mr Holbert—And potential action that the community could take in relation to that.

Mr GEORGIU—That was the object of it. Can you tell us when the campaign was scheduled? I think we need historical context.

Mr Holbert—The Attorney-General approved a strategy for the campaign in October 2003, which was initially listed for consideration by the MCGC in November 2003, but ultimately was not considered until the end of March in 2004, after which there was a number of iterations in relation to the design of the campaign and whether a low level grassroots campaign was appropriate, the size and scope of the campaign, working up to a proposal to launch a largish television campaign in June of 2004.

Mr GEORGIU—Was this, ‘Be alert, not alarmed’?

CHAIR—Mr Bradbury, what was the issue you wished to raise about that campaign?

Mr BRADBURY—It goes to the booking of the placement of television spots and then the subsequent cancelling of that. Then there was the issue that the Attorney-General’s Department did not enter into those arrangements.

Mr Holbert—The Attorney-General’s Department did not authorise the booking of any advertising space, but nonetheless, advertising space was booked by the mass media placement agency.

Mr BRADBURY—At whose direction?

Mr Holbert—Departmental records suggested that it was at the direction of the MCGC or the GCU or both. The booking was subsequently cancelled after a point in time. There are a number of deadlines in the advertising process and at this point in time the liability had been incurred and there were various options explored as to how that liability could be discharged. Attorney-General’s made the point that they could not be held liable for that because they had not authorised the booking in accordance with usual practice, and ultimately the liability was carried on the books of Universal McCann on what is called a delete and charge basis where the debit was used progressively over time for other campaigns. The campaign was scheduled to launch in June, but the June launch was suspended again by the government.

Mr BRADBURY—Was that at the direction of the MCGC?

Mr Holbert—The records indicate that the advice was communicated to the Attorney-General’s office from the Prime Minister’s office.

Mr BRADBURY—Not from the Government Communications Unit?

Mr Holbert—No.

Mr BRADBURY—Just from the Prime Minister’s office.

Mr Holbert—So I understand from the records we examined.

CHAIR—Under these new guidelines are roles, responsibilities and accountabilities more carefully designed or could these things still happen?

Mr GEORGIU—Are you telling me that situation could not recur?

CHAIR—That is what I am asking.

Mr GEORGIU—Sorry, I am just clarifying the question. Are you telling me that there cannot be a situation under these new guidelines—

CHAIR—He has not answered the question yet.

Mr GEORGIU—Under these new guidelines where an advertising campaign could be deferred, carried on the books of the advertising agency—

CHAIR—He has not answered the question whether that can still possibly happen.

Mr Holbert—Under the arrangements, there is a greater degree of responsibility on the department to initiate the purchase of the advertising. Finance may care to comment on this because I am not sure whether or not the Communications Advisory Branch would be in a position to book advertising time on behalf of a department without the department's authorisation.

Mr Lewis—The answer to that question is no. We will not be booking space for anybody. As I mentioned before, the role of the IDCC and also the Communications Advisory Branch is advisory in nature. Accountability sits with the agencies concerned. The chief executives are required to provide the certification. There is an expectation of the Auditor-General report and we have a role appropriate to provide advice to the Minister for Finance and Deregulation and to the Special Minister of State.

Mr BRIGGS—A minister in their office could still change the structure of a campaign?

CHAIR—And an agency could?

Mr BRADBURY—That is not the issue.

Mr BRIGGS—With all due respect, that is the point that you are making.

Mr BRADBURY—The issue here is who has responsibility for booking the space and who is taking the decision to cancel the booking of that space. Ultimately, the question here was that the Attorney-General's Department were not the ones booking the space so they legitimately raised the issue of why they should be responsible for footing the bill. I would like to go to the issue of who ended up footing the bill in this particular case?

Mr GEORGIU—That is a very important question.

Mr Holbert—The precise details of that were not clear, because it was a process of progressive absorption of the outstanding debt.

Mr GEORGIU—Can you tell us what that means?

Mr Holbert—Overall there was not any additional discrete cost to the government associated with that.

Mr BEVIS—A deal was done with the booking agency that they would incur the costs in return for which subsequent placements would be made down the track against which those costs would be credited?

Mr Holbert—I do not think—

Mr GEORGIU—Explain the process please.

Mr BRIGGS—Be very careful answering this.

CHAIR—The witness can act without advice.

Mr Holbert—It is a process which, I understand from the advice we had from the GCU at the time, is not outside of the normal practice that a cancellation made at the last minute will be offset against later expenditure. The interesting question in this one was who had actually authorised that initial placement. The benefit may have been—

Mr GEORGIU—Are there any other interesting points you would like to run on with?

Mr BRADBURY—I would like to just follow that line of inquiry. In the report on pages 116 and 117 there is some attention given to the way in which the various agencies sought to manage this issue. I would like my interpretation of this to be clarified, confirmed or otherwise. My interpretation is taken from paragraph 3.56, which states:

This is consistent with the understanding within the AGD—

that is, the Attorney-General's Department—

where an official noted that UM ...

... advised me today that under instructions from GCU and the MCGC that they had been booking media time on our behalf on a 'delete and charge' basis. Now they've had to cancel it...UM advised that they intended on sending us an invoice for cancelled media time...we have some concerns around that, given that the Dept has not given them any authority to incur costs on our behalf.

Paragraph 3.57 states:

On 1 July 2004, UM approached PM&C seeking a substantive increase in fees and expenses payable under the contract, noting that "not only has the volume been beyond anyone's expectations, but the circumstances surrounding that volume have exacerbated these extraordinarily trying times".

It goes on to say:

The events surrounding the National Security Campaign were cited as one element of evidence put forward in support of their claim.

Paragraph 3.58 states:

This letter initiated a process of consideration of various options for a revised fee structure for UM. The negotiations with UM are not well documented. However, a file note dated 2 December 2004 canvasses various options for increased base, performance pay and notes:

UM had proposed not to charge interest or seek to recover the amount if the GCU agreed to a proposal to increase revenue to UM. The GCU put a counter proposal based on achieving incentive payments to which UM agreed although there is a difference of opinion on the achievability of the rate negotiation outcome.

It seems to me that what has occurred here is that because of the poor practices that were in place that gave rise to the booking and then the cancellation of media time by a body other than the agency that would ultimately have been responsible for paying for it, as a result of that it has led to a series of exchanges and discussions that have influenced future contract negotiation in relation to a revision of the fee and the structure of that fee. Am I correct in interpreting that passage in that way?

Mr Holbert—The sequence of events is as described in the paper. I am unable to comment on the motivations or understandings that were not evidenced by documents.

Mr BRADBURY—The file note is of paramount significance. ‘UM had proposed not to charge interest or seek to recover the amount’—that is the amount we are talking about—‘if the GCU agreed to a proposal to increase revenue to UM.’

CHAIR—We are going to have to move on because we want everything to relate to what is happening now and how we can improve the process. It would be my understanding from the discussion that a campaign that is running could be varied. Auditor-General, what is the process when a campaign is already running and is continuing to run is varied? How do you revisit that? How do you approve that? How is that covered by these guidelines?

Mr P White—What happens is once we issue our conclusion on a campaign, we write to the agency and we ask them to advise us of any variation in the campaign.

CHAIR—Has that happened so far on the 28 that you have done?

Mr P White—The climate change one that we talked about earlier.

Mr Holbert—It changed prior to launch.

Mr Lewis—This has been a case where the proposed distribution of media has changed significantly and because of that there was a report provided to the IDCC and back to the Auditor-General as well, I assume. It was more in terms of when the media was scheduled.

CHAIR—Was there an occasion where you had to issue a further update?

Mr Lewis—Yes.

CHAIR—Would that be the process, that if there was major change you would be informed and you would comment again with another report?

Mr McPhee—Correct. In some cases, as we have flagged, the non-English speaking versions are not complete. We issue a version on the English and then subsequently we issue a different report on the non-English speaking material because timeliness is sometimes important.

CHAIR—Senator Barnett, you wanted to raise an issue.

Senator BARNETT—I have a question about market research in advance of the advertising campaigns proceeding and, specifically, opinion polling that is undertaken from time to time. What rules or guidelines apply to the appropriateness or otherwise of the opinion polls that are undertaken?

Mr Holbert—The research that we have been provided with in relation to the campaigns that we examined to date has gone, in all instances that I have looked at, to the need for the campaign, the form of the campaign, the best way to execute the message and define objectives for the campaign.

Senator BARNETT—I have read through the guidelines 1, 2 and 3. Can you point to the specific guideline that refers to or is relevant to opinion polling?

Mr Holbert—My point was that I cannot recall us having been provided with what I would have described as opinion polling research.

Mr BRIGGS—Have you seen it at all since your role has begun?

Mr Holbert—Have we seen research?

Mr BRIGGS—All that the government has done.

CHAIR—In what context? Is that in an advertising campaign context?

Mr BRIGGS—Advertising campaign.

Mr Lewis—We are talking about government campaign advertising.

Senator BARNETT—Yes.

Mr Lewis—We are talking about research related to government advertising campaigns.

Senator BARNETT—Before you undertake a government advertising campaign it is very normal practice—

Mr Lewis—To research.

Senator BARNETT—To test the market and do the research, so that you know how to pitch the campaign. This is standard advertising practice. I am asking the question: what guidelines apply to the market research and specifically the polling?

CHAIR—I am not sure how the polling is part of the market research that you would consider.

Mr Lewis—Would it help if I explained the opinion polling?

CHAIR—Yes, if you would like to give an example that would help.

Mr Lewis—An example would be for a campaign being developed that there would be research conducted by an appropriate firm that would almost always involve focus group testing where a group of selected individuals would be identified in regions throughout Australia to test various concepts. A report would be produced and that report would go to the agency or department concerned with advice about how alternative campaigns might be working with those focus groups—they are confused by the messages, it is too dense and they do not understand the pictures. Based on that kind of research they will refine the advertising messages through the course of various phases. It rarely would involve cold calling.

Senator BARNETT—You are not telling us about the guidelines that apply. Climate change is a good example in whether people support an ETS or whether they do not support an ETS. Has that been undertaken and what guidelines apply? I am happy for you to take it on notice.

CHAIR—The Auditor-General did mention earlier validating some of the statistics as being an issue regarding campaigns.

Senator BARNETT—I appreciate the administrative process that is undertaken. I am interested in the criteria or the guidelines that apply in terms of what is appropriate and what is inappropriate. Has anybody given thought to this matter?

Mr Grant—We have seen no evidence of opinion polling at all. As Mr Lewis said, what we have seen is research based on the need for the campaign and how the campaign might be best delivered.

Mr BRIGGS—With all due respect, that is subjective, what opinion polling is or market research is, because as the senator rightly identifies in the climate change context, in working out whether we need a campaign, is an ETS required, in my view, that would be a use of public funds to establish a political case. In your view it may not be. It is subjective. Are you seeing all of that research and has the Auditor-General seen all of that research? Who is approving them? I think they are the senator's questions. Am I right?

Senator BARNETT—Yes, indeed.

Mr BRIGGS—Are you seeing all the research?

Mr P White—To the best of our knowledge we are because we are being provided with appropriate—

Mr BRIGGS—Did you see the climate change research?

Mr P White—Yes, we saw the climate change research. I would have to go back and have a look at—

Mr BRIGGS—Are you aware of what is in the research?

Mr P White—We are making sure that there is enough research being done to justify the campaign. That is what we are looking at.

CHAIR—Did you want to pursue that further?

Senator BARNETT—Are you able to take that on notice? Is that common practice? If you could.

CHAIR—It certainly is.

Mr P White—Yes.

CHAIR—There are issues that we have not had canvassed as thoroughly as we would like. One was, of course, the political partisanship approach. The other one that we have not reached at all is cost effective. Auditor-General, I note you raised the cost effectiveness with the Special Minister of State. His response was that an effective campaign within a budgeted cost would be both very important, but there are areas we still need to explore. Senator Feeney lodged some questions because he was not able to stay. Would our witnesses be open to accepting questions on notice with a reasonable time to respond to those of, say, one month?

Mr GEORGIU—I would like to say that I am not really happy with that because there are issues that go to the heart of partisan promotion of government policy.

CHAIR—We will discuss that in a private meeting.

Mr GEORGIU—As I said, from day one, I think this is fundamentally important to the Auditor-General.

CHAIR—We will discuss some of those issues in a private meeting. I would also say to the witnesses that it is our intention that this hearing does not conclude our inquiry. We have discussed opportunities to take a campaign right through with all involved and to look at some things like market research, advertising practices and so on. We will be revisiting some of these issues in greater depth. I would like to thank you for attending.

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

That this committee authorises publication of the transcript of the evidence given before it at public hearing this day.

CHAIR—On behalf of the committee, I thank all the witnesses who have given evidence today. I thank the Audit Office for the substantial material that they made available to us in response to the committee's request before we had this hearing. The committee will have those additional questions, as I mentioned, and they will be put on notice to witnesses. Thank you for your agreement to respond to those. There is an expectation generally of four weeks, but we will discuss that if we want to alter that in any way. Would witnesses please check with Hansard on their way out if there are any points that need to be clarified. I declare this public hearing closed.

Committee adjourned at 1.01 pm

