



18 June 2010

Christine McDonald
Secretary
Senate Standing Committee on Finance and Public Administration
PO Box 6100
Parliament House,
CANBERRA, ACT, 2600

Dear Ms McDonald

Thank you for your letter of 16 June 2010 inviting a submission to the Committee's inquiry into Preventing the Misuse of Government Advertising Bill 2010.

The proposed Bill draws on the framework introduced by the Government in June 2008 by establishing guidelines on campaign advertising, and requiring:

- the Chief Executive of the agency undertaking the campaign to certify that the campaign complies with the campaign advertising guidelines; and
- the Auditor-General to provide a report to the Minister on the campaign's compliance with the guidelines.

The framework introduced by the Government in June 2008 has been demonstrated to work effectively, albeit with scope for some improvement. The ANAO Reports No.2 and 38 of 2009-10 provide my perspective on the operations of the framework between June 2008 and March 2010. These reports are attached, for the Committee's information.

The Schedule to the Bill draws on the experience of the operation of earlier arrangements by addressing some of the practical issues that have arisen in areas such as the need for a clear definition of campaign advertising, that campaign information including the Chief Executive's certificate be published on the agency's website, and that campaigns include those conducted by third parties. Specific issues that we have identified in our review of the Bill have been included at Attachment A.

While necessarily there will be judgements involved in assessing campaigns against the proposed Bill and guidelines, the draft legislation builds on experience to date, and subject to the matters referred to in Attachment A, provides a sound basis for Parliamentary consideration.

Yours sincerely

 Ian McPhee

Our review has identified the following matters for consideration:

1. Section 5(1) – to provide a tight linkage between the principles identified and the principles listed in the guidelines, consistent reference to either “principles” or “underlying principles” might be used in both places.
2. Section 5(2)(a) and Section 5(3) appear to be inconsistent. Section 5(3) refers to the Chief Executive of the agency providing the Auditor-General the statements required in this Section, but Section 5(2)(a) refers to the Minister providing the Auditor-General these statements.
3. The Bill makes no reference to the Ministerial responsibility to approve the launch of the campaign following the receipt of the Auditor-General’s report and the Chief Executive Officer’s certificate of compliance, although this matter is referred to at paragraph 7 in the Schedule to the Bill.
4. Given the focus during the course of the current Joint Committee of Public Accounts and Audit (JCPAA) inquiry on the term ‘partisan’, the wording in paragraphs 26 and 27 of the current *Guidelines on Information and Advertising Campaigns (March 2010)* may provide alternative wording to the first sentence of paragraph 24 of the guidelines.
5. To strengthen the focus on the cost/benefit analysis in paragraph 26, we suggest the Committee consider reference to both cost and target audience along the following lines:

“Campaigns must be justified by a cost/benefit analysis which would be best done after preparation of the communications strategy and consultant briefs. The nature and cost of the campaign, including the method, medium and volume of the publicity activities, must be justified in terms of society’s needs, efficiency and effectiveness, having regard to the target audience [referenced in paragraph 14], and there must be a clear audit trail regarding decision making.”
6. Paragraph 29 of the guidelines could not be included in the Auditor-General’s report on a campaign, as the evaluation occurs after the campaign has been conducted. The Committee may wish to consider placing this requirement within the Bill.
7. During the course of the JCPAA inquiry a range of supplementary matters has been mentioned, including the need to increase the focus on communicating with audiences from non-English speaking backgrounds, and the need for agencies to consider the communication needs of disadvantaged individuals or groups amongst the target audience. These matters could be included in the guidelines, or separately covered in guidance provided by the administering agency.