

The refined framework for government advertising campaigns

Independent Review of Government Advertising Arrangements

- 4.1 The Government indicated in the *Campaign Advertising by Australian Government Departments and Agencies, Full Year Report 2008-09* that it would review the Guidelines prior to July 2010.¹
- 4.2 On 31 March 2010 the Government announced amendments to the *Guidelines on Campaign Advertising by Australian Government Departments and Agencies*.²
- 4.3 These amendments followed an independent review by Dr Allan Hawke³ which was conducted in early 2010. The *Independent Review of Government Advertising Arrangements* was released and also tabled out of session in Parliament on 31 March 2010.⁴
- 4.4 The terms of reference for the independent review were agreed between the secretaries of the Department of the Prime Minister and Cabinet

1 Department of Finance and Deregulation, *'Campaign Advertising by Australian Government Departments and Agencies, Full Year Report 2008-09'* (2009), p. iv.

2 New arrangements for government advertising media release, viewed at http://www.smos.gov.au/media/2010/mr_202010.html accessed 31 May 2010

3 Dr Allan Hawke was a public servant with over 30 years experience, including appointments as Secretary of the Department of Veterans' Affairs, the Department of Transport and Regional Services and the Department of Defence.

4 New arrangements for government advertising media release, viewed at http://www.smos.gov.au/media/2010/mr_202010.html accessed 31 May 2010

(PM&C) and the Department of Finance and Deregulation (Finance), and approved by the Cabinet Secretary and Special Minister of State.

4.5 The terms of reference were as follows:

The review is to examine and report on the effectiveness of current government advertising arrangements in achieving government objectives to inform and engage with members of the community.

The Review is to look at:

- the appropriateness and clarity of the current Guidelines on Campaign Advertising by Australian Government Departments and Agencies (Guidelines);
- the effectiveness of the current governance arrangements for government advertising, including:
 - ⇒ the Auditor-General's role in reviewing proposed advertising campaigns; and
 - ⇒ sources of whole-of-government professional expertise and advice on media and communications strategy;
- the effectiveness and efficiency of the current approval process for proposed advertising campaigns, including the administrative effort, timeframes and cost of current approval processes; and
- the adaptability of the Guidelines and associated arrangements to emerging issues, including increasing Government initiatives to engage with the community through a range of platforms and encourage debate on important issues.⁵

The Hawke Report

4.6 Dr Hawke informed the Committee that he was appointed to lead that review on 27 January 2010. He commenced work on 8 February and presented the final report to the secretaries of PM&C and Finance on 26 February 2010.⁶

4.7 In conducting the *Independent Review of Government Advertising Arrangements*, Dr Hawke indicated that he met with a range of people including the Auditor-General, 16 secretaries of departments, the Second Commissioner of Taxation, Senator the Hon Joe Ludwig, the Minister for Defence and former Special Minister of State, Senator the Hon John

5 Hawke, A. 'Independent Review of Government Advertising Arrangements' (2010), p 6-7.

6 Dr Allan Hawke AC, transcript, 17 June 2010, p 19.

Faulkner, and Ms Sharon Grierson MP, then Chair of the Joint Committee of Public Accounts and Audit.⁷

4.8 Dr Hawke also met with the Auditor-General to hear his views and to discuss the framework of the review and the terms of reference.⁸

4.9 The Auditor-General advised the Committee that he was made aware of the review of the Guidelines by Dr Hawke in late January 2010 and was advised that Dr Hawke would like to meet with him to discuss his views on:

- the Guidelines, the process and governance;
- challenges or frustrations experienced with the current arrangements; and
- suggestions to improve the process and ensure government objectives are met, the government gets value for money, and there still remains appropriate checks and balances.⁹

4.10 The Auditor-General further advised the Committee that:

- On 11 February 2010 my office received a copy of the final Terms of Reference for the review being undertaken by Dr Hawke.
- On 22 February 2010 I met with Dr Hawke to discuss my perspective on the current government advertising arrangements.
- I was advised by phone that Dr Hawke's report (dated 26 February 2010) had been provided to the Special Minister of State, and on 25 March 2010 I was advised of the outcome of the review as it affected my office.
- A copy of the report was provided to my office on 26 March 2010.¹⁰

4.11 The Hawke Report made eight recommendations relating to the content of the Guidelines, governance arrangements, accountability and transparency and the costs of proposed arrangements.

Report findings of issues with review arrangements

4.12 The Report found a number of issues with the review arrangements which could be grouped into four main areas:

- The appropriateness and clarity of the Guidelines;

7 Department of Finance and Deregulation, Sub 25, p 2.

8 Dr Allan Hawke AC, transcript, 17 June 2010, p 20.

9 Australian National Audit Office, Sub 23, p 1.

10 Ibid.

- The effectiveness of the governance arrangements;
- The effectiveness and efficiency of the current approval process; and
- Adaptability to emerging issues.¹¹

Issues with the Guidelines

- 4.13 The Report found that the framing of the Guidelines in a negative way meant that there was a lack of clarity about activities that were 'campaign advertising', as campaign advertising was not defined and there was little guidance for agencies in determining when the Guidelines did or did not apply.¹²
- 4.14 Additionally the Report suggested that the Guidelines could more fully acknowledge the overarching objective of government communications:
- ...which is to inform and engage with the public, the positive impacts of Government communication activities and the legitimate role that Government has in informing and engaging with citizens.¹³
- 4.15 The Guidelines were also seen to lack clarity in the boundary between business as usual and operational communication activities and activities that are subject to the Guidelines.
- 4.16 The Report recommended changes to the Guidelines.

Issues with the role of the Auditor-General

- 4.17 The Report stated that concerns had been raised that the current governance arrangements may compromise the real or perceived independence of the Auditor-General.¹⁴
- 4.18 The Committee was concerned that the Report stated that the Auditor-General's role directly undermined the proper accountability of secretaries.

Secretaries have also raised serious concerns that the Auditor-General's role directly undermines the proper

11 Hawke, A. 'Independent Review of Government Advertising Arrangements' (2010), pp 14-21.

12 Hawke, A. 'Independent Review of Government Advertising Arrangements' (2010), p 14.

13 Ibid

14 Hawke, A. 'Independent Review of Government Advertising Arrangements' (2010), p 16.

accountability of Secretaries/CEOs for the management of their departments and agencies.¹⁵

- 4.19 When questioned as to the number of secretaries that raised this, Dr Hawke responded that it was the majority of secretaries.¹⁶ This was further clarified in correspondence:

Ten of the 16 Secretaries interviewed raised this issue as a concern. Please note that all secretaries were invited to participate in the review.¹⁷

- 4.20 The Report also contended that the Auditor-General was also placed in the invidious position whereby he could countermand Cabinet's decision.¹⁸ Paragraph 4.31 refers.

- 4.21 The Report recommended that this role of the Auditor-General be abolished.

The Auditor-General's role in reviewing proposed advertising campaigns before their launch be abolished, with the Auditor-General requested to conduct a performance audit on at least one campaign per year or the administration of the campaign advertising framework.¹⁹

- 4.22 The Report also recommended the establishment of an Independent Government Communications Committee which is discussed later in this chapter.

Issues with the effectiveness and efficiency of the approval process

- 4.23 The Report indicated that agencies had provided feedback around the process for securing approval for an advertising campaign, indicating that the process was administratively onerous, time-consuming and costly.²⁰

- 4.24 There were also concerns expressed about the cost-benefit analysis, with agencies stating that they considered the ANAO was focusing on achieving savings in campaign advertising expenditure.²¹

15 Ibid

16 Department of Finance and Deregulation, Sub 25, p 3.

17 Department of Finance and Deregulation, Sub 26, npn.

18 Hawke, A. 'Independent Review of Government Advertising Arrangements' (2010), p 15.

19 Hawke, A. 'Independent Review of Government Advertising Arrangements' (2010), p 26.

20 Hawke, A. 'Independent Review of Government Advertising Arrangements' (2010), p 18.

21 Hawke, A. 'Independent Review of Government Advertising Arrangements' (2010), p 20.

ANAO response

- 4.25 The Auditor-General wrote to the Special Minister of State on 29 March 2010 expressing his concerns about key statements in the Hawke Report.²²
- 4.26 The letter also addressed what it called inaccuracies in the Hawke Report regarding the role performed by the ANAO.
- 4.27 Following agreement from the Auditor-General this letter was published on Finance's website on 31 March 2010, along with the Hawke Report and the amended Guidelines. As well as addressing his concerns around the review process and findings, the Auditor-General registered his view that the Guidelines had been softened.²³
- 4.28 The Auditor-General told the Committee on 17 June that:
- I was also disappointed I had not been consulted or provided with the opportunity to provide my perspective on the report ahead of the government taking its decision to change the arrangements.²⁴
- 4.29 In response to references in the Hawke Report that the ANAO had been involved in areas beyond its competence or expertise, the Auditor-General provided a list of specialists utilised for advice and training²⁵ as well as a list of qualifications and experience of staff undertaking the reviews.²⁶

Dr Allan Hawke AC

- 4.30 Dr Hawke appeared in front of the Committee at a public hearing on 17 June 2010.
- 4.31 The Committee was particularly interested in the evidence base for some of the conclusions made in the Hawke Report such as the Auditor-General's ability to countermand Cabinet's decision.
- 4.32 When questioned about whether there should have been more consultation with the Auditor-General around the report findings, Dr Hawke told the Committee that he could have done this differently.

22 Australian National Audit Office, *'Campaign Advertising Review 2009 – 31 March 2010'*, p 44.

23 *Auditor-General's response to the Review* 29 March 2010 viewed at <http://www.finance.gov.au/advertising/independent-review-government-advertising.html> on 19 May 2010.

24 Mr Ian McPhee PSM, transcript, 17 June 2010, p 1.

25 Australian National Audit Office, Sub 24, Attachment A.

26 Australian National Audit Office, Sub 24, Attachment B.

If you are saying that I should have consulted the Auditor-General on those views you may be right. In retrospect maybe I got that wrong.²⁷

- 4.33 The Committee clarified with Dr Hawke that the Auditor-General did not have the power to countermand Cabinet decisions, as it was always the decision of the secretary of the agency. Dr Hawke responded:

I do not always get everything right.²⁸

The amended Guidelines

- 4.34 Prior to the release of the Hawke Report, the Committee heard a range of evidence asserting that the Guidelines had generally held up well and in the opinion of the Auditor-General had been particularly useful in establishing the expectations that all government advertising campaigns must meet.²⁹
- 4.35 The Auditor-General told the Committee several times over the course of the inquiry that the ANAO were continuing to refine their arrangements in light of experience and in consultation with Finance. The Auditor-General considered that agencies were gaining the benefit of the collective experience of the ANAO as they completed more campaign reviews.³⁰
- 4.36 The Hawke Report identified three main issues with the Guidelines, being:
- definition of an advertising campaign;
 - commentary around party political advertising; and
 - justification for a campaign.³¹
- 4.37 A set of amended Guidelines was included as an appendix to the Report, which were adopted by the Government with one change.³²

27 Dr Allan Hawke AC, transcript, 17 June 2010, p 30.

28 Ibid

29 Mr Ian McPhee PSM, transcript, 11 March 2009, p 2.

30 Mr Ian McPhee PSM, transcript, 11 March 2009, p 2; Mr Ian McPhee PSM, transcript, 13 May 2009, p 6.

31 Hawke, A. 'Independent Review of Government Advertising Arrangements' (2010), p 22.

32 The exception of the threshold for chief executive certification and independent review of proposed campaigns was not be revised upwards, and remained at the level of \$250,000.

Independent Communications Committee

- 4.38 Recommendation 4 of the Hawke Report suggested that the review of compliance be undertaken by an independent government communications committee or continue with the existing IDCC with an independent chair. The first option was selected by the Government.
- 4.39 The new Independent Communications Committee (ICC) was appointed to provide advice to *Financial Management and Accountability Act 1997* (FMA Act) agencies in relation to proposed advertising campaigns valued at more than \$250,000.
- 4.40 This committee was initially comprised of former public servants Dr Allan Hawke AC, Ms Barbara Belcher and Ms Helen Williams AO.
- 4.41 Advertising campaigns with expenditure in excess of \$250,000 are considered by the ICC which provides a report to the responsible agency chief executive on compliance with key aspects of the updated *Guidelines on Information and Advertising Campaigns by Australian Government Departments and Agencies* (March 2010).
- 4.42 Agency chief executives are required to receive and consider the ICC's report on compliance before they can certify that a campaign complies with the Guidelines.
- 4.43 The ICC is supported by a secretariat within Finance.

Differences between the ICC and the role of the Auditor-General

- 4.44 When questioned by the Committee as to the difference between the role of the ICC and the role of the Auditor-General, Dr Hawke responded:

I think we take a stronger view in terms of that we are advising the secretaries etcetera. I think there was a feeling, I might be wrong again, among departments that the Auditor-General was taking a much stronger hands-on role of an approval nature rather than an advisory nature. He might have a different view.³³

Committee comment

- 4.45 The Committee commends the ANAO for the diligence with which it undertook its role and believes that the result of increased transparency around expenditure on government advertising was worthwhile.

33 Dr Allan Hawke AC, transcript, 17 June 2010, p 40.

- 4.46 However, it is important to note that by the end of this inquiry process, all Committee members agreed that being involved in the scrutiny of proposed advertising campaigns was not an appropriate role for the Auditor-General. They considered that it blurred the boundary between executive decision-making and audit review.
- 4.47 As mentioned previously, some Committee members had concerns that a positive review report by the Auditor-General could be seen to be publically endorsing government policy.
- 4.48 The Committee noted the view of the IPAA, that ‘political’ or ‘non-political’ determinations are subjective:
...nuanced in the contours of the day-to-day politics.³⁴
- 4.49 The Committee is pleased that the ANAO has agreed to undertake a conventional performance audit on at least one campaign per year or the administration of the campaign advertising framework. The Committee has a statutory duty to examine all Auditor-General’s reports on behalf of the Parliament and will do so on all advertising reports.
- 4.50 The Committee considers that in future, any substantial proposed changes to the Auditor-General’s role should be first referred to the Committee on behalf of the Parliament for review and not effectively implied by executive announcement. This would more properly reflect the Auditor-General’s standing, under his Act, as an Independent Officer of the Parliament. The Committee believes that many of the difficulties with the advertising function, discussed in this report, would have been apparent at a very early stage if such a process had been followed.

Recommendation 1

The Committee recommends that any substantial proposed changes to the role of the Auditor-General, in accordance with his standing as an Independent Officer of the Parliament, be first reviewed by the Joint Committee of Public Accounts and Audit.

34 Institute of Public Administration Australia, sub 5 (submission to the Inquiry into the Auditor-General’s Act, Joint Committee of Public Accounts and Audit), npn.

Robert Oakeshott MP
Committee Chair