

Submission

To

The Community Affairs Legislation Committee

Of

The Australian Senate

Inquiry Into

**The
TRANSPARENT ADVERTISING AND
NOTIFICATION OF PREGNANCY
COUNSELLING SERVICES BILL 2005**

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Note: Nothing in this submission can be taken in anyway as giving support to abortion. Both the author and the auspicing agency acknowledge and respect the right to life of every member of the human family from fertilization to a natural death.

1. Introduction

The reasons for the inquiry into this bill are given as:

“...to examine the adequacy of the legislation in improving regulation of pregnancy counselling, and ensure the counselling provided by Government- funded pregnancy counselling services is objective, non-directive, and includes information on all three pregnancy options.”¹

This submission raises doubts in regards to the adequacy of this legislation to achieve its intended purpose. It questions the premise that to counsel in a ‘non-directive’ manner should necessarily involve the exploration of abortion as ‘the other alternative’. It considers the current public sentiment concerning abortion and the rate of abortion in Australia and suggests that, ultimately, public policy should set the agenda for Government-funded services and not one or another particular ideology or practice. Further, it looks at the arguments around truth in (non-misleading) advertising and concludes that this is a non-issue.

2. Non-directive Counselling

Non-directive counselling or the alternative(s)?

The bill in question attempts to convince us that non-directive counselling means counselling with abortion referral as an option and conversely, that directive counselling is defined by the lack of the option of abortion referral. This is at best a misrepresentation of non-directive counselling with the apparent goal of suggesting that ‘best practice’ counselling intrinsically involves the ability to refer for an abortion.

The literature on non-directive counselling as a model is extensive. Most credit the development of this mode and philosophy of counselling to the U.S. psychologist, Carl Rogers. The premise in this form of counselling is that the client comes to the counselling with the internal resources to deal with their situation and that the counsellor simply supports the ‘discovery’ of the client’s preferences. Implicit to the process is that the counsellor refrains from offering his/her opinion.

It should be recognized that not every counselling opportunity will fit totally within the non-directive philosophy. Not every client will have a sufficient store of latent knowledge and experience to draw upon. Good counsellors will recognize such situations and offer a practical, minimum of advice in a balanced way. Nevertheless, the Commonwealth government is correct in its assessment that, *“(I)t is important that women are able to access non-directive counselling when they are uncertain about a pregnancy and that they are able to do so quickly.”²*

¹ Notice of Referral. Community Affairs Legislation Committee. 12th May 2006.

² Dept of Health & Aging, Health Budget 2006-2007. **Pregnancy Support Counselling – New Medicare Item** <http://www.health.gov.au/internet/budget/publishing.nsf/Content/budget2006-hfact39.htm> (Accessed 9th June 2006)

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This submission contends that non-directive counselling is a methodology that can be used effectively regardless of whether or not the particular agency can or will refer a client for an abortion. The definition of *non-directive pregnancy counselling service* contained in Section 3 of the Bill under consideration is, therefore, inaccurate and misleading.

3. Transparent Advertising

The objects of this Act are to:

(a) prohibit misleading and deceptive notification and advertising of pregnancy counselling services;³

This submission finds itself in agreement with Section 5 (1) (a) & (b) of the bill. It echoes accurately the Australian Association of National Advertisers (AANA) *Advertiser Code of Ethics* which states:

*“Advertisements shall not be misleading or deceptive or be likely to mislead or deceive.”*⁴

The question then revolves around what is (or has been) ‘deceptive or misleading’ about pregnancy counselling services’ advertising that has brought this legislation to the parliament as a corrective?

The South Australian **Sensis** White Pages 24 – Hour Services page has the following entries:⁵

Pregnancy Counselling Australia

Alternatives to abortion & post abortion counselling...1300...

Pregnancy Help Line

Pregnancy Options and Alternatives to Abortion...1300...

.....www.pregnancysupport.com.au

Senator Stott Despoja makes reference to these entries in her Second Reading Speech where she relates how a complaint to Sensis in regards to the Pregnancy Counselling Australia entry resulted in a change to the wording cited above.⁶

Though the Senator relates that Sensis now “...believes the listing is as clear as it needs to be...”⁷ the wording of the bill that stands in the Senator’s name asks for agencies that do not refer for abortions to make a statement to this effect in any advertising.

This submission asks why any agency (or any business for that matter) would want to advertise services that they do not supply? It is neither deceptive nor misleading, per se to make statements such as, *Alternatives to abortion & post abortion counselling*, or, *Pregnancy Options and Alternatives to Abortion*. In fact, it is entirely reasonable for any service provider to state what services they do offer. Whether or not the prospective client determines

³ Part I Section 4

⁴ AANA Advertiser Code of Ethics. Section 1.2 <http://www.aana.com.au/pdfs/AANACodeEthics.pdf> (Accessed 6th June 2006)

⁵ White Pages ADELAIDE 2005-6 Page 3

⁶ Parliament of Australia Senate Hansard 23 June 2005 Sen Stott Despoja

⁷ Ibid.

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from the advertising that the services he or she needs are or are not available from a particular agency is really a matter for the client. Regardless, what else can 'alternatives to abortion' be taken to mean other than exactly what it says?

This submission acknowledges that advertising of any sort should not be deceptive or misleading. However, it is ridiculous to suggest that, because those agencies that list in the white pages 24 helpline services do not refer for abortions that they should state as much. It would be far more reasonable to simply suggest that agencies that do make such referrals should advertise and should state their own services.

4. A realistic approach

“(b) promote transparency and full choice in the notification and advertising of pregnancy counselling services;”⁸

If there is an issue in regards to the current status of pregnancy counselling advertising that could be improved in attempting to address (b), above; then it must be the fact that only two agencies are currently listed in the White Pages 24 hour services. Again, in her second reading speech, Senator Stott Despoja tells us that there are only two agencies in Australia that do refer for abortion and that neither advertises. The Senator suggests that this is because neither agency receives Commonwealth funding.

A solution in the public interest would be for the Commonwealth to fund a comprehensive listing of pregnancy counselling agencies.

“(c) improve public health;”

This submission finds little (if anything) in the bill as it stands that could genuinely be claimed to improve public health. However, we can make a recommendation that will assist in promoting improved public health in the context of sound public policy.

The real issue under scrutiny in this bill is the fact that some pregnancy counselling agencies refer for abortion and some do not. The implication is that an agency that does not refer for abortion also does not discuss abortion as an option. This may or may not be the case. The reverse situation can be considered in similar terms. That is - an agency that does refer for abortions may not actively discuss alternatives. Again, this may not be the case.

Removing the 'right' of pregnancy counselling agencies to refer for an abortion would not only remove any confusion or accusation of coercive practice, it would also help improve health outcomes. In doing so, a pregnant woman, after receiving non-directive counselling, would then weigh her options away from the counselling agency and, hopefully, in conversation with friends.

This would provide a form of cooling-off time for reflection and should ensure, as far as is possible, a balanced decision without any possible hint of coercion. Should she wish to proceed to termination, she would then need to discuss her decision with a medical practitioner.

⁸ Part I Section 4

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The growing body of research that confirms the existence of post abortion stress disorder and associated illnesses and increases in risk of serious illness should be reason enough to put one more step in the process of obtaining an abortion. Counselling, to be genuinely 'non-directive' should not carry the burden of abortion referral or the responsibility for full disclosure of the abortion process and procedure – this should rest with a medical professional.

Even though abortion law and application varies from State to State (either as common law interpretation or by exceptions to criminal codes, or both), the common application of the principle that abortion is allowable in circumstances where the health of the mother may be in danger, applies. Therefore, it is improper for any counsellor or counselling agency to offer a referral for abortion as it implies to the client (if not also the medical practitioner to whom the client is referred) that a determination has been reached in some way that the health of the mother is in fact at risk.

This submission supports the removal of the ability of pregnancy counsellors and their agencies to refer for abortion. Such judgments should only be made by a suitably qualified medical practitioner under the regulation applicable in the state or territory of jurisdiction.

5. Public Policy

The December 2004 study on attitudes to abortion conducted by the Southern Cross Bioethics Institute found that 87% of respondents wanted to see a reduction in the number of abortions in Australia.⁹

A more recent study by Market Facts in Queensland observed that 54% of Australians believe that abortion involves the taking of a human life.¹⁰

The awareness of abortion as a matter of public interest surfaced in Australia in early 2004. It remains a matter of public interest not only in the context of moral and religious ethics but also in the discussion about health and population. The decline in the Australian birth rate to 1.7 children per woman over her fertile life time (replacement rate: 2.1), while not yet as perilous as in Western Russia or parts of Europe, remains a concern for Australians at many levels in debate.

It is entirely appropriate that the Commonwealth government should financially support pregnancy counselling with an expressed view of trying to reduce the rate of abortion as a matter of public policy. Pregnancy counselling in this context, while not directing outcomes that would impinge upon women's choice, should at least be so transparently at arms length from the abortion industry so as to remove any doubt at all that the outcomes have been subject to coercion.

Removing the ability to refer from pregnancy counselling services to abortion providers serves the public sentiment on abortion but, more importantly perhaps, it will also put

⁹ SCBI 2004 **Give Women Choice: Australia speaks on abortion** Executive Summary
<http://www.bioethics.org.au/docs/givingchoice/ExecutiveSummary.pdf>

¹⁰ Market fact (Qld) Pty Ltd **What Australians Really think About Abortion** Brisbane, 2006.

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pregnant women in crisis at ease about seeking counselling because the possibility (remote as it may be) of coercion to abort, will have been totally removed. At the core of public policy in this matter must surely be to give confidence and support to pregnant women in crisis and to encourage them to use counselling services.

6. Summary recommendations

- **The definition of *non-directive pregnancy counselling service* contained in Section 3 of the Bill under consideration is inaccurate and misleading. Non-directive counselling is a methodology that is not related to outcomes.**
- **Pregnancy counselling services that do not refer for abortions should not be compelled to advertise services that they do not provide.**
- **It may be in the public interest for the Commonwealth to fund a comprehensive listing of pregnancy counselling agencies in the Sensis White Pages.**
- **This submission supports the removal of the ability of pregnancy counsellors and their agencies to refer for abortion. Such judgments should only be made by a suitably qualified medical practitioner under the regulation applicable in the state or territory of jurisdiction.**
- **It is entirely appropriate that the Commonwealth government should financially support pregnancy counselling with an expressed view of trying to reduce the rate of abortion as a matter of public policy.**

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13 June 2006