

THE BESSIE SMYTH FOUNDATION

SUBMISSION TO SENATE SELECT COMMITTEE ON
SENATOR NATASHA STOTT-DESPOJA'S
TRANSPARENT ADVERTISING AND NOTIFICATION
OF PREGNANCY COUNSELLING SERVICES BILL 2005

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EXECUTIVE SUMMARY

Recommendation 1

THAT the Senate Inquiry endorse the draft bill by Senator Natasha Stott Despoja and recommend its adoption by parliament.

Recommendation 2

Truth in advertising (whether paid or unpaid) is a basic consumer right and needs to be supported through passage of this legislation by the Parliament.

Recommendation 3

THAT the Senate Inquiry recommend strongly that Senator Stott Despoja's bill is long overdue and should be supported forthwith.

Recommendation 4

THAT this Bill by Senator Natasha Stott Despoja be commended and adopted in its entirety.

Introduction

Abortion rights campaigners across Australia breathed a collective sigh of relief when Senator Natasha Stott Despoja first proposed her ***TRANSPARENT ADVERTISING AND NOTIFICATION OF PREGNANCY COUNSELLING SERVICES BILL 2005***. Equally abortion rights campaigners were disappointed last year that it did not progress.

The issue of the deliberately deceptive and misleading advertising engaged in by anti-abortion agencies which now tout themselves as providing ‘pregnancy counselling’ has been a long standing issue for abortion rights campaigners and for those who work in women’s health, family planning or counselling services.

To have Senator Stott Despoja’s Bill now the subject of a Senate Inquiry which will, hopefully, lead to the Bill being adopted by Parliament is also most welcome given the longevity of this issue.

An historical overview

Anti-abortion agencies which promoted themselves as providing ‘pregnancy help’ began to appear in approximately the middle 1980’s in NSW. By the 1990’s some of these anti-abortion agencies began to instead use the phrase ‘pregnancy support’ service to describe themselves.

In both the 1980’s and the 1990’s it would be true to say that there was a level of understanding amongst the Australian population that these organisations were, in fact, opposed to abortion and would not refer or provide any information about abortion.

There was also a level of knowledge in the community (albeit at a very generalised level) that these agencies were providing incorrect and misleading information, particularly about abortion and/or the law on abortion. That level of knowledge is not present today in the Australian population for a multiplicity of reasons.

An increase in the number of anti-abortion agencies with the increases in Federal Government funding

Now in the 21st century, and being in receipt of substantial Federal Government funding, many more anti-abortion agencies have sprung up, promoting themselves as ‘pregnancy counselling’ or, even, ‘abortion counselling’ services.

Due to the receipt of Federal Government funding and the access to paid advertising which that funding provides, these agencies have become much more explicit in their attempts to lure women to ring them. Access to that funding has also provided these organisations with the capacity to undertake a type of advertising (that is, paid display advertising) which in years past they did not have the capacity to access.

Access to these funds and to the display advertising has allowed these services to more explicitly mislead and deceive women as what services they provide. It is clearly time for the Federal Parliament to take action and ensure brakes are put on the activities of these organisations, particularly when it is considered that the Federal Government has considerably increased the level of funding to these organisations over the period 1996 to the present.

Recommendation 1

THAT the Senate Inquiry endorse the draft bill by Senator Natasha Stott Despoja and recommend its adoption by parliament.

The current context

The Senate Inquiry, in its deliberations would be mindful that the issue of misleading and deceptive advertising by these agencies is an issue with a number of component parts.

Firstly, there is the advertising which occurs in the *Yellow Pages* and *White Pages* telephone books published by Sensis and distributed nationally, which provide phone numbers and advertising for services of all sorts on a metropolitan or rural and regional basis.

Secondly, there is advertising in the form of pamphlets and other printed publications by these organisations.

In regard to advertising within the Sensis produced *Yellow Pages* and *White Pages* distributed nationally

This type of advertising has two parts:

- the page 3 free listings provided to services which are run on a 24 hours a day, seven days a week and 365 days a year basis – these listings are in both the *Yellow Pages* and *White Pages* of all Sensis publications; and
- the paid advertising in the *Yellow Pages* under the category ‘Pregnancy Counselling and Related Services’.

(a) Page 3 free listings

For a number of years now, there have been three anti-abortion listings provided in the Page 3 free listings of all Sensis publications under the heading: “Health and Help”.

Those anti-abortion agencies are:

- Abortion Grief Counselling phone 1300 363 550;
- Pregnancy Counselling Australia phone 1300 737 732;
- Pregnancy Help Line phone 1300 139 313.

See attachment ‘A’ – a photocopy of page 3 of the *Sydney White Pages Business and Government Book 2005-06*; and photocopy of the *Sydney Yellow Pages A-K* section 2006 edition.

Lobbying of Sensis has been less than successful

A number of individuals and organisations have been lobbying Sensis for a substantial period of time urging Sensis to add to these advertisements descriptors which more accurately describe the type of service which will be provided by these agencies – this campaign resulted in a minor amount of success at the end of 2005 when descriptors were placed with the advertisements.

Whereas in 2004 there were no descriptors at all with each of the above three anti-abortion listings, in the Sensis publications referred to in **Attachment ‘A’** after some lobbying by organisations such as ours and others Sensis agreed to add the following descriptor to each of the listings:

- Abortion Grief Counselling had added to it the descriptor ‘does not refer for abortions’;
- Pregnancy Counselling Australia self described themselves as “alternatives to abortion and post abortion counselling”; and
- Pregnancy Help Line self described themselves as “pregnancy options and alternatives to abortion”.

See Attachment ‘B’ for a copy of our letter to Sensis last year. And Attachment ‘C’ for copy of leaflets produced by our sister organisation, Women’s Abortion Action Campaign, which outlines more detail about these anti- abortion organisations.

It is the opinion of The Bessie Smyth Foundation that, whilst the above descriptors are an improvement, they go nowhere near making it clearer to members of the public, particularly women who are in distress about a pregnancy, as to the services which will be provided by these organisations.

For example, the descriptor “does not refer for abortions” is misplaced with the organisation, Abortion Grief Counselling, as it would be obvious that anyone ringing that organisation is not in distress about a pregnancy which they may still be making up their mind about. It is obvious that those who would ring that line would be those affected by an abortion they have already had.

Sensis clearly did not implement the suggestions made in our letter with a genuine commitment to plain English and transparency of advertising.

In regard to the self descriptors chosen by Pregnancy Counselling Australia and Pregnancy Help Line the words “alternatives to abortion” informs us, given we are an organisation which has been dealing with the abortion issue since July 1977 and because we are ‘in the know’ about ‘true meanings’, that they are anti-abortion agencies.

HOWEVER, THIS WOULD NOT NECESSARILY BE THE CASE FOR YOUR ORDINARY MARY SMITH OR JOE BLOGGS.

It is our assessment that the level of knowledge in the community about anti-abortion agencies seeking to mislead women is not as high as it used to be. The words ‘abortion alternatives’ provides no indication to those who aren’t ‘in the know’ that they will be calling an agency which is anti-abortion in its approach and nor do those words ‘abortion alternatives’ tell those who are not ‘in the know’ that the agency will not countenance (as is expressed in its own constitution) ‘providing information, advice or referral about abortion or abortifacients’.

In addition, there have been changes of name taken by these organisations over the years and this will have confused members of the public.

Clarity of advertising is essential so that members of the public know what services they can and can not expect from an agency they may ring.

Recommendation 2

Truth in advertising (whether paid or unpaid) is a basic consumer right and needs to be supported through passage of this legislation by the Parliament.

Best practice and standards for all helplines need to be promoted and supported financially by the Federal Government

The *Guide to Best Practice* Second Edition, published in 2004 by the then Telephone Information Support and Counselling Association (TISCA) now known as Helplines Australia outlines in its *Overview and Purpose* that “*presently there are many services that claim to provide ... ‘quality’ services. TISCA, however, has found that such claims are often subjective and unfounded. Furthermore, TISCA has found that the lack of established broad based principles of good operational practice means that any agency or individual can set up a helpline service and claim to be able to offer help. Some of these so-called helplines target people’s vulnerability, often motivated by extreme political/religious views or profit.*”

The two organisations, Pregnancy Counselling Australia and Pregnancy Help Line clearly fit this category. Any unknowing member of the public would assume that their very names ‘Pregnancy Counselling...’ and ‘Pregnancy Help...’ imply that they have professional staff at the end of the line who are there to help them with all issues and all options related to pregnancy. Their self-chosen descriptors ‘*abortion alternatives*’ relies on members of the public being able to decipher the Da Vince code of anti-abortion doublespeak.

A clearer descriptor for these agencies would be ‘will not refer or provide advice about abortion’.

There is no case for unclear, ‘code’ words to be used to describe their services and their underlying philosophy. Unless, of course, the intention is to mislead and deceive and to lure women and their partners or families to making a call.

(b) In the case of paid advertising in the Sensis publications

A comparative review of the Sydney Yellow Pages (print version) for 2004 and 2005 provides a very clear reflection of the deliberateness with which these agencies plan their advertising. In the 2004 version (**see Attachment ‘D’**), under the section of paid advertising entitled “Pregnancy Counselling and Related Services”, there are 13 advertisements for 10 agencies which are anti-abortion. In fact, the number of anti-abortion agencies under this category is greater than the number of abortion services which advertise that they provide counselling support.

Under examination one can see:

- There are two advertisements for the phone service 9299-1057 - a one line ‘abortion counselling’ advertisement with the phone number; and the display advertisement lower down which goes across two column widths; **of note, is the attractor words “Pregnant? Confused? Need help?” and the specific reference to ‘abortion counselling’ being provided;**
- Blacktown Pregnancy Counselling Service;
- Doonside Pregnancy Help;
- Human Life International;
- Liverpool/Campbelltown Pregnancy Help – in two advertisements – one a display advertisement and the second a one line entry – **of note in the display ad is the fact that the words “abortion counselling” is the banner headline;**
- The single column width advertisement ‘are you pregnant?’ with the same phone number (1300 139 313) as the one line Pregnancy Help Line advertisement;
- Pregnancy Support Line Chatswood;
- Pregnancy Support Parramatta Inc;
- Right to Life Association (NSW) Inc; and
- Survivors of Abortion Ltd.

Under further examination, one can see that there are 6 abortion services advertising their counselling services under this category:

- Abortion by women doctors and counselling (Gynaecare abortion service at Artarmon);
- Australian Birth Control Services with three locations;

- Contraceptive Services at Level 1, 195 Macquarie Street and a second advertisement for this abortion service called Pregnancy Advisory Services;
- Preterm Foundation; and
- The Private Clinic.

How is a woman or her partner or her family who may be looking up this section to find some counselling support supposed to be able to work out which agency to ring? It may be a case of being undecided and wanting non-directive and non-judgemental counselling support.

Even if a member of the public realised by scanning across to the advertisements for the ‘Pregnancy Termination Services’ that some of the agencies under the category ‘Pregnancy Counselling and Related Services’ are also abortion services, and therefore they may decide to not ring the abortion services making the (erroneous) assumption that they will receive directive counselling, **the only other agencies they can ring will be anti-abortion but there is no indicator at all to a member of the public that this is the case.**

The use of the phrase ‘abortion counselling’ warrants special mention as a mechanism to mislead

Of note, is the fact that the two organisations, the **Liverpool/Campbelltown Pregnancy Help** (which has both a one line advertisement and a display advertisement and the **agency with the phone number 9299-1057 (but no formal agency name)** specifically use the words ‘*abortion counselling*’ in their advertisements.

To the lay reader who is not ‘in the know’ and not an abortion rights organisation like us, you would thus easily assume that these agencies provide abortion counselling – that is, counselling to support your decision to have an abortion and that they would provide you with information and referral advice about abortion services. This, after all, is what ‘abortion counselling’ is.

We have made calls to these services ourselves, pretending we were a woman pregnant and wanting information about which clinic to go to. The response of the worker/volunteer who answered the phone number 9299-1057 (rung on 16th June) was ‘we don’t have that information; we’re a national service and we have several lines coming in; we don’t hold that information at all; you do realise that there are risks with abortion...’ and then she went on to outline incorrect information about abortion – e.g. that it risks one’s future fertility; and that one needs a doctor’s referral to obtain an abortion in NSW - both of these pieces of advice are wrong).

As is also stated in the *Overview and Purpose* of the TISCA 2004 *Guide to Best Practice* (page 2) “*We, as helplines, have a duty to ensure that all callers get the best possible, most effective help. They put their trust and faith in us and we must respond professionally.*”

Neither of these agencies is adhering to any kind of best practice in terms of their advertising, in fact, it would be true to say that they are deliberately attempting to mislead and deceive members of the public as to the services which they provide.

The 2005 Yellow Pages paid advertising

Again, under the category ‘*Pregnancy Counselling and Related Services*’ in the Sydney Yellow Pages there are 11 advertisements by 9 anti-abortion agencies and 4 advertisements by 3 abortion providers! Again, the issue is how are members of the public to understand that those anti-abortion agencies will not provide information, counselling or advice about abortion?

The only change which has been made by Sensis is that fact that they placed the ubiquitous words “abortion alternatives” on the display advertisement by the anti-abortion agency with the phone number 9299-1057 but not on the other anti-abortion agencies advertisements!

That one change by Sensis still requires members of the public to be able to decipher those code words ‘abortion alternatives’ and to know that that means (somehow Sensis believes that members of the public will devine this) the agency will not refer for or provide any information about abortion.

This Bill is not a call for banning of the anti-abortion agencies. It is a Bill which has as its objects:

- to prohibit misleading and deceptive notification and advertising of pregnancy counselling services;
- to promote transparency and full choice in the notification and advertising of pregnancy counselling services;
- to improve public health; and
- to minimise the difficulties associated with obtaining advice to deal with unplanned pregnancy.

It is clearly time for the Australian Senate to recommend strongly that Senator Stott Despoja’s bill be adopted immediately.

Recommendation 3

THAT the Senate Inquiry recommend strongly that Senator Stott Despoja’s bill is long overdue and should be supported forthwith.

Australian women know they don't want to be coerced or given advice about what 'should' be done – Senators listen to the voices of Australian women

The groundbreaking study, *We Women Decide*, which compared abortion access and a range of other issues around abortion across three states: Tasmania, Queensland and South Australia for the period 1985-1992 (published in 1994 by the Women's Studies Unit at Flinders University and authored by Dr Lyndall Ryan, Dr Margie Ripper and Dr Barbara Buttfield) found that “two aspects of ‘counselling’ ...were generally held by women to be unnecessary, inappropriate, unhelpful or to have negative consequences ...[and these two aspects were]:

- counsellors giving advice to a pregnant woman about what she ‘should’ do;
- counsellors judging whether a woman’s circumstances constitute sufficient grounds for abortion” (Ryan, et al 1994 page 101).

The study goes on to state: “there are commonly held views from women in all three States that the appropriate role in decision making, for doctors and other health professionals, is to assist and facilitate a woman in making or implementing her decision, rather than influencing judging or arbitrating that decision. Some of the angriest responses from women came when health professionals in a ‘counselling’ role attempted to tell women what was good for her, or what she ‘should’ do.” (*ibid*)

The study then goes on to report: “In all three States there were some instances where women had mistakenly found themselves attending for counselling at an anti-abortion organisation which advertised its services as providing ‘pregnancy counselling’ or ‘counselling about abortion’. These experiences were commonly very distressing and caused women to comment about the inappropriateness of organisations with ‘moral’ objections to abortion interfering with their decision.”

Conclusion

This Bill is well overdue and warrants immediate passage once the Senate Inquiry has conducted its deliberations. The Australian evidence for many years now has supported the arguments made by Senator Natasha Stott Despoja in support of her Bill:

- that Australian women are entitled to know clearly, and in advance, what services will and will not be provided by any agency and particularly one which holds itself out as a helpline in regard to pregnancy options and/or abortion;
- that the anti-abortion agencies have consistently and for a long period of time set out to mislead and deceive callers as to what services they provide;
- this Bill will go a long way to redress the problem of misleading and deceptive practices by anti-abortion agencies toward women who are at a vulnerable time of their lives; and, finally,
- passage of this Bill ensures Australia complies with Paragraph 7.17 of *The International Conference on Population and Development Programme of Action* (aka The ICPD Programme of Action) which states:

“Governments at all levels are urged to institute systems of monitoring and evaluation of user-centred services with a view to detecting, preventing and controlling abuses by family-planning managers and providers...To this end, Governments should secure conformity to human rights and to ethical and professional standards in the delivery of family planning and related reproductive health services aimed at ensuring responsible, voluntary and informed consent and also regarding service provision.....”

It is undoubted that the practices and intention of these anti-abortion agencies is to influence family planning decisions of Australian women. They must be monitored and evaluated on a regular basis to ensure they comply with human rights and ethical and professional standards in their service delivery.

One small way to commence this process of monitoring and evaluation is to ensure that their advertising and notification processes make it clear to the public what services they do and don't provide and that other forms of advertising they engage in, such as leaflets and flyers, are transparent and in plain English and not using a Da Vinci code which members of the public then have to decipher.

Recommendation 4

THAT this Bill by Senator Natasha Stott Despoja be commended and adopted in its entirety.