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20 July 2005

Alistair Sands
Secretary
Finance and Public Administration References Committee
The Senate
Parliament House
Canberra 2600

Dear Mr Sands,

Thank you for your letter of 29 June 2005 concerning the Inquiry into Government Advertising and Accountability.

In light of recent developments, I have attached a short additional submission which your committee might wish to consider.

Yours sincerely

Tony Harris

Government Advertising

Introduction

The current government has developed new precedents in its approach to advertising. If those precedents are lawful and appropriate - and the government has never conceded that its advertising actions have breached laws, or that they have been otherwise inappropriate - they allow a future government virtually untrammelled scope to advertise in a politicised manner.

Election Time Advertisements

The GST advertisements shown in the period before the 1998 general elections concerned a policy which the government said it would put in place should it be returned to power. Although the government was returned, it was unable to pass its intended legislation. The advertising was thus incorrect and misleading.

More importantly, that precedent shows that any government, prior to a general election, may approve policy which it would put in place should it be returned to power and advertise any or all of those policies before writs are called, with the cost being met by the taxpayer.

Indeed, it is only convention which requires a government to cease government advertising after the writs are called. There is nothing in law which renders government advertising illegal during the course of an election, as long as its advertising meets the scant requirements of electoral and other laws. We have already seen such advertising because one arm of the government, not knowing when writs would be called, committed to government advertising which continued during the election period.

Advertisement Seeking Approval

More recently, we have again seen the government embark on advertising a policy (concerning industrial relations) which it has not yet finalised let alone introduced into parliament by way of legislation. And the advertising - said to be of the order of \$20 million, although the government reportedly will not publicly confirm its costs - is a taxpayer funded response to a private sector advertising campaign. The government has thus allowed public funds to be used to offset the perceived negative political impact of a private sector action.

This government advertising campaign thus allows any future government to use public funds "to correct" the political losses occasioned by private sector action, whether that be an advertising campaign or a concerted public action campaign (for example, a campaign against the detention of children under immigration law) which is injurious to the political position of the government.

The Ideal Advertiser

Moreover, the government has allowed publicly funded advertising to fail minimum standards which might be expected of a government. Its advertising, by using emotive language or communication techniques, adopts the advertising principles exposed by Vance Packard in his seminal 1957 work, "The Hidden Persuaders." The use of music and verse from Joe Cocker's "Unchain my Heart" offers one precedent. The current campaign on "More Jobs Higher Wages A Stronger Economy" offers another example.

Even long-time supporters of more flexible working conditions can still see major problems with a government print advertising campaign which does not inform readers in a balanced way. For example, "To keep Australia strong, we *must* continue to improve the way we work together ..." (italics added) is an exaggeration. It is only one of several ways, and it is not an essential way, that can contribute to this economic goal. These words would only be penned by an author who does not mind using loose script, as long as it meets the government's objective.

One of the intended goals of the advertising is to offset the accusations made by the Australian union movement that the government's intended policy is unfair. This is met by a section headed "OUR PLAN TO SAFEGUARD WORKERS WITH A MODERN AWARD SYSTEM". The plan is outlined in 29 words – fewer than the advertising devotes to recent economic conditions. They say that awards will not be abolished but will be *updated* to provide *modern* terms and conditions for those workers who choose not to have a workplace agreement (italics added). The advertisement does not mention that many items currently contained within awards will be abolished and it does not offer advice about the frequency of award updating.

Although the government has announced that it will introduce legislation exempting companies with less than 100 employees from unfair dismissal legislation, this is not mentioned in the advertising, in spite of a section dealing with "OUR PLAN TO PROTECT AGAINST UNLAWFUL DISMISSAL." That section does not directly respond to arguments that a person may validly be dismissed for not attending work due to the need to care for children, but it does claim, incorrectly by all reports, that "family responsibilities" are not a ground for dismissal or discrimination.

There is room for genuine debate about the need to reduce the current entitlements of workers so that Australia can better meet the challenges of a competitive world and so that additional jobs can be created. But the government's campaign does not enter this debate: it claims by deceptive drafting and inference that everyone will be better off when it is plain that many will not. Passing laws which will allow unfair dismissals will doubtlessly promote unfair dismissals; this is not addressed by the claim that "Workers will continue to be protected from *unlawful* termination (italics added) ..."

The Australian government is meant to be a model litigant: it clearly does not embrace such an ideal position with respect to its advertising campaigns when they address the government's political goals.

Conclusion

The Senate has allowed this drift into government advertising to occur by significantly reducing the specificity of its appropriations (thus allowing the government to divert resources from other purposes in order to fund advertising campaigns), and by not tightening up on the advance to the Minister of Finance following legal opinion that the advance can be used to meet any invoice that would otherwise remain unpaid.

Unless the Senate is willing to reassert its role over advertising by imposing limits on the government's ability to use public monies for advertising, taxpayers must fear the worst when they fund government advertising campaigns.

Tony Harris

20 July 2005