

## Chapter 2

# OVERVIEW OF THE GUIDELINES ON CAMPAIGN ADVERTISING

2.1 This chapter provides an overview of the 2008 *Guidelines on Campaign Advertising by Australian Government Departments and Agencies*, the 2010 independent review of the guidelines, and the changes to the guidelines announced in March 2010.

### 2008 Guidelines on Campaign Advertising

2.2 Prior to the November 2007 Federal election, government advertising and information activities were coordinated by the Special Minister of State, who chaired the Ministerial Committee on Government Communications (MCGC). The MCGC approved the design and implementation of major and sensitive advertising and information campaigns.<sup>1</sup>

2.3 On 2 July 2008, the current Government released new advertising guidelines to govern the content and presentation of Commonwealth Government campaign advertising. The *Guidelines on Campaign Advertising by Australian Government Departments and Agencies* (the 2008 guidelines), were based on those developed in 1998 by the Auditor-General which were later refined in a Joint Committee of Public Accounts and Audit (JCPAA) report of 2000. For the first time, government advertising on party lines was explicitly banned.

2.4 In line with the recommendations of the Senate Finance and Public Administration Committee's 2005 report on government advertising and accountability, the 2008 guidelines required that campaigns with expenditure in excess of \$250 000 (or other campaigns if requested by a minister) be reviewed by the Auditor-General before approval.

2.5 Under the guidelines, each advertising campaign had to be certified by the chief executive of the commissioning department or agency, and major campaigns had to be reviewed by the Auditor-General before the campaign was allowed to progress.<sup>2</sup>

2.6 Agencies subject to the *Financial Management and Accountability Act 1997* (the FMA Act) were required to comply with the guidelines which required that:

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1 Australian National Audit Office, *Campaign Advertising Review July 2009 – March 2010*, ANAO Report No.38, 2009–10, pp. 19–20.

2 Senator the Hon John Faulkner, Special Minister of State and the Hon Lindsay Tanner MP, Minister for Finance and Deregulation, *New Advertising Guidelines*, Joint Media Release, 2 July 2008, 22/2008.

- the chief executive of the agency undertaking the campaign has certified that it complies with the guidelines and relevant government policies; and
- for campaigns with expenditure in excess of \$250 000, the Auditor-General provided a report to the minister on the proposed campaign's compliance with the guidelines.

2.7 There were five guidelines, prefaced by a number of overarching principles and underpinned by supporting statements. The 2008 guidelines stated that:

1. campaign material should be relevant to government responsibilities;
2. campaign material should be presented in an objective, fair and accessible manner;
3. campaign material should not be directed at promoting party political interests;
4. campaign material should be produced and distributed in an efficient, effective and relevant manner, with due regard to accountability; and
5. advertising must comply with legal requirements.<sup>3</sup>

2.8 The Special Minister of State, Senator the Hon Joe Ludwig, commented during the 2010–11 Budget estimates:

I think the salient points are that before the last election we promised to cut the expenditure on government advertising, which we did significantly, and introduce new and higher accountability and transparency standards, which we have. We have a strong record in doing just that. We have introduced tough guidelines which banned political advertising, removed the ministers oversight of the framework, increased the reporting requirements and significantly reduced the cost.<sup>4</sup>

2.9 When approving the guidelines, the Government also agreed to review their arrangements in relation to the initiation, development and implementation of government advertising campaigns before July 2010. An independent review was subsequently commissioned by the Department of the Prime Minister and Cabinet and Department of Finance and Deregulation. Dr Allan Hawke was appointed on 27 January 2010 to conduct the review.<sup>5</sup>

### **Independent Review of Government Advertising Arrangements**

2.10 The terms of reference of the *Independent Review of Government Advertising Arrangements* (the Hawke review) included consideration of the effectiveness of the

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3 *Guidelines on Campaign Advertising by Australian Government Departments and Agencies*, June 2008, p. 1.

4 Special Minister of State, Senator the Hon Joe Ludwig, *Estimates Hansard*, 17.5.10, pp F&PA 22–23.

5 Special Minister of State, Senator the Hon J Ludwig, *Estimates Hansard*, 25.5.10, p. F&PA 5.

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current Government arrangements for government advertising including the role of the Auditor-General in reviewing proposed advertising material.

2.11 Dr Hawke was responsible for considering the effectiveness and efficiency of the current approval process for proposed advertising campaigns, including the administrative effort, timeframes and cost of current approval processes as well as the adaptability of the guidelines and associated arrangements to emerging issues.<sup>6</sup>

2.12 The Hawke review published its report on 26 February 2010. The eight findings of the review focused on concerns including the need for greater clarification in relation to definitions to assist in streamlining arrangements; greater flexibility to enable departments to deliver communications flexibly; and, the current governance arrangements which 'place the Auditor-General in a very difficult position in respect of conflict of interest'.<sup>7</sup>

2.13 The Hawke review provided eight recommendations to the Government including the:

- simplification and clarification of the guidelines to ensure appropriate checks and balances and revision of the threshold upwards to \$3.5 million;
- consideration of amendments to the guidelines be undertaken by a new review body;
- abolition of the Auditor-General's role in reviewing proposed advertising campaigns before their launch with the Auditor-General requested to conduct a performance audit on at least one campaign a year or the administration of the campaign advertising framework;
- establishment of an Independent Government Communications Unit or Inter-Departmental Committee on Communications to oversee operation of the guidelines to ensure compliance;
- establishment of a Strategic Communications Unit in the Department of the Prime Minister and Cabinet (PM&C) to provide whole-of-government professional communications policy advice and expertise to agencies;
- adoption of a number of reporting, accountability and transparency mechanisms including a request that the Auditor-General undertake a performance audit on at least one campaign a year, or the administration of the campaign advertising framework, and report to the Parliament;
- details of the transfer of functions and funding to be settled on a cost neutral basis between PM&C and the Department of Finance and Deregulation; and

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6 Dr A Hawke, *Independent Review of Government Advertising Arrangements*, 26 February 2010, pp 6–7, <http://www.finance.gov.au/advertising/docs/Independent-Review-of-Government-Advertising-Arrangements.pdf> (accessed 15.6.10).

7 Dr A Hawke, *Independent Review of Government Advertising Arrangements*, 26 February 2010, p. 21.

- timing and handling of the proposed changes to the guidelines and governance framework to be settled between the Prime Minister, Minister for Finance and Deregulation, and the Cabinet Secretary.<sup>8</sup>

2.14 The Hawke review proposed that the role of the Auditor-General revert to 'traditional areas of performance audit and review of government advertising campaigns'.<sup>9</sup> Dr Hawke offering two models of an alternative review mechanism to that of the Auditor-General for consideration:

In both models, Secretaries and CEOs would be responsible and accountable for decisions in relation to advertising campaigns, informed by the independent advice of an external review body on compliance with relevant aspects of the Guidelines. One model would establish an Independent Government Communications Committee (IGCC) of independent and reputable individuals (e.g. former senior public servants) with responsibility to oversee the operation of the Guidelines, review campaign development and advise chief executives on compliance with the Guidelines. Under this model, the existing Interdepartmental Committee on Communications (IDCC) would be abolished.

The second model would retain the IDCC, but it would be chaired by an independent person.<sup>10</sup>

2.15 The Hawke review stated that either of the proposed models would ensure that responsibility and accountability for campaigns would lie with chief executive officers (CEOs) and that in combination with a revision of the guidelines, the proposed arrangements would 'closely align with the directions of the Blueprint for the Reform of Australian Government Administration in relation to the responsibilities of Secretaries and the need to reduce internal red tape'.<sup>11</sup> Recommendation 4 stated that the proposed body would be responsible for:

- (a) overseeing the operation of the Guidelines to ensure compliance with their integrity and spirit;
- (b) providing advice to chief executives on compliance of proposed advertising activities with relevant aspects of the Guidelines, noting that there will be a degree of reliance on external expert advice;
- (c) providing publicly an assessment of a campaign's compliance with relevant aspects of the Guidelines;

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8 Dr A Hawke, *Independent Review of Government Advertising Arrangements*, 26 February 2010, pp 5–6.

9 Dr A Hawke, *Independent Review of Government Advertising Arrangements*, 26 February 2010, p. 3.

10 Dr A Hawke, *Independent Review of Government Advertising Arrangements*, 26 February 2010, p. 4.

11 Dr A Hawke, *Independent Review of Government Advertising Arrangements*, 26 February 2010, p. 4.

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- (d) reporting on activities undertaken under the Guidelines, including any trends or emerging issues; and
  - (e) considering and proposing revisions to the Guidelines as necessary in light of experience.<sup>12</sup>

2.16 In terms of the role of the ANAO, the Hawke review recommended (Recommendation 6(g)) that the ANAO undertake a performance audit on at least one campaign a year, or the administration of campaign advertising framework, and report its findings to Parliament.<sup>13</sup>

### **2010 Changes to the Guidelines on Campaign Advertising**

2.17 On 31 March 2010 the Government announced changes to the 2008 guidelines in response to recommendations of the Hawke review. The changes reflected the Government's outright support for six of the Hawke review recommendations and support for parts of two recommendations. The Government did not support Recommendation 5 regarding the establishment of a Strategic Communications Unit in PM&C, noting that the Communications Advice Branch in the Department of Finance and Deregulation currently provides the same functions.<sup>14</sup>

2.18 The primary changes to the 2008 framework announced by the Government on 31 March 2010 included:

- replacing the 2008 guidelines with a revised set of guidelines;
- establishing an Independent Communications Committee (ICC) to replace the role of the Auditor-General, to review proposed advertising campaigns over \$250 000;
- a proposal that government request the Auditor-General to consider annual performance audits in this area; and
- abolition of the role of the Interdepartmental Committee on Communications (IDCC) in reviewing campaigns from a whole-of-government perspective.<sup>15</sup>

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12 Dr A Hawke, *Independent Review of Government Advertising Arrangements*, 26 February 2010, p. 5.

13 Dr A Hawke, *Independent Review of Government Advertising Arrangements*, 26 February 2010, p. 5.

14 Department of Finance and Deregulation, *Summary of Hawke Recommendations and Government Response*, undated, p. 2, <http://www.finance.gov.au/advertising/docs/Hawke-recommendations-and-Government-response.pdf> (accessed 17.6.10).

15 Australian National Audit Office, *Campaign Advertising Review July 2009–March 2010*, ANAO Report No. 38 2009–10, p. 12.

### ***Independent Communications Committee***

2.19 The Independent Communications Committee (ICC) was established to take over the role of reviewing compliance with the guidelines previously undertaken by the Auditor-General.<sup>16</sup>

2.20 Whilst the Hawke review had recommended (Recommendation 1(d)) that the threshold for chief executive certificates and independent review of proposed campaigns be revised upwards, the Government maintained the \$250 000 threshold contained in the 2008 guidelines.<sup>17</sup> Under the new guidelines, therefore, the ICC is now responsible to review all government advertising campaigns over \$250 000.

2.21 The ICC is responsible for considering proposed advertising campaigns for compliance with Principles 1 to 4 of the 2010 guidelines. The ICC is to provide a report on those considerations to the agency chief executive. The chief executive is then responsible for certifying that the campaign complies with the 2010 guidelines in full. This certification will be provided to the minister who may decide to launch the campaign. Under the 2010 changes, the ICC's report and the chief executive's certification are made publicly available via websites following the launch of the relevant campaign.<sup>18</sup>

### ***Exemptions***

2.22 Guideline 5, regarding exemptions, was also amended. Whereas the 2008 guidelines stated that campaigns can be exempted on the basis of a 'national emergency, extreme urgency or other extraordinary reasons the Cabinet Secretary considers appropriate', the 2010 guidelines state rather that:

The Cabinet Secretary can exempt a campaign from compliance with these Guidelines on the basis of a national emergency, extreme urgency or other compelling reason.<sup>19</sup>

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16 Special Minister of State, Senator the Hon Joe Ludwig, *New arrangements for government advertising*, Media Release, 31 March 2010, 20/2010.

17 Department of Finance and Deregulation, *Summary of Hawke Recommendations and Government Response*, undated, p. 1.

18 Australian National Audit Office, *Campaign Advertising Review July 2009–March 2010*, ANAO Report No. 38 2009–10, p. 30.

19 Guidelines on Information and Advertising Campaigns by Australian Government Departments and Agencies, March 2010.