

SENATOR BOB BROWN

AUSTRALIAN GREENS

DISSENTING REPORT

The Committee, in its concluding comments and recommendation on The Preventing the Misuse of Government Advertising Bill 2010 fails to acknowledge the widespread community concern about this critical issue. The report documents the historical concerns and various attempts to address the issue of transparency and accountability in the expenditure of public funds through government information and advertising campaigns. The recent public outcry over the government's \$38 million mining tax advertising campaign is testament to the depth of concern on this issue. This Bill is a necessary step in enshrining accountability and integrity mechanisms in law, to provide certainty and clarity to governments and to assurance and confidence in the community that these practices will be properly implemented and scrutinised.

The recommendation by the Committee that the Bill not proceed contradicts the evidence of the four expert submissions which all welcomed the Bill for establishing clear legislative provisions around the use of public funds for government advertising. Each submission noted that the Bill incorporated important changes to strengthen the original 2008 guidelines based on experience of the past two years in which the process had been operational.

While the submissions varied in their view of the role of the Auditor-General in the Bill, there is agreement that the Auditor General had a key role to play in the review of government information and advertising campaigns and their assessment against the guidelines.

The Auditor- General's submission in particular made a number of relatively minor technical amendments to the Bill for greater clarity and transparency in the process, which the Greens will move when the Bill is debated in the Senate. Other submissions have identified minor elements of the Bill which require rewording for clarity which will also be incorporated.

I draw attention to the important issue of corporate 'political' advertising and the use of tax-deductibility claims by corporate advertisers. I have raised concerns elsewhere that under the current arrangements tax payers are effectively funding both the government and corporate advertising campaigns on the mining tax to the tune of millions of dollars. I argue that under these circumstances, corporate advertisers should be subjected to the same regime of accountability and scrutiny that is required of government advertising expenditure.

I note that Professor Charles Sampford highlighted the need for a similar legislative approach as outlined in this Bill to apply to corporate advertising. On pages 3-4 of his submission, Professor Sampford noted that:

"The answer is not to weaken the accountability regime for governments but to:

- Recognise the issue in the government accountability regime; and
- Ensure that corporations and others are also subject to the same or different but relevant accountability regimes."

He further adds:

"there are strong arguments for such communication to be subject to some form of vetting or oversight...[that] corporations claim deductions for corporate advertising and are, in a sense, spending public money" in addition to expending the assets of their shareholders. And that "unbalanced funding of different sides of a debate leads to distortions in the democratic process."

Professor Sampford proposed that oversight of the corporate advertising could be provided in the following ways:

1. Both government and corporate advertising are vetted by the same process (on the basis that public funds are involved in both through deductions and direct expenditure)
2. Disclosure rules and/or TPC (trade practices code) are amended to void the distinction between political comment and comment in the course of trade or commerce)
3. Business is covered by disclosures to market and the TPC
4. Limit advertising of both kinds. Some might argue the value the public gets for its direct expenditure and tax deductions are not great.
5. Provide funding for both

I propose that the Bill is adopted and the issue of corporate advertising is given urgent consideration by the Government to ensure that democracy is not undermined by the continuation of business as usual.

Senator Bob Brown
Leader of the Australian Greens