



Parliament of  
South Australia

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**REPORT**

**OF THE**

**SELECT COMMITTEE**

**ON TAX-PAYER FUNDED GOVERNMENT**

**ADVERTISING CAMPAIGNS**

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*Laid on the Table of the Legislative Council and ordered to be printed on 1 December 2009*

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**Third Session, Fifty-First Parliament 2008-2009**



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# **1. Select Committee on Tax-Payer Funded Government Advertising Campaigns.**

## **1.1 Appointment**

On 25 March 2009 the Select Committee of the Legislative Council was established to inquire into and report on tax-payer funded Government advertising campaigns with specific reference to:

- a) the establishment of guidelines dealing with the appropriate use of South Australian Government advertising;
- b) the cost of Government advertising;
- c) a process for dealing with complaints about Government advertising from the general public; and
- d) any other matters that the Committee considers relevant.

## **1.2 Membership**

The Hon M C Parnell, MLC (Chairperson)  
The Hon I K Hunter, MLC  
The Hon JMA Lensink, MLC  
The Hon R I Lucas, MLC  
The Hon C Zollo, MLC

*Secretary*

Mr Anthony Beasley

*Research Officer*

Ms Anne Melrose

## **1.3. Meetings**

The Select Committee advertised for interested persons to provide written submissions or to register an interest in appearing before it. The Committee met on 12 occasions and have heard evidence from 5 witnesses. A list of witnesses who appeared before the Committee is in Appendix 1. The Committee received 8 written submissions which are listed in Appendix 2 and various other documents which are listed in Appendix 3.

## 2. Recommendations

After considering the evidence and submissions placed before it, the Select Committee has made the following recommendations:

1. The existing “Advertising Policies and Guidelines” (March 2009) should be revised to reflect the recommendations of the Committee;
2. At this stage the Committee proposes that any changes to these processes should be implemented administratively and not by implementing legislative change. The option of legislative change should be considered again after a period of two years or so has expired to allow a reasonable assessment of the effectiveness of any changes;
3. The Advertising Policies and Guidelines should be available to any person on request and should also be published on the internet, together with related documents including those referred to in the Introduction to the present Guidelines;
4. The Advertising Policies and Guidelines should be amended in order to better distinguish what is currently defined as “brand” advertising from “functional” advertising;
5. The Advertising Policies and Guidelines should apply to all Government advertising whether “brand” or “functional”, however the Committee accepts that “functional” advertising will not require the same level of scrutiny as “brand” advertising;
6. Public accountability for government advertising should be improved by introducing new review and approval procedures involving the Auditor General and based on the new model introduced in 2008 by the Commonwealth Government;
7. All government advertising campaigns with a total cost in excess of \$50,000 must be assessed by the Auditor General prior to the launch of any campaign;
8. The Auditor General would assess and report on the proposed campaign’s compliance with government advertising guidelines;
9. The final decision for an advertising campaign to proceed or not would still remain with the Minister for the department or agency involved, even if the Auditor General has assessed it as not being compliant with government advertising campaigns;
10. However, in these circumstances, the Minister must ensure the results of the Auditor General’s assessment of the proposed campaigns non-compliance with government advertising guidelines is published on the department’s or agency’s website prior to the commencement of the campaign;
11. The proposed role for the Auditor General in assessing compliance would not involve assessing any “functional” advertising campaigns;
12. Whilst the new role for the Auditor General at the Commonwealth level did not involve any legislative changes, it is possible that a similar change in South Australia might require some legislative change;
13. The Advertising Policies and Guidelines should be amended to ensure that clear quantifiable evaluation criteria are identified as part of the development of a campaign;
14. The Advertising Policies and Guidelines should be reviewed regularly and at least every four years;

15. When determining the total cost of government advertising, identifiable expenses incurred in production, development and evaluation should be included as well as the actual cost of buying advertising time or space;
16. The Committee believes that the total cost of government advertising is excessive and should be reduced by at least \$20 million per year;

*Note: When the real total costs of government advertising are calculated, it is likely that total costs in 2009 could be as high as \$60 million;*

17. The Advertising Policies and Guidelines should be amended so that departments and agencies must report on the total cost of each campaign assessed by the Auditor General in their annual report;
18. The Advertising Policies and Guidelines should be amended to require that the total costs of all campaigns assessed by the Auditor General should be made available publicly every six months in a report tabled in Parliament and published on the website of the Department for the Premier and Cabinet;
19. The report evaluating the effectiveness of all advertising campaigns with a total cost in excess of \$50,000 should be published on the department's or agency's website within 30 days of receipt of the report;

*(c) A process for dealing with complaints about Government advertising from the general public*

20. The Committee makes no new recommendation on this term of reference at this stage;

*(d) Any other matters that the Committee considers relevant*

21. The Advertising Policies and Guidelines should be amended to incorporate appropriate provisions in relation to the "caretaker" period before each election. Consideration should also be given to whether modified "caretaker" provision should apply to the period between the final sitting of Parliament in any term and the election;
22. The Committees finds that it is unacceptable that 24 advertising campaigns in the last three years did not comply with the government's own guidelines. These breaches of the government's own rules were revealed only as a result of evidence given to this Committee. Responsibility for these breaches rests significantly with the then Chair of Premier's Communications Advisory Group, Paul Flanagan, who is Premier Rann's Communications Manager in his Ministerial office and has also held the position of Manager of the Premier's Media Unit.

## **2.1 Dissenting statements**

The two Labor members of the Select Committee, the Hon. IK Hunter MLC and The Hon. C Zollo MLC, dissented from the recommendations of this Report. Their statement is attached to the Report.

One member of the Select Committee, the Hon. MC Parnell MLC, agreed with all of the above recommendations but has further observations which are contained in his statement and is attached to the Report.

### **3. The Inquiry**

#### **3:1 The establishment of guidelines dealing with the appropriate use of South Australian Government advertising (Term of Reference a)**

##### **3:1:1 Current situation in South Australia**

###### **3:1:1:1 Introduction**

The South Australian Government 'proactively' manages and provides oversight of all government advertising activity through a range of policies and guidelines (Appendix 3).<sup>1</sup>

These are administered by the Strategic Communications Unit (SCU) located within the Department of Premier and Cabinet (DPC) and 'overseen' by the Premier's Communications Advisory Group (PCAG).<sup>2</sup>

Formal Guidelines on Government Advertising were initiated and implemented in 2005.<sup>3</sup>

The latest iteration is that of March 2009.

At that time the Guidelines were amended to include more explicit reference to digital and emerging media. Updated advice on communication with the hearing and vision impaired was also included to ensure equitable access to government information and services.

In August 2009 the Premier of South Australia, the Hon Mike Rann, announced new rules banning politicians from appearing in State Government television and radio advertising.

The Premier also announced the strengthening of the Premier's Communications Advisory Group (PCAG) by having the group chaired by the Deputy Chief Executive of the Department of the Premier and Cabinet and having membership increased from 6 to 8 - including an internal auditor and a 'peer' expert.

Reporting of all government funded advertising campaigns is to be placed in the DPC Annual Report and "the Auditor-General will (be invited to) conduct an annual review of all major campaign activity, with any report being tabled in Parliament."<sup>4</sup>

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1 DPC Submission dated 27th July 2009, p 3

2 SA Department of the Premier and Cabinet Submission p 3

3 DPC Hearing p 15 states these were initiated and implemented by "the unit" -presumably being the Strategic Communications Unit within DPC.

4 Press release, Premier Mike Rann dated 12/08/09



### **3:1:1:2 Current Guidelines**

The South Australian Government Advertising Guidelines were provided by the Department of Premier and Cabinet as part of their submission.

#### **(i) Underpinning Principles**

The South Australian Government Advertising Guidelines state that the use of public funds for Government communication programs should be governed by the principles that:

- All members of the public have the right to equal access to information
- Public funds may legitimately be used for information or education programs that explain the Government's policies, programs or services or that inform members of the public of their obligations, rights and entitlements
- Government information programs should not be conducted for party political purposes
- The Government has responsibility for ensuring equity, fairness, probity, appropriateness and public responsibility in all its communications
- Communication material should be produced and distributed in an efficient, effective and relevant manner with due regard for accountability
- Individual agencies are responsible for developing and implementing communication of initiatives and actions that are within the agency's field of responsibility

#### **(ii) Use of Public Funds - Appropriate**

The Guidelines specify that the Government may use public funds for advertising and communication to:

- Maximise compliance with the law
- Achieve awareness of a new or amended law
- Raise awareness of a planned or impending initiative
- Ensure public safety, personal security or encourage responsible behaviour
- Assist in the preservation of order in the event of a crisis or emergency
- Promote awareness of rights, responsibilities, duties or entitlements
- Encourage usage of, or familiarity with, Government products or services
- Report on performance in relation to Government undertakings
- Encourage social cohesion, civic pride, community spirit, tolerance or to assist in the achievement of a widely supported public policy outcome

### **(iii) Use of Public Funds – Inappropriate**

The Guidelines specify that public funds should not be used for communication where:

- The Party in Government is mentioned by name
- A reasonable person could misinterpret the message as being on behalf of a political party or other grouping
- A political party or other grouping is being disparaged or held up to ridicule
- The method or medium of communication is manifestly excessive or extravagant in relation to the objective being pursued
- There is no clear line of accountability, appropriate audit procedures or suitable purchasing process for the communication process

### **(iv) Scope:**

In South Australia the Guidelines apply to all Government entities, including Government owned corporations *viz.*:

- Government Departments, agencies and operating units
- entities that receive 50% plus of their operating funding from the Government
- public authorities and instrumentalities of the Crown
- organisations that are under the direction of a Minister of the Crown, and
- third party organisations where they are closely associated with government and/or receive government funding, support or endorsement

### **3:1:1:3 Current Processes**

The Strategic Communications Unit (SCU) located within the Department of the Premier and Cabinet (DPC) has responsibility for managing the Advertising Guidelines and ensuring they are implemented across Government.

All paid advertising is required to be reviewed and assessed against the Guidelines by SCU and, where appropriate, by the Premier's Communications Advisory Group (PCAG).

SCU will advise at which stages of development PCAG submission(s) will be required. For complex campaigns, more than one submission may be necessary.

In some instances compliance with PCAG Guidelines can be approved by SCU.

For example, SCU routinely approves communications activity that is:

- routine, operation, 'retail' or tactical
- a repeat of a previous campaign strategy or creative execution or is substantially similar to campaigns that have been successfully evaluated or routinely approved in the past
- where the budget is of 'relatively low value'

**(i) Role of Strategic Communications Unit (SCU)**

The role of the SCU is to facilitate and improve the quality, value and effectiveness of the Government's external communications.

SCU exercises this responsibility at the strategic level by, for example: managing the master media agency (MMA) scheme; facilitating whole of government approaches; and, overseeing marketing, communication and public information activities.

It exercises this responsibility at the operational and administrative levels by: developing and implementing guidelines; training; ensuring compliance with common branding policy; advising agencies on meeting of the Guidelines; and, providing advice to PCAG.<sup>5</sup>

**(ii) Administrative arrangements of SCU**

SCU is located within DPC and consists of eight (8) staff viz.:

- Director (SAES1)
- 3 x Communications Consultants - Advertising (AS07)
- Communications Assistant (AS01)
- Office Manager (AS04)
- Communications Consultant Master Media (AS07)<sup>6</sup>
- Communications Project Officer (AS04)<sup>7</sup>

**(iii) Role of Premier's Communications Advisory Group (PCAG)**

The role of PCAG is to ensure a "planned, coordinated and strategic approach to the Government's extensive and diverse external communications strategies and programs by providing strategic oversight and advice on these functions."<sup>8</sup>

PCAG acts with authority delegated by the Executive Committee of Cabinet (EXCOMM) to review and approve proposed advertising campaigns and marketing communications undertaken by Government agencies.

PCAG also endorses annual media rate negotiation outcomes (the Master Media Agency Scheme) for approval by the Premier and reviews proposals for new or changed communications policy.

PCAG replaced the previous Cabinet Communications Committee in 2006.

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5 Detailed roles of SCU and PCAG were provided by the Department of Premier and Cabinet as part of their submission

6 18 month contract to facilitate Master Media procurement project

7 10 month contract to support above

8 DPC Submission p 9

PCAG differs from arrangements prior to 2006 by not containing Cabinet members and, by acting under authority delegated from EXCOMM (that is, PCAG is itself not a Cabinet Sub-Committee).

#### **(iv) Membership of PCAG**

In August 2009 the Premier increased membership of PCAG from 6 to 8 members of which 6 are public servants and 2 are Ministerial officers.

PCAG is chaired by the Deputy Chief Executive of DPC and membership includes a DPC auditor and a 'peer' expert.

Currently, PCAG membership is as follows:

- Deputy Chief Executive, DPC<sup>9</sup>
- 2 x delegates of the Premier<sup>10</sup>
- 2 x delegates of the SCU (DPC)<sup>11</sup>
- Representative of the Office of EXCOMM<sup>12</sup>

Prior to August 2009, PCAG comprised 6 members<sup>13</sup> and was Chaired by the Manager of the Premier's media staff.<sup>14</sup>

#### **(v) Number of campaigns evaluated by PCAG**

PCAG meets every three weeks (on average) and considers around 5 submissions per meeting.

In 2008, PCAG received and reviewed 96 submissions of which:

- 43 were approved without qualification
- 47 were approved subject to conditions
- 6 were not approved

As at the end of June 2009,<sup>15</sup> PCAG had reviewed 38 submissions of which:

- 10 were approved without qualification
- 27 were approved with qualification
- 1 was not approved

In response to questions from the Committee, the Department of the Premier and Cabinet provided detailed information on campaigns received and reviewed by PCAG in 2008 and to June 2009 (Appendix 3).

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9 Mr Greg Mackie

10 Currently, Mr David Lewis, Communications Advisor to Minister Lomax-Smith MP and Mr Paul Flanagan, Manager Communications, Premier's Office

11 Currently, Mr Clemow, Director and Ms Anika Johnstone, Communications Consultant

12 Currently, Ms Sandy Pitcher, Executive Director

13 Membership prior to 5 June 2009 comprises: Representative of EXCOMM (Ms Pitcher, Executive Director); 3 x delegates of the Premier (Mr Flanagan, Premier's communications Manager - Chair; Mr Lewis, Communications Advisor to Minister Lomax-Smith; Vacant position) 2 x delegates of SCU (Ms Johnstone, Acting Manager and Ms Nikki Rossetto, Communications Consultant) DPC response to Question on Notice 2 October

14 Mr Flanagan was the Chair between 29 July 2006 and 6 May 2009. Mr Flanagan was the Manager, Media Unit, Office of the Premier up to April 2008 from which time he has been Manager, Communications, Office of the Premier.

15 January to June 2009

**(vi) Reporting/Compliance**

There is a requirement under the current SA Guidelines for information relating to government funded advertising campaigns to be included in the Annual Report of the Department for the Premier and Cabinet.

Expenditure on advertising campaigns across government is also to be included in this reporting.

While it is assumed that individual agencies will report on aggregate communication and marketing expenditure within their annual reports, no evidence was received by the Committee on whether this was broken down into specific expenditures.

**(vii) Responsibility**

While SCU and PCAG have significant roles in the development and implementation of the Advertising Guidelines, ultimately responsibility for individual advertising campaigns lies with the responsible agency and Minister.

Communications campaigns must be presented for approval by the relevant Minister, accompanied by PCAG's recommendation.

Following Ministerial approval, the agency implements the activity in consultation with SCU to ensure continued compliance with PCAG Guidelines.

A copy of Ministerial approval must be provided to SCU to complete the PCAG approval process.

PCAG is not responsible for allocating or approving funding.

Expenditure authorisation is the responsibility of the Department Chief Executives or their delegated officers.

**3:1:1:4 Comparison of SA Arrangements with other Jurisdictions**

As in South Australia, all other States and Territories (and the Federal Government) of Australia have in place guidelines and mechanisms for endorsing and reviewing government funded advertising campaigns for Ministerial approval.

In no Australian jurisdictions are these guidelines legislated despite various attempts in a number of jurisdictions to do so.<sup>16</sup>

In all instances, the Guidelines are administrative ones.<sup>17</sup>

While the fundamental principles and underlying objectives of advertising within each jurisdiction are comparable, the approval process varies.

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16 In South Australia two Bills have been introduced in recent times viz. *Government Advertising (Objectivity, Fairness and Accountability) Bill 2001* introduced by Hon N. Xenophon M.L.C.; and, *Regulating Government Publicity Bill 2009* introduced in February by the Hon Robert Brokenshire M.L.C.

17 The Committee considered the situation in Ontario, Canada - a jurisdiction in which administrative guidelines are underpinned by legislation (see Section 3:1:1:6).

There are also minor differences between jurisdictions in:

- scope and applicability of the guidelines (to other than Government agencies)
- scope of that considered to be "advertising"
- exemptions
- applicability of the guidelines to campaigns based on cost
- caretaker conventions

### **(i) Approving Body/Review/Evaluation**

The composition of the approving body can be grouped into two types:

- Peer Review (communications professionals within Government), and
- Cabinet Sub-Committee

South Australia is the only State to have evaluation built into the approval process.

That is, as part of the approval process, South Australian government agencies are required (mandated) to identify, prior to approval being given, how the effectiveness of the campaign will be evaluated and to report how well it achieved the desired outcomes after the campaign has been run.

In South Australia, government communication is the responsibility of a sub-committee of Cabinet (EXCOMM) which has delegated this authority to PCAG which, in turn, has delegated some authority to the SCU.

The majority of other jurisdictions maintain a tiered approval process incorporating a Cabinet Sub-committee supported by a form of Peer (or departmental) Review.

However, it should be noted that South Australia has a quasi two-tiered system with Peer Review via the SCU approval mechanism for "lower level campaign activity".<sup>18</sup>

The Auditor-General of South Australia has the power to review advertising campaigns approved under the PCAG approval process.

The South Australian Auditor-General reviewed 5 campaigns during 2009.<sup>19</sup>

The Report on the findings of this review is, according to the Auditor-General's Annual Report 2008/09, still in progress.<sup>20</sup>

In the Australian Capital Territory (ACT), the Select Committee on Campaign Advertising has recommended that an independent expert panel should undertake the review process.<sup>21</sup>

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18 Defined as routine, operational, 'retail', tactical; a repeat of a previous campaign; where the budget is relatively low

19 See Compliance : Section 3.1.2.6

20 Auditor-General's Annual Report p 894

21 ACT Report of Select Committee on Campaign Advertising. It considered that a 3 person panel would be sufficient with a mixture of legal, media and/government experience and that this Panel should be subject to statutory appointment so that "the appropriate Assembly Committee must be consulted before the Minister makes an appointment. The appointments should be made by a disallowable instrument". p 18

## **(ii) Scope of Guidelines**

In South Australia the Guidelines apply to all Government entities including Government owned corporations.<sup>22</sup>

In both Queensland and Victoria, Government Owned Corporations are exempted from Peer Review consideration and not subject to the Cabinet Sub-Committee approval mechanism.

In New South Wales (NSW) only some Government Owned Corporations are subject to approval.<sup>23</sup>

The ACT Select Committee recommends that "Territory-owned Corporations should be covered by the proposed legislative framework for the regulation of campaign advertising".<sup>24</sup>

## **(iii) Scope of advertising**

The South Australian Government Advertising Guidelines cover the "appropriate use and management of public funds for external communication activity".<sup>25</sup>

Evidence presented to the Committee indicates that a differentiation is made in South Australia between what is termed "brand" advertising and "functional" advertising (such as job vacancies and tenders).

In general terms, "brand" advertising is considered to be paid activity undertaken within the media (including digital media) for the purpose of, but not limited to: informing; educating; raising awareness; promoting awareness of rights, responsibilities, duties or entitlements; and/or reporting on Government performance.

A similar differentiation is made in other jurisdictions between what is considered to be the more routine or operational advertising and other but the evidence was silent on the specifics relating to this and who and how such a differentiation is made beyond the fact that some jurisdictions, for example the Commonwealth, differentiate between advertising campaigns based on cost.

The South Australian Guidelines outline what is appropriate and inappropriate use of public funds.<sup>26</sup>

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22 Government Departments, agencies and operating units; entities that receive 50% of their operating funding from SA Government; public authorities and instrumentalities of the Crown ; organisations that under the Direction of a Minister of the Crown; and, third party organisations where they are closely associated with government and/or receive government funding, support or endorsement. DPC Submission p 13

23 DPC Submission p 13. However, the ACT Select Committee states that NSW Guidelines "include general principles/guidelines to be observed by Departments, Statutory Bodies, Declared Authorities and Public Trading Enterprises as well as Sydney Water Corporation and RailCorp"

24 ACT Report p 28

25 DPC Submission p 5

26 See Section 3.1.1.2 (ii) and (iii)

While most jurisdictions identify purposes for which public funds should be used as per South Australia, all are silent on the scope of what constitutes an advertising campaign.

For example, 'reporting on Government performance' could include an internal brochure prepared (either in-house or outside) by a government agency on results of an initiative.

Such a brochure could well include a forward by the relevant Minister as well as Chief Executive and contain a photo of that Minister.

#### **(iv) Exemptions**

Changes to the processes in South Australia instigated in August 2009 allow for "short notice PCAG meeting and out-of session consideration where a quick response and short time lines for production go-ahead are required to ensure that campaigns produced on short time frames are captured within the formal process".<sup>27</sup>

At the time of this Select Committee's reporting, the Guidelines had not been amended to reflect this.

However, DPC in response to questions taken on notice, stated that the "current guidelines do not define the scheduling of PCAG meetings, however, an amendment will be made that reflects the approximate timing of regular meetings and the conditions under which an 'out of session' meeting would be convened".

They noted further that Departments were "reminded of their access to PCAG meetings in their regular business with the SCU Consultants and at a meeting of Senior Communications Managers in October (2009)".<sup>28</sup>

The Committee noted evidence given by the Chief Executive of the South Australian Department of the Premier and Cabinet, Mr Chris Eccles, that campaigns considered to be 'functional' as opposed to 'brand' advertising could be approved by SCU rather than through the formal PCAG process.<sup>29</sup>

It was noted by the Committee that differentiation between the two could be deemed to be subjective with some areas of 'grey' and they sought clarification how this differentiation was made.<sup>30</sup>

In response, DPC stated that:

"all marketing, communication, advertising, public information and promotional campaigns including broadcast, outdoor, print, promotion and web, regardless of the value of the activity is subject to the Premier's Communications Advisory Process, this includes all functional advertising."

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27 Chris Eccles, DPC Hearing 12 August 2009 p 15

28 Letter from Mark Clemow dated 30 October, 2009 p 1

29 NB those routinely approved by SCU being "routine, operation, retail or tactical" see page 4 of Report and DPC Hearing p 25

30 For example, the Committee noted that the advertisement tabled by the Chairperson re: Volunteers placed by Minister Koutsantonis was deemed by SCU to be 'functional' rather than 'brand' advertising



However, the response went on to say:

"given that there are approximately 13,000 functional advertisements placed by the Government each year, a standard template has been approved for use by all Government agencies.<sup>31</sup> The approved template can be used without formal approval for any functional advertisement where content is limited to text and approved logos (no design elements). Government agencies are allowed to submit advertisements direct to the Master Media Agency who provide a check against Branding Guidelines as part of their production service.

Where a proposed functional advertisement deviates from the approved standard template, formal approval is still given prior to the advertisement entering the public domain and as part of the normal approval process. This typically includes the following:

- Any Functional advertisement containing an image including photos, graphic or design elements
- All design templates for Functional advertising"<sup>32</sup>

In NSW a public awareness campaign may be approved out of session by the Minister for Commerce in 'limited circumstances'.<sup>33</sup>

The ACT Select Committee recommended that an exemption on caretaker arrangements be given to the Electoral Commissioner.<sup>34</sup>

The evidence was silent on whether such an exemption would occur in South Australia.

#### **(v) Cost as Criterion**

While SA does not differentiate between campaigns based on costs in a formal sense, as outlined previously the full approval process does not apply to all campaigns.

The SCU undertakes approval for PCAG for some with one criteria being where the "budget is of relatively low value".

In NSW the guidelines include a review and approval process whereby public awareness campaigns costing in excess of \$50,000 are subject to approval by the Cabinet Standing Committee on the Budget (BCC) before they may be implemented.

The ACT, in considering its proposed legislation on advertising guidelines, recommended that \$40,000 be the threshold (noting that this figure include any "identifiable and attributable production and development costs"). The Chair of the Committee reviewing the legislation presented an alternate view based on submissions received and proposed a figure between \$50,000 and \$100,000.

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31 Government of SA Branding Guidelines, p 14

32 Mark Clemow, response to Question on Notice dated 6 November 2009 p 1

33 The "limited circumstances" are unclear. The NSW Advertising Peer Review System is managed by the Department of Commerce. The NSW Guidelines are available from:

<http://www.advertising.nsw.commerce.nsw.gov.au/Advertising/Government+Advertising+Guidelines.htm>

34 ACT Report p 22

**(vi) Caretaker conventions**

NSW and Victoria make specific reference to the caretaker period within their guidelines.

In NSW there is a quarantine of all major advertising activities for a period of two months prior to a state election.<sup>35</sup>

The only advertising to be exempt during the quarantine period "will be publicity that relates to community health and safety issues, appropriate public information and services having clear commercial considerations (for example transport providers and tourism promotion)".

Victoria has the requirement that public funds should not be used for Government communications where the Government is in caretaker mode unless "the purpose of communication is related purely to achieving compliance with the law, ensuring public safety, personal security, encouraging responsible behaviour or the preservation of order in a crisis or emergency".<sup>36</sup>

The ACT Select Committee considered clarification of the prohibition on government campaigns 12 weeks prior to an election.

In submission to the ACT Committee, the Chief Minister suggested that the normal caretaker period of 37 days (ending on the end of the polling day) be more appropriate.<sup>37</sup>

The South Australian Guidelines do not explicitly identify any changes in processes, timing or exemptions to PCAG processes during Caretaker mode.

The Hon Rob Lucas provided some clarification on this point in response to questioning by the Committee of DPC representatives.

He said "with major advertising campaigns it involves the government nominating someone like the Treasurer and the Leader of the Opposition nominating someone like the Shadow Treasurer, and they come to an agreement that this is an essential campaign, like road safety or fruit fly. If something was not agreed to by the alternative government it does not go ahead and, if it is agreed, it goes ahead".<sup>38</sup>

**3:1:1:5 Comparison of SA and Commonwealth Government Guidelines**

The most obvious difference between the Guidelines of the Commonwealth Government and those of South Australia relates to the role of the Australian National Audit Office.

In July 2008 the Federal Government introduced Guidelines for Campaign Advertising.<sup>39</sup>

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35 Assumed to be prior to polling day

36 Victorian Advertising Guidelines : quoted ACT Report p 4

37 ACT Select Committee Report p 21

38 The Hon Rob Lucas, DPC Hearing p 38

39 <http://www.finance.gov.au/advertising/index.html>

These guidelines apply to all agencies subject to the *Financial Management and Accountability Act 1997*.

A key feature of the Guidelines is the requirement that all campaign advertising costing in excess of \$250,000 must be assessed by the Auditor-General who will report on the proposed campaign's compliance with the guidelines prior to commencement of the campaign.

In so doing, the Auditor-General gives "limited assurance" on the campaign's meeting the guidelines.

The campaign could still go ahead even if assessed by the Auditor-General as not being compliant with the Guidelines should the responsible Minister so decide.<sup>40</sup>

The Federal Government must make publicly available the cost of all campaign advertising by all agencies by way of a biannual report tabled in Parliament and published on the Department of Finance and Deregulation website.

The framework consists of 5 major guidelines:

1. Material should be relevant to government responsibilities
2. Material should be presented in an objective, fair and accessible manner
3. Material should not be directed at promoting party political interests
4. 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

The Commonwealth Cabinet Secretary can exempt a campaign from compliance with the guidelines on the basis of a national emergency, extreme urgency or other extraordinary reasons.

Where an exemption is approved, the Auditor-General is informed and the decision formally recorded and reported to Parliament.

### **3:1:1:6 Ontario, Canada Legislation**

The policies relating to publicly funded advertising in Ontario, Canada are of particular interest as this is the only jurisdiction giving evidence to the Committee in which guidelines have been legislated.

In his submission to the Committee, Mr Jim McCarter, Auditor-General of Ontario, noted that his Office first expressed concern about government advertising of a "party political" nature in the *1999 Auditor General's Annual Report*.

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<sup>40</sup> This differs from the Ontario model in which the campaign cannot go ahead if not approved by the Auditor General. (see Section 3.1.1.6)

In that Report it was noted that "Ontario had no criteria to help distinguish between informative government advertising and party-political advertising".<sup>41</sup>

The same report suggested that it would be "in the interests of improving public accountability for the government and/or the Legislature as a whole to consider the establishment of principles, guidelines and criteria that clearly define the nature and characteristics of taxpayer-funded advertising".

Between 1999 and 2003, four unsuccessful private members' bills were introduced into Ontario's Legislative Assembly.

On December 9, 2004 the Government Advertising Act, 2004 (GAA) was passed. This legislation gave the Auditor General the role of reviewing and approving body.<sup>42</sup>

The GAA applies to government offices, which the Act defines as a "ministry, Cabinet Office, the Office of the Premier, and any other entity as may be designated by regulation".<sup>43</sup>

The GAA includes standards to which each advertisement must conform.

If an advertising campaign is adjudged by the Auditor General not to comply with the Guidelines, it cannot go ahead.

In addition to the specific statutory standards described above, the GAA contains the following two provisions which allow the Auditor General to exercise discretion regarding "partisan" advertising:

"An item is partisan if, in the opinion of the Auditor General, a primary objective of the item is to promote the partisan political interests of the governing party; and

The Auditor General shall consider such factors as may be prescribed, and may consider such additional factors as he or she considers appropriate, in deciding whether a primary objective of an item is to promote the partisan political interests of the governing party"

In light of these additional powers, the Auditor General proposed additional factors to help inform use of those powers (See Section 3:1:2:1).

The GAA requires that the Auditor General review and pre-approve each advertisement or printed matter, regardless of campaign costs, where a government office proposes to pay: for the advertisement to be published in a newspaper or magazine, displayed on a billboard, or broadcast on radio or television; and/or for the printed matter to be distributed to households in Ontario either by bulk mail or by another method of bulk delivery.

By mutual agreement with the government, the Office of Auditor General review function also covers the 'first click' of any URL (website address) that appears in ads that are submitted for review.

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41 Mr Jim McCarter, Auditor General of Ontario, Submission to the Select Committee (September 1, 2009) p 2

42 The Office of the Auditor General began fully exercising its review responsibility under the GAA in December 2005

43 No additional entities have been so designated to date. Submission p 2

Advertising campaigns submitted to the Office of the Auditor General are reviewed by some or all members of an Ad Review Panel that comprises staff members and external advertising experts.

External experts are generally used "on an exception basis only where the ad may not be clear cut from a partisan perspective".<sup>44</sup>

Under the GAA, the Auditor General's decision is final.

The Auditor General is required to report annually to the Legislative Assembly on expenditures for each advertising item that has been submitted for review and report any contraventions.

In the three years up to the end of the 2008 fiscal year, the Office of the Auditor General reviewed more than 3,000 advertising items, with a combined cost in excess of \$200m (Canadian).

Mr Jim McCarter, Auditor General of Ontario, considers that 75% of these ads would be considered relatively straight forward informational ads; 10 - 15% required minimal input from the panel of experts reviewing them within the Auditor General's office; and, 10% required substantial time and input from the experts to determine the acceptability (or otherwise) of the advertisement.<sup>45</sup>

During the same period, seven contraventions of the GAA were reported.

While a review of the Ontario legislation found difficulties relating to such issues as defining "partisan" advertising, it concluded that the legislation "allows for transparency and accountability in the advertising process, and represents a positive step forward towards a shared understanding of the role advertising should play in government communication".<sup>46</sup>

### **3:1:2 Discussion on Current Arrangements in South Australia**

Submissions received by the Select Committee have supported the notion that governments have a right and a responsibility to undertake advertising campaigns funded by the public purse.

In particular, no submission received espoused the view that it was inappropriate for advertising campaigns to be funded publicly when their purpose is of benefit to that public - for example, where they educate or inform of rights and responsibilities and/or inform the public of government progress on initiatives also funded from the public purse.

While the Committee considered the concept of reporting on government progress to be less clear cut than informing or educating the public, it recognised that such activity is a requirement of government to be transparent and accountable.

Submissions received also acknowledged that the concept of "party political" or "partisan" is not clear and will be, necessarily, subjective.

Mr John High, in his submission to the Select Committee, made particular reference

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44 Ontario Submission p 4

45 Jim Mc Carter, cited in *What Does it Really Mean to be Partisan? A Analysis of Government Advertising in Ontario* Laura Dougan, 2007

46 Laura Dougan *ibid.* p 10

to the advertising undertaken by the government following the handing down of the 2009/10 Budget.

He considered that as the advertising covered "a very selective few items" it was not so much informative as "part of (the government's) campaign for re-election".<sup>47</sup>

Academics have grappled with this issue of 'party political'.

In his submission to the Committee, Professor Geoffrey Lindell Adjunct Professor of Law at the Adelaide University and the Australian National University and Professorial Fellow of the University of Melbourne, stated:

"It has been said that participation by the government in the system of freedom of expression is an essential feature of any democratic society. It enables the government to inform, explain, and persuade the public. But given the vast and superior resources at its disposal it brings with it serious dangers. Some limitations must be recognised in order to meet those dangers."<sup>48</sup>

Sally Young, of the University of Melbourne in her paper entitled *The Regulation of Government Advertising in Australia: The Politicisation of a Public Policy Issue* noted that "over the past ten years, as accusations of misuse for partisan purposes have grown, many external policy actors have tried to achieve a change in policy".<sup>49</sup>

Sally Young makes particular reference in her article to the "growing politicisation of the issue in an environment where those who seek to investigate and comment upon government advertising are severely discouraged".<sup>50</sup>

Jonathan Rose, in commenting on the situation in Canada, notes that traditional concerns about the inappropriate use of public funds for advertising ignores the "important realisation that all government advertising is a form of propaganda".<sup>51</sup>

He goes on to note that in attempting to remove partisanship from government advertising, there remains an inability to remove elements of persuasion, such as symbol and rhetoric.

### **3:1:2:1 Defining Terms**

Sally Young makes the point in her article *The Regulation of Government Advertising in Australia 2007* that while guidelines are useful, the fact that in most jurisdictions they are very specific in what they "determine to be partisan promotion (prohibiting, for example, mention of a party name) ...(they) do not pick up on the features of government advertising that lend more subtle partisan benefit."

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47 Mr John High, Submission to Committee (letter dated 17 June 2009)

48 Professor Geoffrey Lindell, Submission to the Select Committee (July 27, 2008) p 1

49 *The Regulation of Government Advertising in Australia: the Politicisation of a Public Policy Issue*. Journal, National Council of the Institute of Public Administration Australia 2007

50 *ibid.* p 438

51 Rose *Making Pictures in our Heads* p 47 cited by Laura Dougan

"At the same time, they are usually very broad about what they do allow in terms of promoting government 'achievements'. Such guidelines do not, therefore, necessarily prevent many types of mis-use of government advertising, especially the 'feel good' nature relaying 'improvements' in schools, hospitals, policing and transport."<sup>52</sup>

As in South Australia, the Commonwealth guidelines do not provide a definition of campaign advertising.

There is a description of what campaign advertising can be used for (its intent) and information of what activities can be considered campaign costs.

There is, however, a lack of clarity about what constitutes the full extent of campaign advertising in terms of what is put before the public.

The Australian National Audit Office (ANAO) suggests that there is "merit in providing clearer guidance on what is to be considered campaign advertising and therefore subject to the Guidelines".<sup>53</sup>

The Commonwealth Department of Finance is currently developing additional guidance on this for agencies.

Under Ontario Legislation, the factors used by the Auditor General to determine whether a primary objective of an item is to promote the partisan political interests of the governing party relate to how the message is likely to be received or perceived - that is, the "general impression conveyed by the advertisement or printed matter".<sup>54</sup>

Ontario developed Standards to assist agencies and the Auditor General on this point.

To reduce the likelihood of an item being perceived as partisan, the advertisement:

|                         |  |
|-------------------------|--|
| <b>should...</b>        | <ul style="list-style-type: none"> <li>• contain subject matter that is relevant to government responsibilities (i.e. specific matters dealt with should be ones in which government has direct and substantial responsibilities)</li> <li>• present messages objectively, both in tone and content</li> <li>• emphasise facts and explanations rather than political merits of proposals, and</li> <li>• outline factual information clearly and accurately and present it in unbiased and objective language</li> </ul>  |
| <b>should avoid....</b> | <ul style="list-style-type: none"> <li>• using colours, logos, or slogans commonly associated with any recognised political party</li> </ul>   |
| <b>should not.....</b>  | <ul style="list-style-type: none"> <li>• contain inappropriate personalising (e.g. by personally attacking opponents or critics)</li> <li>• directly or indirectly attack the policies, opinions, or actions of a person or entity who is critical of the government, such as opposition parties..or representatives of other levels of government</li> <li>• be aimed primarily at rebutting the arguments of others, and</li> <li>• direct readers/viewers/listeners using an URL to a web page or pages, the content of which may lead the Auditor to conclude the item does not meet the standards of the Act</li> </ul> |

52 p 445

53 *Taxation Reform: Community Education and Information Program (1998:30)*

54 Ontario Canada Submission p 7

### 3:1:2:2 Role of Auditor General

In South Australia, the Auditor General has the power to review advertising campaigns.

This power is in keeping with the usual ability for the Auditor General to report to Parliament on issues considered to be significant and through the separate reporting lines to Parliament (and the publicity these often engender).

The South Australian Auditor General reviewed, at his own discretion, five (5) advertising campaigns in the 2008/09 year.

These were:

- "Go for 2 & 5"
- State Budget 09/10
- Water for Good
- River Murray, and
- Royal Adelaide Hospital

While he has yet to report on his findings, the last two were considered by the Chief Executive of DPC to be outside the Guidelines that is, did not adhere to the approval process.

In his evidence to the Committee, Mr Eccles considered this breach of the guidelines to be "technical but substantive".<sup>55</sup>

The Royal Adelaide Hospital advertising campaign was approved through a Cabinet Submission process and therefore did not go through the PCAG approval process.<sup>56</sup>

In declining an invitation to address the Terms of Reference of the Select Committee on Government Advertising, the Auditor-General of South Australia, Simon O'Neill, noted that the "often raised contentious issue of appropriate (public interest) versus inappropriate (party political) advertising, (has) been the subject of comment in previous Auditor-General's Reports to Parliament in this State".<sup>57</sup>

Further, he expressed a view which has been long debated in various jurisdictions about the appropriate role for Auditors-General :

"I am very mindful of the statutory obligation of independence required of the role of the Office of the Auditor-General. The role does not extend to the involvement in formal legislation/policy/guideline making. Such involvement would undermine the objective and independent nature of the roles and responsibilities of the Auditor-General and the Parliament (including through Standing and Select Committees of Parliament)".<sup>58</sup>

Mr O'Neill drew the Committee's attention to the article by Sally Young referred to earlier.<sup>59</sup>

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55 Mr Chris Eccles Chief Executive, DPC, Hearing p 26

56 More detail on the RAH campaign is under Section 3:2 Cost of Government Advertising

57 Letter to Committee dated 29 June 2009

58 *ibid.*

59 *The Regulation of Government Advertising in Australia: The Politicisation of a Public Policy Issue*



In that article, Ms Young cites the discussions around the Commonwealth Government GST advertisements and the views of the ANAO at that time.<sup>60</sup>

She outlines the power and limits of the ANAO role and cites Barrett, the Auditor-General from 1995-2005, who said that about issues of probity:

"These are not matters that the Auditor-General has the mandate to resolve; rather, this is a matter for Parliament. It is not the role of the Auditor-General to directly hold the government to account. This is the role of Parliament and, ultimately, of the people".<sup>61</sup>

Ms Young also alludes to an alternate view as expressed by the NSW Auditor General in 1995:

"auditors-general who avoid topics which fall within their mandate, just because they are contentious, fail the community".

He argued "they ought to make lawful comment on matters which concern parliament and the public. And in most of Australia's nine jurisdictions, auditors are the only appointed public officers who are empowered to make such a contribution".<sup>62</sup>

An additional point made by Ms Young in her article relates to the perceived increasing politicisation of the public service.

She notes: "The position of the Auditor-General... needs to be considered in the context of the concerns not only about the politicisation of the debate...but also the politicisation of the public service."<sup>63</sup>

Further, she notes "one of the types of politicisation is the use of the public service for party purposes. As a public service function, government advertising (at the Commonwealth government level) has moved closer to the executive".

It should be noted that with the introduction of Guidelines within the Federal sphere, the Auditor-General now has a role in reviewing and approving campaigns.

In September 2009, the ANAO conducted a review of their role in overseeing campaign advertising at the Commonwealth level.<sup>64</sup>

The ANAO concluded that while the involvement of the ANAO "has often resulted in better targeted and supported campaigns"<sup>65</sup> there are a number of areas where the current guidelines could be refined or supplemented.

These included greater use of developmental research to inform the communication strategy and greater clarity around: the requirements of the cost benefit analysis; the boundary between business as usual communication activities and activities which are subject to the Guidelines; which advertising falls within the Guidelines; and, presentation of campaign documentation on agency websites.

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60 *Taxation reform: Community Education and Information Program (1998:30)*

61 Barrett, cited in *The regulation of Government Advertising in Australia December 2007* p 441

62 *Journal of Public Administration* p 450

63 *ibid.* p 447

64 *Campaign Advertising Review 2008-09* The Auditor-General Report No 2 2009-10 Assurance Report to Parliament.

65 *ibid.* p 10

The Committee questioned representatives of the ANAO on any additional costs incurred by the ANAO in undertaking the review of government advertising.

In response to this question taken on notice, Mr Holbert Senior Director Performance Audit Services Group ANAO advised that "the cost of the ANAO conducting reviews and associated activities over 2008-09 financial year was \$762,000".<sup>66</sup>

At the end of the financial year, 58 reviews had been completed.

Further questions from the Committee elicited the information that 2 full-time officers were engaged to work on government advertising with others seconded as required.

A review of the Ontario legislation concludes that "by delegating authority to an independent Officer of the Assembly (the Auditor General) the advertising review function is legitimated and has increased transparency and accountability in the advertising process".<sup>67</sup>

### **3:1:2:3 Legislative/administrative arrangements**

A number of submissions considered by the Committee supported the legislative format of managing government advertising (e.g. that in Ontario) as opposed to the administrative framework model currently in place in all Australian jurisdictions including the Commonwealth.

The main recommendation of Professor Lindell's submission was that "legally binding guidelines should be adopted to deal with the appropriate use of South Australian Government advertising with a view to preventing abuse of such advertising and, in particular, advertising which has, as its sole object and effect, the re-election of a government".<sup>68</sup>

On being questioned by the Committee as to how explicit guidelines needed to be to be effective, Professor Lindell declined to answer but urged caution in situations where things "are not fact but which are just being contemplated (where) we are getting close to advocacy rather than explanation."<sup>69</sup>

He went on to say that such 'advocacy' "is not accompanied by a level playing field, it guarantees that the opposition must then have its chance to put its point of view".<sup>70</sup>

In its submission to the ACT Select Committee the Democratic Audit of Australia pointed out that "the critical difference between (administrative guidelines and legislation) is the relative ease with which subsequent governments can amend or remove (administrative guidelines), while the legislative format proposed for the ACT would continue to bind future governments unless or until the Assembly passed alternative legislation".<sup>71</sup>

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66 Response to Question on Notice dated 7 October, 2009

67 Laura Dougan *What Does it Really Mean to be Partisan?* p 12

68 *ibid.* p 1

69 Professor Lindell Hearing 29 July 2009 p 2

70 *ibid.* p 5

71 cited in ACT Report p 10

Other evidence to the ACT Select Committee considered that it would be preferable to go down the administrative path before considering legislation on the grounds that a detailed statute together with guidelines could be 'unnecessarily complicated for users and might create inconsistencies'.

### **3:1:2:4 Timing**

In his evidence to the Committee, Professor Lindell expressed particular concern about the timing of some previous advertising at the Federal level, namely, the advertising of the benefits of the GST which took place "immediately before the 1998 election, and it was done in the run up to the period just before the parliament was dissolved, knowing that that was going to be an issue to be contested at the 1998 election".<sup>72</sup>

Sally Young has also cited the GST example and the tabling of a report by the Commonwealth Auditor General prompted by controversy over this advertising.

In this report *Taxation Reform: Community Education and Information Program* the ANAO found that, "independently of the controversy over the GST advertising, there were pre-election peaks in government advertising spending and these alone 'could raise questions in Parliament and the general community about the nature and purpose of government advertising' ".<sup>73</sup>

Professor Lindell has been very critical of appropriations being made for activity to extend beyond the life of a Parliament.

### **3:1:2:5 Appropriation**

Professor Lindell in his submission to the Committee recommended the introduction of legislation into the South Australian Parliament to enshrine not only:

"(a) the imposition of legal prohibition to prevent the Government and its agencies engaging in publicly funded advertising which does not comply with appropriate guidelines"

but also to

"(b) ensure that any appropriation of funds approving the expenditure of money for government advertising is conditional upon compliance with those guidelines"<sup>74</sup>

He noted that independent of legislation being introduced, the "Legislative Council should remember that it is in a position to withhold its approval to any appropriation of funds which are framed in such a general way as to permit the expenditure for partisan political purposes or what would otherwise constitute an abuse of power which upsets the level political playing field ".<sup>75</sup>

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72 Professor Lindell Hearing p 2

73 Journal of Public Administration p 441

74 Professor Lindell Submission p 2

75 *ibid.* by virtue of s4 of the *Constitution Act 1934 (SA)*, the Council has the legal power to withhold approval as distinct from amending money bills (ss 60 - 63 of that Act)

He notes that with such powers the Legislative Council should:

- "(i) never approve the appropriations in blank or appropriations for a category of departmental expenditure which has the effect of leaving the purpose of any expenditure in the discretion of government departments and agencies
- (ii) ensure that the appropriation of funds including those set aside for unforeseen emergencies cannot be used as a form of funding election campaign policies to be implemented in the life of a future parliament
- (iii) and ensure that the items of appropriation however broadly stated should only be taken as authority for the Executive to spend money to explain to the public programs duly enacted into law or otherwise legally established"<sup>76</sup>

### **3:1:2:6 Transparency/Reporting**

In his evidence to the Committee, the Chief Executive of the South Australian Department of the Premier and Cabinet, Mr Chris Eccles, noted that "the current guidelines covering government advertising compare more than favourably with other Australian jurisdictions, in terms of providing comparative levels of accountability and transparency in decision-making and the evaluation of campaign effectiveness".<sup>77</sup>

He went on to say that "I am aware that some members of this committee have previously raised concerns regarding the response of the department....to FOI requests encompassing advertising activity. A number of FOI requests are made ...each year and I am now confident that the current practice, as perhaps distinct from the past practice, is to disclose as much information as possible in relation to these requests within the constraints of the Freedom of Information Act".<sup>78</sup>

Mr Eccles also identified the requirement for "inclusion within the DPC annual report of the detail of major campaigns, including campaign expenditure and a summary of the evaluation outcomes of each campaign".<sup>79</sup>

The Committee noted inclusion of this information in the latest iteration of the DPC Annual Report, but questioned if this had occurred previously.

Mr Mark Clemow, Director, Strategic Communications Unit, DPC provided the following information:

"Information about major advertising campaigns by government was included as part of the 2008/09 Annual Report by the Department of Premier and Cabinet. The Department itself reports on its own advertising expenses.....(and) in the most recent report, the Department also separately reported on campaigns run by other government agencies.

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<sup>76</sup> For example, not as with WorkChoices cited previously where legislation had not been presented to Parliament

<sup>77</sup> Chris Eccles, Hearing p 14

<sup>78</sup> *ibid.*

<sup>79</sup> *ibid.*

As part of the review of processes announced by DPC's Chief Executive Mr Chris Eccles, a need for consistent reporting of advertising expenditure was found. As a result, it is intended that in future PCAG will be collecting information about all facets of advertising expenditure to supplement what is already available to them through the Master Media Agency contract. PCAG will be providing guidelines and a template to agencies for routine reporting on advertising expenditure in their individual Annual Reports and DPC will be publishing a consolidated list of major advertising expenditure by agency in its Annual Report."<sup>80</sup>

In his evidence to the Committee, Mr Eccles stated that the "scope of PCAG approval processes in South Australia is amongst the most extensive of all jurisdictions and encompasses the communications of all government entities".<sup>81</sup>

The Chairperson of the Committee, while noting that the Auditor General had the power to report directly to Parliament on government advertising as on other matters, raised the issue of the NSW initiatives introduced in 2007 following an inquiry by the NSW Auditor General.

The Chairperson asked Mr Eccles if it were possible to take up these initiatives in this State namely; to publish each year a detailed whole of government report on advertising; and, to put a list of advertising campaigns approved by Cabinet or by a Minister on a government website.

Mr Eccles responded that there was nothing stopping the introduction of such measures in SA and he will "take those propositions on advisement".<sup>82</sup>

At the Commonwealth level, the Australian National Audit Office is required to report biannually to Parliament on government advertising.

### **3.1.2.7 Compliance**

In his evidence to the Select Committee, the Chief Executive of DPC responded to the Premier's statement on public radio that "the rules have not been abided by over many years"<sup>83</sup> by acknowledging that over the past 3 years 24 of the 238 campaigns undertaken, were deemed to be non compliant with the Guidelines.<sup>84</sup>

On further questioning by the Committee, Mr Eccles noted that "the overwhelming majority of cases involved a manager of the Strategic Communications Unit and the then Chair of PCAG, and often involved representatives of line agencies. So, if you like, the Chair of PCAG...and the most senior public servant in charge of public communications operated as, if you like, an executive of the PCAG group in coming together...to determine the campaign activity."<sup>85</sup>

Mr Eccles stated that the 24 campaigns found to be non-compliant were found to be so because they were approved outside the formal process rather than having been found subsequently to having breached the guidelines.

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80 Mark Clemow, response to Question on Notice dated 10 November, 2009

81 DPC Hearing p 29

82 Chris Eccles, DPC Hearing p 29

83 Premier Mike Rann on radio, 12 August 2009

84 Chris Eccles DPC Hearing, p 17

85 Ibid, pg 17

The Committee noted, however, that two of these 24 campaigns are being reviewed currently by the Auditor General who has yet, at time of writing, to report on his findings on whether or not they comply with the guidelines.

### **3:1:2:8 Use of Government faces/voices**

A number of academics have commented on the difficulty in separating information and propaganda and the subtlety of use of image and rhetoric in successful advertising.<sup>86</sup>

Jonathan Rose notes that in attempting to remove partisanship from government advertising, there remains an inability to remove elements of persuasion, such as symbol and rhetoric.

In August 2009 the Premier of South Australia, the Hon Mike Rann, banned the use of the faces, images and voices of the Premier and his ministers in radio and television advertising.<sup>87</sup>

The Committee questioned Mr Eccles on why this ban was limited to the electronic media and did not include print media.

Mr Eccles was not able to answer why print was excluded but "on the face of the announcement it's not covered, but I have yet to discuss with the Premier whether his intent is to extend it beyond the radio and television to other things".<sup>88</sup>

Subsequently, Mr Eccles provided a copy of the message sent to all agencies and Ministerial offices on 17 August 2009 about depiction of Politicians in Advertising.

That message clarified that the Premier had expanded the ban on politicians appearing in radio and television advertising to all forms of advertising "including any functional or brand advertising in print".<sup>89</sup>

The Committee noted that at the Commonwealth level while the current guidelines do not allow a Federal politician to 'front a television or radio ad', it is within the provisions of the guidelines for the government to exempt a campaign. Therefore, ultimately the decision lies with the Government.<sup>90</sup>

In response to a question by the Select Committee on a similar exemption being applied in South Australia, Mr Mark Clemow responded that:

"updated Guidelines will state there is no exemption to Ministers appearing in TV, radio or press advertising. Departments have been advised by circular from the Strategic Communications Unit that Ministers cannot appear in any advertising booked through the Government's Master Media Agency. The circular indicates that in the case of programme guides and books published for events, such as the Adelaide Festival, or Public Sector Week, and distributed as a paid insert to a newspaper the Minister's image may appear as part of a foreword endorsement relevant to their portfolio, but it cannot appear in any form of advertisement for that event, or in any other context in the publication."<sup>91</sup>

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86 Sally Young, Professor Lindell, Jonathan Rose

87 Refer Press Release

88 Chris Eccles, Hearing p 24

89 *A Message from Strategic Communications - Depiction of Politicians in Advertising* listed in Appendix 3

90 ANAO Hearing p 46

91 Mark Clemow, letter in response to questions taken on notice, dated 30 October 2009

## 3:2 The Cost of Government Advertising (Term of Reference b)

### 3:2:1 Introduction

South Australian Government agencies are funded annually through the budget process to deliver specific outcomes.

Currently, specific expenditure items relating to administrative expenses, advertising and marketing are generally not separately specified within this total budget.

While the Department of the Premier and Cabinet is required to report on total government advertising in its Annual Report (commenced in 08/09 Annual Report), Mr Mark Clemow of DPC noted:

"neither DPC nor PCAG has control over expenditure on advertising by the individual agencies. This expenditure is part of the appropriation of the agency, and is assessed and allocated in the usual way. Whilst PCAG will provide advice on the value of advertising expenditure relative to the objectives of the campaign, it is not within PCAG's jurisdiction to allocate or control the budget for the campaigns. This resides with the Chief Executives of administrative units. Similarly, PCAG will first see proposed expenditure at the budget stage and it is not until the evaluation is submitted (usually 12 months later) that the actual expense is formally submitted."<sup>92</sup>

#### 3:2:1:1 Cost capture

Currently, only South Australian Government expenditure on the placement of advertising through the Master Media Agency (MMA), is centrally captured and reported.

Advertising and marketing expenditure that is allocated at the discretion of individual Government agencies and entities and which is therefore **not** captured, includes:

- use of external consultants
- public and media relations activity
- media monitoring
- creative development and advertising strategy development
- production of advertising materials
- printing
- design
- web development and digital strategy
- technology e.g. text enabled phone numbers, 1800 numbers
- market research, or
- staff time

It should be noted that where expenditure on an advertising campaign has been endorsed through a Cabinet Submission, then the above would necessarily be included even if the breakdown between component parts were not specified.

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<sup>92</sup> Mark Clemow, response to Question on Notice 10 November, 2009

The South Australian example of the campaign around the Royal Adelaide Hospital is considered in detail in Section 3:2:7 and this gives indications of the expenditure on elements other than the media buy.

In its evidence to the Committee, the Australian National Audit Office estimated that "the cost of the non-media buy could (be) as much as 20% to 30% of the overall cost of the campaign, so it is not insubstantial".<sup>93</sup>

It was noted that the Commonwealth Department of Finance and Deregulation "will be reporting "at an increased level of included costs in their year-end report on government advertising".

### **3:2:1:2 Efficiency/effectiveness**

A major element in determining the appropriateness of a publicly funded advertising campaign relates to the evaluation of whether or not such a campaign represents the most cost effective means of achieving its desired ends.

The Chairperson of the Committee asked the ANAO for clarification on this issue as at the Commonwealth level, agencies are required as part of the current Guidelines to provide to the ANAO a cost benefit analysis of any proposed campaign.

He asked the ANAO whether "when you are applying a public interest test...do you take into account the fact that when it comes to assessing performance we have a parliament and a fairly free media -newspapers, television, radio- and lots of opportunities for the government to put its credentials out into the community without costing taxpayers anything? Is that one of the criteria you use? Do you ask the basic question: could this message have been got across to the community for free using other methods?".

In response the ANAO declared that this was the case 'absolutely' and noted that the key performance indicators and other performance measures used by agencies should also be "freely and publicly available".<sup>94</sup>

However, the Committee noted that in the existing Commonwealth Guidelines one specific guidelines which has an equivalent in South Australia, states that a suitable use of campaign advertising would be to "inform the public of new, existing or proposed government policies or policy revisions" - giving the government virtually *carte blanche* if considered in isolation.

In further questioning, the Chairperson of the Select Committee asked the ANAO on whether "there is an overriding public benefit test; in other words, you cannot take any of these guidelines in isolation and say that they justify a campaign".

In response, the ANAO conceded this as correct noting that "each individual element of the guidelines has to be read in the context of the overall package of guidelines and also, for example, the underlying principles".<sup>95</sup>

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93 ANAO Hearing p 50

94 ANAO Hearing pp 49,50

95 ANAO Hearing p 48



While it has been acknowledged by the ANAO that some agencies are having difficulty with this requirement to provide a cost benefit analysis, they believe that the situation will improve over time.

An associated concern relates to the priority which should be given to campaign advertising.

Mr John High in his submission to the Committee, questioned the priority given to the use of public funds for this purpose rather than for services in need of funding injections - particularly those relating to people with disabilities and the Magill Detention Centre.<sup>96</sup>

### **3:2:1:3 Life of approval**

In the Ontario Canada legislation, approval granted for an advertising campaign has a life of one year.

At the Commonwealth level, the guidelines are not explicit on this point but the ANAO in placing review reports on its website would normally include "what you would call a sunset clause or a purpose clause so that it is clear that the review report is for that phase of the campaign or for that period that the agency has advised us that they will be undertaking the campaign"<sup>97</sup> - usually relating to the biannual review periods.

The current SA Guidelines are silent on this aspect of approval although the timing of the campaign forms an element of the material required for the approval process.

While it could be assumed that varying the timing of the campaign would necessitate a revisiting of the approval process as would a significant varying of the budget, this is not explicit within the Guidelines nor was specific reference made in the evidence presented to the Committee.

Professor Geoffrey Lindell expressed concern in his submission about the possibility of approval and appropriation given for campaigns that may extend over the life of a Parliament - and therefore, binding an incoming government.<sup>98</sup>

### **3:2:2 Roles of Strategic Communications Unit (SCU) and Premier's Communication Advisory Group (PCAG)**

The SCU and PCAG, while not responsible for allocating funding for communications activity are required to ensure efficient use of these funds both at the operational and strategic levels.

For example, they review proposed communications strategies to ensure the:

- material is produced and distributed in an efficient, effective and relevant manner with due regard to accountability, and
- the method or medium of communication is not manifestly excessive or extravagant in relation to the objective being pursued<sup>99</sup>

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96 Submission (17 June 2009)

97 ANAO Hearing p 61

98 See Section 3:1:2:5 Appropriation

99 DPC Submission p 15

Mr Chris Eccles in his submission to the Committee noted several initiatives taken by SCU and PCAG to reduce the cost of government advertising. These included changes to the *South Australian Government Recruitment Advertising Policy and Guidelines* which resulted in a projected reduction in expenditure by 24% (approximately \$270,000) over the coming year.<sup>100</sup>

The SCU also has responsibility for managing the Master Media Agency arrangements as a centralised and single point for negotiation and is able to generate significant savings through this centralisation of the aggregated media buy across government.

### 3:2:3 Master Media Agency (MMA)

As part of the MMA Contract, the following infrastructure must be provided:

- A minimum of 18.1 full time staff must be employed by the MMA on Government business each week
- An online booking and production workflow and archiving system for functional advertisements
- Syndicated media industry buying and research tools
- Proprietary strategy research and research tools
- Integrated media and financial systems
- 3 client satisfaction surveys
- A minimum of 70 hours training to Government clients

The Master Media Agency is paid fees calculated as a percentage of the Gross Media billings .

| <b>MMA income</b>      | <b>Jan 06-June 06</b> | <b>July 06- June 07</b> | <b>July 07 - June08</b> | <b>July08-June07</b>  |
|------------------------|-----------------------|-------------------------|-------------------------|-----------------------|
| Media service fees     | 709,592               | 1,361,174               | 1,558,881               | 1,824,367             |
| Production fees        | 27,692                | 62,101                  | 62,221                  | 218,504               |
| Campaign management*   | 0                     | 523                     | 67,246                  | 57,375                |
| Econometric Modelling* | 0                     | 4,134                   | 68,903                  | 45,554                |
| Media Research*        | 0                     | 4,201                   | 18,200                  | 14,787                |
| Expenditure Reporting* | 0                     | 1,260                   | 0                       | 0                     |
| Search*                | 0                     | 2,420                   | 3,000                   | 25,548                |
| Strategy*              | 1,201                 | 1,800                   | 1,500                   | 3,600                 |
| <b>Total Income</b>    | <b>\$738,485</b>      | <b>\$1,437,613</b>      | <b>\$1,779,951</b>      | <b>\$2,189,735.00</b> |

\*Optional service

The MMA contributes to reducing the cost of Government advertising by producing a range of savings on the cost of media space. Savings produced by the MMA Contract across all activity are the result of:

- Volume discounts negotiated on an annual basis for use by the Government based on total aggregated spend<sup>101</sup>
- Bonus and no charge community service airtime
- Value added opportunities negotiated at the time of individual media buys

Savings generated by the MMA are reported to SCU on a monthly basis.

Evidence provided by DPC identifies those savings for the last decade as being:

| <b>Period (January to December)</b> | <b>Savings (excluding GST)</b> |
|-------------------------------------|--------------------------------|
| 1998                                | \$3,606,292                    |
| 1999                                | \$5,335,233                    |
| 2000                                | \$7,308,074                    |
| 2001                                | \$6,733,559                    |
| 2002                                | \$5,456,604                    |
| 2003                                | \$6,181,363                    |
| 2004                                | \$5,999,772                    |
| 2005                                | \$5,926,626                    |
| 2006                                | \$5,419,050                    |
| 2007                                | \$6,565,841                    |
| 2008                                | \$6,734,281.00                 |

**NB These figures include Third Party advertising totals (approximately 13.5%)**

### **3:2:4 Expenditure on Media (through MMA)**

Expenditure on the placement of advertising, represented by gross billings at the time of insertion, through the MMA Agreement for the last 10 years is as follows:

| <b>Period (January to December)</b> | <b>Expenditure (excluding GST)</b>     |
|-------------------------------------|--|
| 1999                                | \$21,762,212 (incl. Third Party spend) |
| 2000                                | \$22,871,053 (incl. Third Party spend) |
| 2001                                | \$21,318,164                           |
| 2002                                | \$21,137,007                           |
| 2003                                | \$20,820,532                           |
| 2004                                | \$24,140,340                           |
| 2005                                | \$26,468,165                           |
| 2006                                | \$26,113,220                           |
| 2007                                | \$27,968,901                           |
| 2008                                | \$34,202,054                           |
| 2009 (January to <b>June</b> )      | \$23,034,283                           |

**NB Non Government entities may apply for Third Party status in order to access the MMA**

The DPC Submission to the Committee provided details of the increase of approximately 22% which occurred in the media spend between 2007 and 2008. Details of the key factors effecting this increase related to specific campaigns across a number of agencies.

<sup>101</sup> SCU represents Government at the annual rate negotiations for television, radio, print online and outdoor mediums to ensure significant volume discounts for Government are achieved against market rates. Once complete, outcomes are reviewed by an independent media adviser, currently EnthDegree. EnthDegree is commissioned to review the outcomes of negotiations and compare them with the marketplace to ensure that Starcom has achieved the best outcomes for Government. SCU then presents these outcomes to PCAG for endorsement for the Premier's approval.

On being questioned by the Committee on the expenditure of in excess of \$23m in the first 6 months of 2009 Mr Eccles did not dispute that it was reasonable to assume that for the full 2009 calendar year total expenditure (media buy) would likely be in the vicinity of \$40 - \$45m.

Subsequently, DPC provided the Committee with the 43 PCAG approved campaigns planned for execution between 17 September 2009 and 30 June 2010 inclusive.

These included total advertising budgets (excluding staff time) and totalled \$19,372,384.<sup>102</sup>

Mr Eccles expressed confidence that despite some campaigns not having gone through the PCAG process, all expenditure on media buy had been captured by the MMA and therefore that the \$23m expenditure to date was accurate.

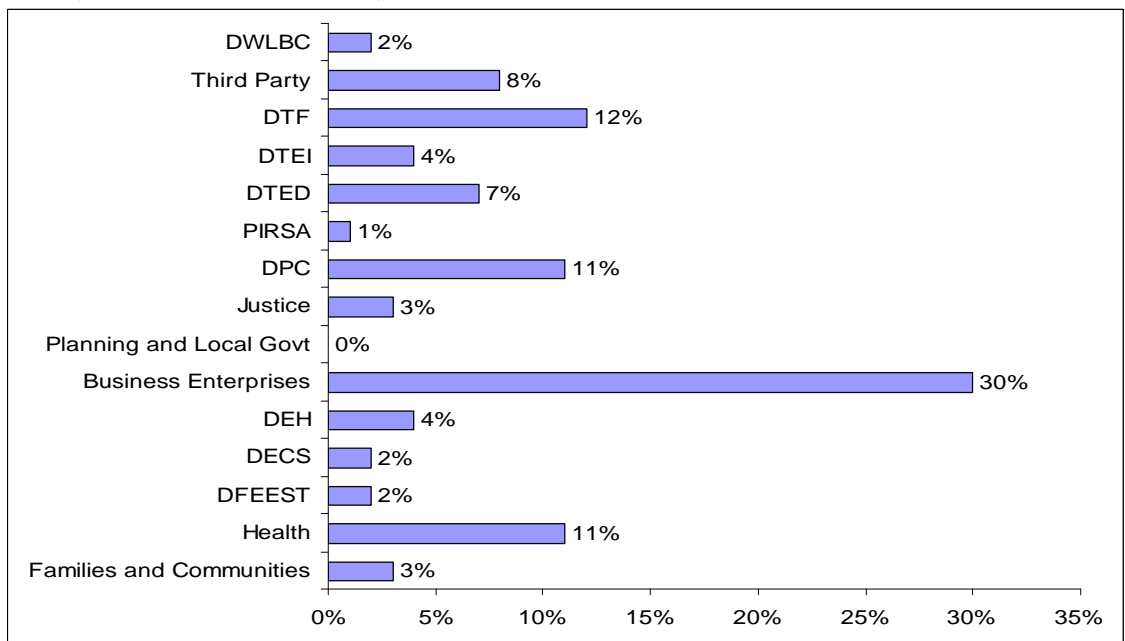
The Committee noted the significant difference between media buy and total campaign expenditure and noted further that this figure could change with other campaigns approved after 17 September for running within the 2009/10 financial year.

### 3:2:5 Media Expenditure by Department 2009 (January to May)

The Departments by size of media spend have been identified for this period as being:

- Government Business Enterprises
- Department of Treasury and Finance
- SA Health
- Department of the Premier and Cabinet
- Department of Trade and Economic Development

#### TOTAL MEDIA EXPENDITURE BY GOVERNMENT DEPARTMENTS IN 2009 (AS AT 30 JUNE 2009)<sup>103</sup>



The media spend of the above departments includes all sub-entities reporting to those departments.

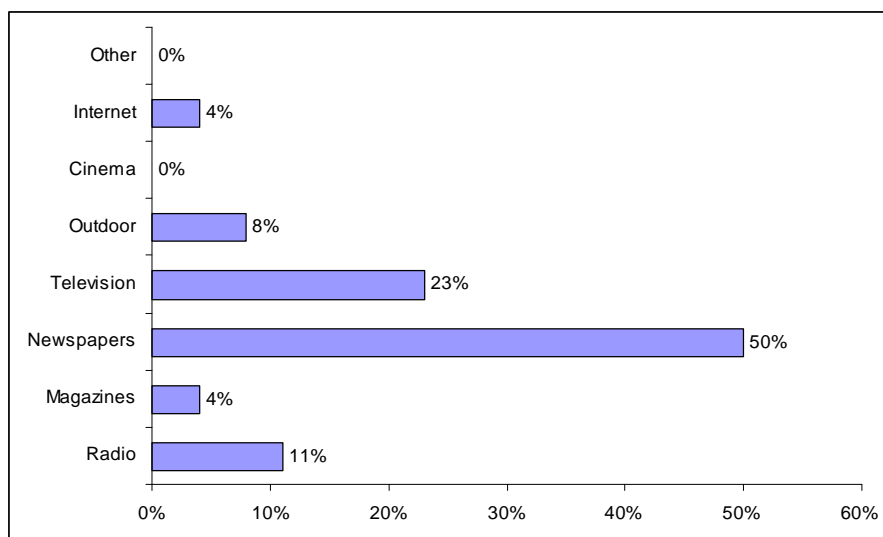
For example, the SA Museum, Adelaide Festival Centre Trust and Adelaide Convention Centre all report through the Department of the Premier and Cabinet.

The media spend for all entities for 2008 was provided by the Department of Premier and Cabinet as part of their submission to the Committee.

### 3:2:6 Media expenditure by media type

Government advertising expenditure in specific media in 2008 identifies that the majority of that spend is in the press of which approximately 50% can be attributed to 'functional' advertising (notice of road works, recruitment, tenders etc.).

#### EXPENDITURE BY MEDIA TYPE (2008)<sup>104</sup>



### 3:2:7 Case Studies

#### 3:2:7:1 Royal Adelaide Hospital Relocation

In inviting the SA Health Department to give evidence to the Select Committee, the Committee attempted to address several issues raised previously in this report using the RAH campaign as a case study.

This particular campaign was of interest to the deliberations of the Committee as it:

- had been approved outside the formal PCAG processes
- was one of 5 reviewed by the Auditor General
- should give an indication of the cost breakdown of component parts (other than just media buy)
- centred around an issue on which the Government and the Opposition held publicly divergent views
- has been evaluated

**(i) Advertising campaign**

The RAH campaign refers to three component parts:

- explanation of the government's decision about building a new hospital (2007)
- community questionnaire (November, 2008)
- re-run of advertisements (February 2009 and April 2009)<sup>105</sup>

It formed part of SA Health's Healthcare Reform campaign of which hospital relocation formed a 'major component'.<sup>106</sup>

Other elements of the Healthcare Reform campaign included: GP Plus initiatives; emergency department reform; and, preventative strategies.

The Committee noted that the 'mock up' of a proposed new hospital room was erected at the Royal Adelaide Show. The evidence was silent on the cost of this initiative.

**(ii) Rationale**

In his evidence to the Committee, the Chief Executive of SA Health, Dr Sherbon, noted that one of the major elements in South Australia's Healthcare Plan is the promotion of healthy lifestyles and illness prevention and he considered that the new Royal Adelaide Hospital, "with a modern model of care ...will help patients link with community health support outside of the hospital setting - for example, through GP Plus or private service - and will help us to significantly change the way we provide care for all South Australians. Informing the community about the new hospital and the health reform program is a major step in the long-term strategic approach to changing people's behaviour over time."<sup>107</sup>

**(iii) Approval process**

The RAH advertising campaign is considered by DPC to be one of the 24 campaigns that did not comply with SA Government Advertising Guidelines as it was not approved formally through the PCAG processes.

It was one of the 5 campaigns reviewed by the Auditor General who has yet to report on his findings.

SA Health had not funded this campaign from its existing budget.

Approval and funding of the total Healthcare Reform package had been secured through a Cabinet Submission process in 2007. While PCAG and SCU had been involved in the Cabinet Submission, they " did not formally approved it; it was, of course, approved by Cabinet and not PCAG".<sup>108</sup>

The Cabinet Submission was informed by the SA Advertising Guidelines and by the SA Health Advertising Guidelines.

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105 Dr Sherbon in transcript of Hearing p 72 "there are three sets of advertisements. The 2007 set was the initiation of debate, if you like, by the explanation of a government decision and then the provision of a community questionnaire in 2008 and a re-run of the advertisements in 2009."

106 SA Health Hearing 17 September 2009 p 74

107 Dr Sherbon, *ibid.* p 66

108 *ibid.* p 78

There were three elements of the Royal Adelaide Hospital campaign between November 2008 and April 2009 that Dr Sherbon believed to be of interest to the Auditor General in his review: "a print questionnaire, a short round of television and radio advertising, and a second short burst of radio advertising only".<sup>109</sup>

The questionnaire of November 2008 had been approved out of session by the then Chair of PCAG<sup>110</sup>

In February 2009 SA Health was advised by the Strategic Communications Unit of DPC that the television and radio advertising components of the campaign did "not need to go to a full session of the Premier's Communications Advisory Group given that a cabinet decision had been taken in 2007 around the base campaign."<sup>111</sup>

Dr Sherbon added that "the advice provided to us was that it could be approved out of session by the then Chair, and this occurred".<sup>112</sup>

In April 2009 there were further re-runs of the advertising campaign around the RAH and this was approved by the SCU.

#### (iv) Cost

In the Cabinet approval for the Healthcare Reform campaign, a four year expenditure was approved by Cabinet of:

- 2006-07: \$858,000
- 2007-08: \$323,000
- 2008-09: \$354,000
- 2009-10: \$680,000

A total budget over 4 years of \$2.215m.

This was in addition to the \$1.66 m spent on recruitment and the \$324,000 spent on functional advertising over the 2008-09 financial year by SA Health.<sup>113</sup>

This budget included all elements of the spend except staff costs. That is, it was not limited to the media buy. Apart from information relating to the media buy, this information has not been provided to the Committee.

The media buy component was:

- 2006-07: \$247,000\*
- 2007-08: \$100,000\*
- 2008-09: \$229,000
- 2009-10: none to date (September)

A total of \$576,000 to date.\*

**\*amended following evidence**

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109 Dr Sherbon Hearing p 65

110 Mr Flanagan

111 Dr Sherbon *ibid.* p 65

112 *ibid.*

113 The evidence was silent on the total SA Health advertising, marketing, communications budget

These figures would have been included in those provided by DPC relating to the Master Media Agency (see Section 3:2:3).

On being asked by the Committee if the 2009-10 budget for the RAH would be spent before February 2010, Dr Sherbon replied that this had not yet been scheduled.

Ms Schubert, Executive Director Communications, SA Health added that while not decided, consideration was being given to such aspects of the health reform budget as GP Plus and chronic disease management, and "I believe we are looking at the HealthDirect call centre again, as this portion of the campaign which we would be endeavouring to have on-air in the next couple of months".<sup>114</sup>

In response to questions from the Committee on how much of the total budget of \$2.215m over 4 years was allocated for the Adelaide Hospital campaign, Dr Sherbon reported that during the 06/07 financial year communications activities focussed on the Health Care Plan, including information regarding the new hospital and other hospital changes.

"It is not possible to break down the budget expenditure for the 06/07 financial year to provide 'new hospital' communications cost.

For financial years 07/08 and 08/09 some work focussed on public awareness of the 'new hospital'; however, this was a minor component of the whole "Health Care Plan/Building Better Hospitals" campaign. This amounted to \$133,000.

For 09/10, it is expected that the main focus will be on broader "Health Care Plan/Building Better Hospitals" campaign and will not be 'new hospital' specifically."<sup>115</sup>

In response to questions asked by the Committee on how much had been paid for research and evaluation, Dr Sherbon stated that total payments for financial years 06/07, 07/08 and 08/09 were:

- *Square Holes* evaluation of \$37,400
- *Harrison Research* of \$132,000 for market research of which only a component was related to health reform

#### **(v) Effectiveness**

Dr Sherbon in his evidence to the Committee, noted that although the advertising campaign had not gone through the formal PCAG approval process, it had been evaluated as per the requirements of the PCAG Guidelines. The evaluation was conducted by Square Holes and a copy of the report was provided to the Committee by SA Health (Appendix3).

In response to questions from the Committee on how the campaign could be tested for 'success', Dr Sherbon noted that "the objective of the campaign was to inform people so (a) you need recognition and (b) you need people to have the information presented to them in an understandable form. They will make their own decision about whether or not the proposal in the advertisement is a good one; that is for individuals to decide. We are not seeking behaviour or opinion change in this

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114 Ms Schubert, SA Health Hearing p 78

115 Dr Tony Sherbon, SA Health response to Questions on Notice 412



particular campaign. We are seeking to provide information."

He noted further that "There may be some elements of the evaluation that explore whether people's opinions changes, but that was not the objective of the advertisement. The objective was to provide information."<sup>116</sup>

### **3:2:7:2 Water for Good**

This advertising campaign was funded through submission to the budget process and therefore, as with the RAH campaign, funded in addition to agency communications and marketing budgets.<sup>117</sup>

This program was one of the five advertising campaigns reviewed by the Auditor General who is yet to report on his findings.

It was not one of the 24 campaigns considered by DPC to have been non-compliant with the Guidelines.

#### **(i) Advertising Campaign**

The advertising campaign "Water for Good" commenced in July 2009 with funding received for the 2009-10 financial year.

It comprises advertising on TV, radio and in the press and establishment of a website.

There are also Water for Good newsletters which are being produced and sent out electronically and on hard copy. There have also been a number of community events and a presence at the Royal Adelaide Show as well as a number of "targeted water saving activities".<sup>118</sup>

In relation to the website, to date there have been 4,047 visitors with 3,594 of those visitors downloading the full Water Plan.<sup>119</sup>

In response to a question from the Committee about how much of the campaign schedule involves television and radio advertising, as opposed to all other elements, the Commissioner for Water Security, Ms Robyn McLeod responded that the lead media would be television (78%) with radio being 9% and press 13%.

#### **(ii) Rationale**

In developing a comprehensive Water Security Plan for the State, Ms McLeod wanted to develop a comprehensive plan.

"So, this is not just a plan about infrastructure, it is a plan about diversifying water supplies. It is a plan through to 2050; it looks at governance issues, new legislative frameworks, the regulatory environment we require for water markets and, particularly, how we are going to open up water to more innovation and opportunities for competition in the future.

It also looks at demand management and, very importantly, community education and engagement."<sup>120</sup>

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116 Dr Sherbon, *ibid.* p 77

117 Although it was coordinated with marketing and communication expenditure being spent by SA Water.

118 Ms Robyn McLeod, Commissioner for Water Security Hearing p 81

119 *ibid.* p 81

120 *ibid.* p 79

Ms McLeod noted that the campaign was designed to serve two primary purposes: assuring new investors and business that there would be sufficient water for their needs (hence the references to a desalination plant); and, promoting water saving (hence the community education element).

Ms McLeod noted in her evidence that "the cheapest water we will ever get for South Australians is water we do not use. All the evidence shows that demand management and good community education does, in fact, have an effect on how much water people use."<sup>121</sup>

### **(iii) Approval process**

Approval for the advertising campaign was by way of Cabinet Submission.

In her evidence to the Committee, Ms McLeod noted that the PCAG approval processes were adhered to and were considered by the Auditor General to be compliant with the Guidelines.

### **(iv) Cost**

A separate community engagement and education budget of \$2.4m was approved for this element of the Water for Good campaign for the financial year 2009-10.

This is in addition to the \$2.1b allocated in the 2009-10 State Budget for infrastructure around water over the next four years.

It is also additional to the communication and marketing budget of associated agencies such as SA Water.

The parameters of the campaign were informed by market research.<sup>122</sup>

In response to a question taken on notice, the Ms McLeod provided the information that the market research underpinning the Water for Good campaign totalled \$38,000.

Further, in response to questions on how much of the preliminary campaign expenditure is likely to be spent by February 2010, she responded in a letter to the Committee that "70% will be spent before February next year, subject to campaign evaluation and tracking".<sup>123</sup>

In identifying the component of the Water for Good Campaign relating to water security, the Committee noted that responsibility for co-ordination of this campaign lay with officers from the Department of Water, Land and Biodiversity Conservation (DWLBC) and SA Water.

The expenditure on that campaign was "\$1.43m of which \$1.3m was contributed by SA Water and \$124,500 was contributed by DWLBC".<sup>124\*</sup>

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121 *ibid.*

122 *Beatwave* was commissioned to undertake this research and will be also undertaking evaluation.

123 Letter dated 2 October, 2009 from Executive Officer to the Commissioner for Water Security

124 DPC response to Questions on Notice items 101, 107 & 108 dated 29 September, 2009

\* The Committee noted the disparity in the figures provided

### (v) Effectiveness

As this advertising campaign has only been run relatively recently, evaluation has not been undertaken. It will be conducted by *Beatwave* who conducted the initial market research.

Some idea of the effectiveness of the campaign can, however, be gauged from the numbers accessing the website which is mentioned in the advertisements.

Further, Ms McLeod noted that "if you wanted to spend \$2.4m, for example, on buying water, it would buy about a gigalitre of water on the permanent market... I think for the same amount of money that we are using over a year, we will save much more than that in demand management."<sup>125</sup>

To support this view Ms McLeod provided evidence from Queensland which indicated the decrease in water usage when aligned with community education campaigns (Appendix 3).

## 3:3 A Process for Dealing with Complaints about Government Advertising from the General Public (Term of Reference c)

### 3:3:1 South Australia

#### (i) Number of complaints

In introductory comments to the Committee at the DPC Hearing, the Chief Executive of DPC, Mr Eccles, noted that "the number of complaints relating to government advertising as made through the various channels available to the public over the past 6 years has been minimal".<sup>126</sup>

He noted further that "none of the complaints made to the Advertising Standards Board regarding government of South Australia advertising have been upheld."

In questioning Mr Eccles, the Chairperson of the Committee noted that "complaints fall into a couple of categories. There are people who might determine who the appropriate agency is and write to them and seek a response" and there are people who "write to *The Advertiser*...and set out their complaint".

Mr Eccles did not view the public service as having a role in monitoring community feedback provided via the media.

He declared himself to be "not familiar with the formative or some of the evaluation techniques that are used to assess campaign activity" but concluded that "the reliability of taking the temperature of qualitative contributions through blogs and talkback radio probably is not worth the investment of a large part of the Public Service's time".<sup>127</sup>

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125 Commissioner for Water Security Hearing p 87

126 Mr Eccles, DPC Hearing. NB The evidence was silent on what the appropriate channels are or could be.

127 Mr Eccles *ibid.* p 37

## **(ii) Role of Ombudsman**

In his submission to the Committee the SA Ombudsman, Mr Richard Bingham, noted limitations on his office for considering complaints on government advertising from the general public.<sup>128</sup>

In the "absence of any new legislative authority, the legal jurisdiction of the office to consider a complaint ...would be determined by the *Ombudsman Act 1972*."

He noted further that this Act limits his role to administrative matters and not matters of policy.

Thus, to the extent that a complaint "concerned the purpose of a tax-payer funded Government advertising campaign, rather than how the campaign was carried out, it is likely to be beyond (the Ombudsman's) jurisdiction."

Finally, it was noted by Mr Bingham that there may be government bodies who fall under the current Guidelines but who are not within the ambit of the Act governing the role of the Ombudsman.

## **(iii) Access to information by general public**

The Committee noted that it was not clear how the general public could gain information to inform arguments for or against a publicly funded advertising campaign.

It was noted that while a scan of the internet provided some preliminary information, referral was made to the SCU website for additional information/clarification.<sup>129</sup>

Access to this website is by contacting the SCU by telephone and getting a password to enable access to the site. It was clear that this was not just a routine matter.

The site was designed specifically for government agency use and, because it was purported to contain sensitive commercial information (relating to the MMA arrangements), not appropriate to be accessed by the general public.

It was noted in particular, that information not readily available to the general public included the guidelines relating to what is appropriate use of public funds for advertising campaigns - the very issue likely to be at the centre of community dissatisfaction and/or complaints.

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128 Richard Bingham, Ombudsman of South Australia submission to the Select Committee (17 June 2009)  
 129 [www.premcab.sa.gov.au/.../gosa\\_advertising\\_guidelines\\_032009.pdf](http://www.premcab.sa.gov.au/.../gosa_advertising_guidelines_032009.pdf)

### **3:3:2 Complaints Under Legislative Model - Ontario**

Complaints to the Ontario Office of the Auditor General from the general public about government advertising are "now virtually non-existent".<sup>130</sup>

While the Office does not have a specific process for dealing with such complaints, the Office has "sufficient discretionary powers to consider any complaints on the subject and to investigate the matter as apart of its advertising oversight function or, alternatively, to consider the matter as part of its legislative audit responsibilities."<sup>131</sup>

From the Auditor General's perspective "if an independent body/office is assigned responsibility for providing oversight over government advertising, the same independent body/office would be best positioned to also deal with any public complaints on the subject".<sup>132</sup>

### **3:4 Any other matters (Term of Reference d)**

## **4. Acknowledgements**

The Select Committee extends its thanks to those who provided information and evidence to its inquiry, including the Department of the Premier and Cabinet, the Australian National Audit Office, Professor Geoffery Lindell and the Office of the Auditor General of Ontario.

Hon. MC Parnell, MLC  
**Chairperson**  
20 November 2009

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130 Ontario, Canada Submission p 4

131 *ibid.* p 4

132 *ibid.* p 5



*Dissenting Statement by the Hon I. K. Hunter MLC and  
the Hon C. Zollo MLC*

Whilst we are happy to associate ourselves with the parts of the report which relate to the evidence received by the select committee, we dissent from the recommendations made by the majority and make alternative recommendations below.

We note recent changes to the guidelines, announced by the Premier, will strengthen the approval process for government advertising.

We note that the current guidelines are undergoing their annual review, and will include those changes recently announced by the Premier.

We also note that the guidelines remain consistent with those of other jurisdictions and we would expect that consistency to remain.

We do not support the need for recommendations further defining the role of the Auditor General. The Auditor General already has power to investigate these matters and we would not want to restrict his broad current powers in any way. Claims of abuse of the guidelines for political purposes are as predictable as they are unsubstantiated and generally arise sometime prior to elections in pursuit of political gain.

Comments by the Victorian Auditor General on this matter should be noted:

***"Making assessments of the campaigns or campaign material, and whether or not they contain material that is party-political, is a matter of judgement. The assessment need, as much as possible, to be objective and not swayed by the public debate. Judgements, by their nature, can be difficult and can, at times, be a matter of fine balance, and open to interpretation."***

For reasons discussed below we do not support the recommendations mandating a reduction in advertising. This is a blatant political ploy just weeks out from an election and we reject the attempt to turn this committee report into electioneering propaganda. Since this committee was formed there have been comments made by members of parliament advocating or proposing the cessation of government advertising in order to fund other programs or projects. These comments demonstrate a lack of understanding of the role and importance of government

advertising. The view that all government advertising can be abandoned or severely curtailed prioritises cost over the community value of campaigns and the importance of the specific messages.

It is very easy to make these empty promises – it is much harder to do when faced with the reality of the need to advertise campaigns such as road safety, occupational health and safety, bushfire safety, and alcohol awareness. It would also impact on functional advertising for recruitment of doctors, nurses, and police; and in other areas including promoting TAFE course for trade training, and other important public information. Important industry and product promotion campaigns such as tourism and lotteries would also be adversely affected.

### Recommendations

We recommend:

1. That an annual report be prepared by the Department of Premier and Cabinet to report on South Australian Government advertising activities;
2. That the report be tabled in parliament as part of the annual reporting process;
3. That the report includes a summary of details of overall expenditure, expenditure by agency, expenditure by type (campaign and functional), expenditure by media, expenditure by ethnic and non-English speaking media, complaints and comments; *and*
4. That those agencies be required to report advertising activities in their annual reports including details of production, media placement, and research and evaluation activities; and that those agencies be required to report these details to DPC at six monthly intervals.

The Hon Ian Hunter MLC

The Hon Carmel Zollo MLC



## *Statement by the Hon M.C. Parnell MLC*

Much of the public criticism of government advertising campaigns over recent years has been around the lack of perceived public benefit from many of these campaigns. An increasingly cynical public sees many advertising campaigns as a blatant mis-use of taxpayers' funds for purely partisan political benefit. There is no public benefit in generic government advertising campaigns that simply declare that the government has a "vision" or that its most recent State Budget was a "good one". Such campaigns can and should be distinguished from those that provide useful information or advice to help South Australians access services, behave more responsibly or understand their rights and obligations as citizens.

Traditionally, access to a war chest of public funds for advertising has been regarded as one of the privileges of office. In the absence of checks and balances, it has become acceptable for the party in government to use taxpayers' funds to promote its policy positions, Budgets and various government initiatives regardless of whether or not there is any real or quantifiable benefit to the community.

All governments like to "control the agenda" and one of the best ways of doing this is to use paid advertising rather than rely on journalists and the mass news media to get a message across. If political parties choose to pay for such advertising from their own funds, that is a decision for the parties, but when taxpayers foot the bill, our democracy is diminished.

As the Committee's Report identifies, additional forms of scrutiny are required to ensure that taxpayers' funds are not mis-used.

I support the Committee's recommendations, however I would go further and propose additional recommendations as follows:

1. The Advertising Policies and Guidelines should be amended to ensure that advertising campaigns that do not pass over-riding public benefit tests are not publicly-funded. In particular, the following current Objectives of Government Advertising have been identified as leading to abuse:
  - a) "To raise awareness of a planned or impending initiative";
  - b) "To report on performance in relation to Government undertakings."These are too broad and should be deleted from the Guidelines. Remaining objectives in the Guidelines are adequate to cover genuine and appropriate taxpayer-funded advertising.
2. The Advertising Policies and Guidelines should be amended to ensure that before any advertising campaign is undertaken, opportunities for unpaid communications are fully explored and utilised. For example, the promotion of the general merits of a State Budget is adequately covered by general news and current affairs reporting without the need for paid advertising.
3. The Advertising Policies and Guidelines should be amended to ensure that the list of circumstances in which public funds should not be used is clarified. The Guidelines should make it clear that the prohibition on "partisan"

advertising applies in relation to political parties as well as to contentious policy issues. For example, the advertisements promoting the rebuilding of the Royal Adelaide Hospital and disparaging alternative proposals was clearly partisan and should not have been publicly funded. The fact that particular political parties were not named should not be seen as a justification for using taxpayers' funds to promote what was clearly a partisan position on a contentious political matter.

Mark Parnell MLC

## Appendix 1

### Index to Witnesses

Public evidence was received from the following persons and organisations:

Australian National Audit Office

Bob Holbert, Senior Director, Performance Audit Services Group

Michael White, Executive Director, Performance Audit Services Group

Lindell, Professor Geoffery

Premier and Cabinet, Department of

Chris Eccles, Chief Executive

Greg Mackie, Acting Deputy Chief Executive

Mark Clemow, Director Strategic Communications

Anika Johnstone, Communications Consultant

SA Health

Tony Sherbon, Chief Executive

Taryn Schubert, Executive Director Communications

Office for Water Security

Robyn McLeod, Commissioner for Water Security

## Appendix 2

### **Index to Submissions**

The following persons and organisations made written submissions to the Committee which were resolved to be published by the Committee:

Auditor General of South Australia  
Australian National Audit Office  
High, John  
Lindell, Professor Geoffrey  
Office of the Auditor General of Ontario  
Phillips, Warren-John  
Premier and Cabinet, Department of  
The South Australian Ombudsman

### Index to Additional Documents

The following are additional documents which were resolved to be published by the Committee:

Government of South Australia Advertising Policy & Guidelines March 2009

Guidelines on Campaign Advertising by Australian Government Departments and Agencies – June 2008

Government Advertising Act 2004 Ontario Canada

“Federal Government Advertising”- Australian Parliament Research Note No. 62 in 2003-04 - 21 June 2004

“Government advertising and accountability” The Senate Finance and Public Administration Reference Committee - December 2005

“What Does it Really Mean to be Partisan? An Analysis of Government Advertising in Ontario” - Laura Dougan - 1 June 2007

Chapter Five of the 2008 Ontario Auditor General’s report - Review of Government Advertising - 8 December 2008

“The Administration of Contracting Arrangements in relation to Government Advertising to November 2007” - Australian National Audit Office - March 2009

Strategic Communications Unit Website screen dumps of all pages and related Guidelines and Circulars, Department of Premier and Cabinet - 14 July 2009 and 1 October 2009

- Recruitment Advertising Policy and Guidelines - April 2009
- Government of South Australia Advertising Policy & Guidelines - March 2009 (Appendix 6)
- SA Government Website Standards - March 2009
- Branding Guidelines - August 2007
- South Australia. A brilliant blend. Policy and Guidelines - January 2007
- Guidelines for the Premier’s Communications Advisory Group Process - July 2006
- Department of Premier and Cabinet Circular 023 - Private Sector endorsements on Government public communications - July 2006

- Department of Premier and Cabinet Circular 009 - The Master Media Scheme for Government Advertising - July 2006
- Government of South Australia Sponsorship Guidelines and Principles - July 2006
- Guide to Briefing Advertising Agencies - September 2005

PCAG approved submissions January 2008 to June 2009 inclusive

Report by the Australian Capital Territory Legislative Assembly Select Committee on Campaign Advertising entitled “Inquiry into the Government Agencies (Campaign Advertising) Bill 2008” - August 2009

“Campaign Advertising Review 2008-09” Australian National Audit Office Report tabled in the Federal Parliament - 6 September 2009

Graph tabled in support of evidence given by Ms Robyn McLeod, Commissioner for Water Security at the meeting of 17 September 2009

A Message from Strategic Communications - depiction of politicians in advertising – 17 August 2009

SA Health Advertising Policy – October 2007

SA Health Campaign Evaluation by *SquareHoles*

PCAG approved campaigns planned for execution between 17 September 2009 and 30 June 2010 inclusive