

## Federal government advertising 2004–05

### Introduction

This Research Note updates the details of federal government expenditure provided in the Research Note *Federal government advertising* which was published in June 2004. It also outlines the controversy over the Howard government's WorkChoices advertising campaign and the findings of the Senate inquiry into government advertising.

### Background

Governments use advertising to inform the public about taxpayer-funded programs and promote government policies. Much of this advertising is apolitical: for example, advertising for defence recruitment, public services and tenders. However, several government campaigns have been contentious: for the scale of expenditure incurred and suggestions that there has been a blurring of the distinction between political and government advertising.<sup>1</sup> For example, the federal government's recent WorkChoices campaign was criticized for falling into the 'political advertising' category.

### Government advertising regulation

One of the areas of concern with government advertising is that there are few laws or regulations governing government advertising. The *Commonwealth Electoral Act 1918* provides limited annual reporting requirements for government advertising (section 311(A)) and the use of authorisation tags for the printing and publishing of government advertisements (section 328). The purpose of the authorisation tags, as described by law academic Graeme Orr, is to provide the public with details on the source of the information presented and to provide traceability.<sup>2</sup>

In the absence of other legal requirements, the Government Communications Unit (GCU) uses the *Guidelines on Australian Government Information Activities: principles and procedures* (the guidelines), promulgated in February 1995, as a checking framework for issues concerning government information activities (see the 2004 Research Note for details on the guidelines).

The most recent legislative measures put forward to seek an increase in regulation of government advertising include:

The Charter of Political Honesty Bill 2000 [2002]; the Electoral Amendment (Political Honesty) Bill 2000[2002]; the Government Advertising (Objectivity, Fairness and Accountability) Bill 2000; and the Government Advertising (Prohibiting Use of Taxpayers' Money on Party Political Advertising) Bill 2005. None of these private members' or senators' bills has been successful to date.

### Advertising expenditure

Table 1 details aggregate expenditures from 1991 to 2005 for advertising campaigns each costing \$10 000 or more which were registered through the Central Advertising System (CAS).<sup>3</sup> The third column of the table converts nominal expenditure to 2004–05 prices.<sup>4</sup>

**Table 1: Federal government expenditures for advertising campaigns over \$10 000**

	Nominal \$m	2004–05 prices: \$m
1991–92	\$48	\$63
1992–93	\$70	\$91
1993–94	\$63	\$81
1994–95	\$78	\$100
1995–96	\$85	\$106
1996–97	\$46	\$56
1997–98	\$76	\$92
1998–99	\$79	\$96
1999–00	\$211	\$250
2000–01	\$156	\$177
2001–02	\$114	\$126
2002–03	\$99	\$106
2003–04	\$143	\$149
2004–05	\$138	\$138
<b>TOTAL</b>	<b>\$1 406</b>	<b>\$1 525</b>

Sources: 1991–92 to 1995–96: Department of Administrative Services, *Annual Reports*; 1996–97 to 1997–98: supplied by the GCU; 1998–99 to 2002–05: Department of Prime Minister and Cabinet, *Annual Reports*.

### The WorkChoices campaign

The most publicly-debated government advertising in 2005 was the WorkChoices campaign run by the Department of Employment and Workplace Relations. According to the GCU, the campaign was designed to inform and educate the Australian public of proposed major reforms to Australia's workplace relations system.<sup>5</sup>

Segments of the communication strategy for the WorkChoices campaign were broadcast and published before the legislation had been introduced into parliament, which prompted some critics to denounce the advertisements as a 'government propaganda pitch'.<sup>6</sup>

In mid-October, four-page newspaper advertisements on the reform proposals were published as part of the WorkChoices campaign. Concerns were expressed about the legality of the advertisements as none carried authorisation tags. Technically the Government was found to be in breach of the Electoral Act and it quickly instructed officials not to repeat the mistake.<sup>7</sup> Questions were raised about the probity of the \$45.7 million<sup>8</sup> advertising campaign funded at taxpayers'

expense, and the Australian Council of Trade Unions (ACTU) asserted that the Australian taxpayers should not pay for the campaign.<sup>9</sup>

With support from the ALP, the ACTU sought a court injunction and a High Court ruling concerning the WorkChoices campaign. The majority of the High Court (5-2) ruled in *Combet v the Commonwealth*<sup>10</sup> that the monies spent on the WorkChoices campaign were sufficiently appropriated by the Appropriation legislation.<sup>11</sup> Accordingly, the expenditure was found to be constitutional and not an unlawful use of taxpayers' money.

The Prime Minister welcomed the High Court ruling as vindication of the Government's spending on advertising for the WorkChoices campaign. The Government introduced its Workplace Relations Amendment (Work Choices) Bill 2005 into parliament in October, and the legislation was passed, with some amendments, by both Houses in December 2005. Media reports estimate the total figure for the WorkChoices campaign will be up to \$100 million by October 2006.<sup>12</sup>

## Senate inquiry into government advertising

In November 2004, the Senate established an inquiry to focus specifically on the scope of, and existing controls on, Commonwealth government advertising. The inquiry was responsible for investigating the adequacy of the accountability framework for Commonwealth government advertising and spending since 1996. The Finance and Public Administration committee was chaired by Senator Michael Forshaw (ALP, NSW) and had a Labor Party majority.

On 6 December 2005, the committee tabled its report.<sup>13</sup> The committee was of the view that the decision in *Combet v Commonwealth* concerned the whole financial accountability framework and Parliament's role in monitoring and approving government expenditure. It recommended that the Senate refer to the committee the entire matter of 'outcome' budgeting and its impact on accountability.

The committee's report recommended that, before initiating an advertising campaign, the government must have legislation passed through the parliament to authorise the implementation of the policy, program or service being advertised. It also recommended that, where advertising covers a matter which does not require legislation, the government must approach the parliament to seek appropriation for the specific purpose of the campaign.

The committee also recommended that campaigns valued at \$25 000 or more be submitted to the Auditor General; and that the Auditor General should have a role in overseeing compliance and should report six monthly to parliament on his auditing of the advertising campaigns. It strongly recommended that the 1995 *Guidelines on Australian Government Information Activities* be updated urgently, and include a method to monitor compliance with the guidelines.

In addition, the committee's report recommended that, from the financial year 2005–06, every government agency and department should provide specific details on expenditure incurred for government advertising and associated market research activities.

As well as promoting more transparent individual departmental reporting, the committee also recommended that Australia follow the Canadian system of publishing a whole-of-government annual report on government advertising to improve public and parliamentary scrutiny of spending. At the conclusion of the inquiry, the committee members split along party lines with the government members commenting that they considered the report as partisan.

## Conclusion

Government expenditure on advertising and associated activities has been increasing. A range of opinions expressed during the Senate inquiry into government advertising suggested that there should be more accountability measures put in place to consider and review federal government advertising. However, the Minority Report suggested that the case for increased scrutiny of advertising had not yet been sufficiently made to warrant the establishment of an independent oversight body.<sup>14</sup> Given the government's response to the inquiry and its parliamentary dominance, it is unlikely that the findings of the inquiry will be implemented.

1. S. Miskin and R. Grant, 'Political Advertising in Australia', *Research Brief*, Parliamentary Library, no. 5, 2004–05, <http://www.aph.gov.au/library/pubs/rb/2004-05/05rb05.htm>
2. G. Orr, Submission 2, Senate Finance and Public Administration Reference Committee, Inquiry into Government Advertising, p. 12, [http://www.aph.gov.au/senate/committee/fapa\\_ctte/govtadvertising/report/report.pdf](http://www.aph.gov.au/senate/committee/fapa_ctte/govtadvertising/report/report.pdf)
3. CAS does not capture all pre- and post-campaign spending on government advertising.
4. For the 2004–05 dollars: the real figures have been obtained by adjusting with the 'implicit price deflator for non-farm gross domestic product'.
5. G. Williams, *Senate Committee Hansard*, Finance and Public Administration Legislation Committee, Supplementary Budget Estimates, 31 October 2005, p. 114, <http://www.aph.gov.au/hansard/senate/committee/S8857.pdf>
6. P. van Onselen and W. Errington, 'Coalition's IR Bill has already cost taxpayers a pretty packet', *The Canberra Times*, 3 November 2005, p. 17.
7. R. Peake, 'Abbot admits IR law ads illegal', *The Canberra Times*, 13 October 2005.
8. Senate Finance and Public Administration Reference Committee, Government Advertising and Accountability, Commonwealth of Australia, Canberra, 2005, p. 48.
9. *The Australian*, 'An Advertising Rort: Government advertising should not be party political', Editorial, 31 August 2005, p. 13.
10. [2005] HCA 61
11. R. Peake, 'Howard admits IR ads may cost \$40m', *The Canberra Times*, 22 October 2005, p. 5.
12. J. Fraser, 'Strewh!', *The Australian*, 11 October 2005, p. 11.
13. Senate Finance and Public Administration Reference Committee, op. cit.
14. Senate Finance and Public Administration Reference Committee, op. cit., p. 109.

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