



29 March 2010

Senator the Hon Joe Ludwig
Special Minister of State
Parliament House
CANBERRA ACT 2600



Dear Minister

Further to our conversation last Friday, 26 March 2010, I have now been provided with a copy of Dr Hawke's *Independent Review of Government Advertising Arrangements* dated 26 February 2010 and the proposed revision of the Government's advertising guidelines.

As mentioned to you, I am concerned that neither I nor my office was consulted in respect of the completed review report, nor provided with the opportunity to inform the Government's consideration of issues related to the administration of government advertising. Dr Hawke did speak to me during the course of his review, but there has been no further consultation with me, or my office, in respect of his report. This is in marked contrast to the arrangements for the implementation of the Government's policy platform following the 2007 election when our views were sought on the proposed approach, and the draft guidelines to apply. At that time, the Government was keen for my office to be directly involved in the review of advertising campaigns, consistent with various statements made by Mr Rudd and Shadow Ministers in the lead up to the election.

The review report makes the claim "*In essence, the role that the Auditor-General has been given has undermined the proper accountabilities of Secretaries for managing their departments and the Auditor-General's proper place [in] the scheme of things.*"¹ This statement seriously misunderstands the role of Secretaries and the Auditor-General under the current arrangements. Secretaries have sole responsibility for certifying compliance with the Government's advertising guidelines; the role of my office is to report to the responsible Minister on whether anything has come to attention from our review of the certificate, and information supporting the certificate, to suggest that the relevant campaign does not comply in all material respects with the requirements of the advertising guidelines. The final decision on whether a campaign proceeds appropriately rests with the responsible Minister.

There is also a number of inaccuracies in the report concerning the role performed by my office, including the suggestion that "*The Auditor-General is placed in an invidious position whereby he can countermand Cabinet's decision.*"² This statement again shows a serious misunderstanding of the arrangements. Further, the references to my views conveyed to the Prime Minister on 26 November 2007 that there is a real risk that "*whoever administers the*

¹ *Independent Review of Government Advertising Arrangements*, Executive Summary, page 3

² *Independent Review of Government Advertising Arrangements*, page 16

*Guidelines could be drawn into policy and potential debate as an active participant in, and possible defender of, the process of executive government*³ failed to mention the next sentence in my correspondence which said, *“To preserve both the real and perceived independence of this office, I and my predecessors have actively sought to avoid placing the ANAO in a situation of being both decision maker and auditor.”* The current approach, implemented by the Government, appropriately separates both roles. And the review role undertaken by my office follows relevant professional standards and draws on a panel of specialist industry advice when required to inform our review conclusions.

As I have commented in my report to the Parliament (ANAO Report No 2 of 2009-10):

“The involvement of the ANAO has often resulted in better targeted and supported campaigns. Through the assurance review, the ANAO has clearly signalled the standard of supporting evidence required from agencies to demonstrate adherence to the Guidelines, and has provided timely assurance to Ministers, Parliament and the public regarding agencies’ performance in relation to the Guidelines. The ANAO’s involvement requires agencies to provide evidence to demonstrate performance against the individual Guidelines, bringing a greater level of clarity as to the responsibilities of the agency in the development and implementation of campaigns than was previously the case.”

I consider my office has brought rigour and discipline to this aspect of public administration that, in the past, had been problematic to say the least. Both agencies and the ANAO have refined their approaches in the past two years so there is now a much better understanding of the support required for both the certificate provided by Secretaries, and our review conclusion. Accordingly, most agencies have adopted structured and streamlined approaches to support the case for government advertising campaigns. When required, my office has completed reviews in 1-5 days to meet agency timetables.

As you know, considerable public funds have been allocated to and expended on government advertising campaigns. I fully accept there is a legitimate role for government to provide information to the public about government policies, programs and services. It is also important to have confidence in the processes employed by departments in justifying the nature and cost of campaigns. I have previously written to you in respect of areas of the advertising guidelines that could be improved, including in providing greater clarity on the requirements of the cost-benefit analysis to take account of the above factors. This is particularly to recognise that, in many cases, the scrutiny applied to a proposed campaign budget by Cabinet, or through the budget processes, is necessarily undertaken prior to research being undertaken to inform the messaging and medium needs of the identified target audience. This research can have a significant impact on establishing the final required campaign budget and decisions relating to the expenditure of public funds.

While we have not had the opportunity to study the proposed revision of the guidelines in detail, it is apparent that while they provide a greater level of specificity in some areas (particularly the definition of advertising campaigns subject to the guidelines), other areas are less specific. This is particularly so in the case of Principle 1, which appears to allow a broader scope in determining the suitable uses of government advertising campaigns, Principle 3, which provides less guidance in interpreting whether campaign materials promote party political interests, and Principle 4 which no longer requires an explicit cost-benefit

³ *Independent Review of Government Advertising Arrangements*, page 15

analysis. While I understand the intention of the review was to bring greater clarity to the guidelines, there has been a general softening in the application of requirements on agencies as a consequence. The final form and content of the guidelines, however, are properly matters for your decision. I should add for completeness that, in (different) circumstances where the Government wished my review role to continue, I would have regard to the strength of the revised advertising guidelines in determining any continuing role for my office.

The reviews of government advertising campaigns performed by my office are undertaken by agreement with the Government (and Secretaries) rather than as a result of a specific legislative mandate. Accordingly, I respect the decision of the Government to reassess the agreement that has been in place to provide for reviews to be undertaken by my office. I am concerned, however, that Ministers have not been well informed about the benefits of the current arrangements, particularly the contribution of my office. More importantly, however, I am concerned that we will not see the same level of rigour and discipline applied to this sensitive area of government administration going forward under the revised arrangements. While undertaking the review role has not been without risk for my office, I have undertaken it because I believed we could manage the risks and contribute positively to better outcomes here for both public administration, government and the wider community. And, in my view, we have delivered on this.

I am available to discuss this matter further with you, if you wish.

I have copied this letter to the Prime Minister, for his information.

Yours sincerely


Ian McPhee
Auditor-General