

South Australia

Government Advertising (Objectivity, Fairness and Accountability) Bill 2008

A BILL FOR

An Act to require Government advertising to meet minimum standards with respect to objectivity, fairness and accountability, and to prohibit the expenditure of taxpayer's money on advertising which promotes party political interests.

Contents

- 1 Short title
- 2 Principles and guidelines for Government advertising
- 3 Court's power to enforce compliance

Schedule 1—Principles and guidelines for Government advertising

- 1 Material should be relevant to Government responsibilities
 - 2 Material should be presented in an objective and fair manner
 - 3 Material should not be liable to misrepresentation as party-political
 - 4 Distribution of sensitive material should be controlled
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The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Government Advertising (Objectivity, Fairness and Accountability) Act 2008*.

2—Principles and guidelines for Government advertising

- 5 (1) A Minister who authorises the use of public money for a Government advertising or information program is responsible to ensure that the principles and guidelines set out in Schedule 1 are complied with.
- (2) A Minister who fails to comply with the responsibility imposed by subsection (1) is guilty of an offence.
- 10 Maximum penalty: \$100 000.
- (3) A fine imposed on a Minister under this section is not to be paid out of public funds.

3—Court's power to enforce compliance

- (1) If the Supreme Court is satisfied, on application under this section—
 - 15 (a) that the principles and guidelines set out in Schedule 1 have not been fully complied with in relation to a Government advertising or information program; or
 - (b) that there are reasonable grounds to apprehend that principles and guidelines set out in Schedule 1 will not be fully complied with in relation to a Government advertising or information program,
- 20 the Court may make any order it considers necessary or desirable to ensure compliance with those principles and guidelines.
- (2) An application may be made under this section by any person enrolled as an elector for the House of Assembly.

Schedule 1—Principles and guidelines for Government advertising

1—Material should be relevant to Government responsibilities

In developing material to be communicated to the public—

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- (a) the subject matter should be directly related to the Government's responsibilities; and
 - (b) an information strategy should be considered as a routine and integral part of policy development and program planning; and
 - 10 (c) no campaign should be contemplated without an identified information need by identified recipients based on appropriate market research.

Note—

Examples of suitable uses for Government advertising include to—

- (a) inform the public of new, existing or proposed Government policies, or policy revisions; or
- 15 (b) provide information on Government programs or services or revisions to programs or services to which the public are entitled; or
- (c) disseminate scientific, medical or health and safety information; or
- (d) provide information on the performance of Government to facilitate accountability to the public.

2—Material should be presented in an objective and fair manner

- (1) Information campaigns should be directed at the provision of objective, factual and explanatory information. Information should be presented in an unbiased and equitable manner.
- 25 (2) Information should be based on accurate, verifiable facts, carefully and precisely expressed in conformity with those facts. No claim or statement should be made which cannot be substantiated.
- (3) The recipient of the information should always be able to distinguish clearly and easily between facts on the one hand, and comment, opinion and analysis on the other.
- 30 (4) When making a comparison, the material should not mislead the recipient about the situation with which the comparison is made and it should state explicitly the basis for the comparison.

3—Material should not be liable to misrepresentation as party-political

- 35 (1) Information campaigns should not intentionally promote, or be perceived as promoting, party-political interests. Communication may be perceived as being party-political because of any 1 of a number of factors, including—
 - (a) what was communicated; or
 - (b) who communicated it; or
 - (c) why it was communicated; or
 - (d) what it was meant to do; or

- (e) how, when and where it was communicated; or
- (f) the environment in which it was communicated; or
- (g) the effect of the communication.

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- (2) Material should be presented in unbiased and objective language, and in a manner free from partisan promotion of Government policy and political argument.
 - (3) Material should not directly attack or scorn the views, policies or actions of others such as the policies and opinions of opposition parties or groups.
 - (4) Information should avoid party-political slogans or images. This may involve restrictions on the use of ministerial photographs in Government publications.

10 **4—Distribution of sensitive material should be controlled**

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- (1) Distribution of sensitive, unsolicited material should be carefully controlled. As a general rule, publicity touching on politically controversial issues should not reach members of the public unsolicited except where the information clearly and directly affects their interests. Generally, material may only be issued in response to individual requests, enclosed with replies to related correspondence or sent to organisations or individuals with a known interest in the area.
 - (2) Care should be taken to ensure that Government advertising material is not used or reproduced by members of political parties in support of party-political activities without appropriate approval.

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 - (3) All advertising material and the manner of presentation should comply with relevant law, including broadcasting, media and electoral law.
 - (4) Material should be produced and distributed in an economic and relevant manner, with due regard to accountability.

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 - (5) No information campaign should be undertaken without a justifiable cost/benefit analysis. The cost of the chosen scale and methods of communicating information must be justifiable in terms of achieving the identified objective(s) for the least practicable expenses. Objectives which have little prospect of being achieved, or which are likely to be achieved only at disproportionate cost, should not be pursued without good reasons.

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 - (6) Care should be taken to ensure that media placement of Government advertising is determined on a needs basis and targeted accordingly and without favour.
 - (7) All existing policies and procedures for—
 - (a) purchasing; and
 - (b) procurement; and

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 - (c) tendering for, and commissioning of, services; and
 - (d) the employment of consultants,should be followed.