

**Government and
parliamentary publicity
and advertising**

June 2005

*This is a report under the authority of
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Foreword

I have pleasure in presenting this report about publicly funded publicity and advertising.

Publicity and advertising are important activities for governments and parliamentary parties, which can legitimately be paid for with public funds. But at the same time such activities are inherently sensitive, and open to the risk of abuse.

My office has been involved in this area since the late 1980s. We are often asked to give assurance about particular advertising proposals, and we receive complaints about spending that is considered inappropriate. We have observed, from this work, that the amount of publicly funded publicity and advertising has increased markedly in the past 10 years, and the nature of advertising and publicity has changed.

We have also been concerned for some time about weaknesses in the guidelines and administrative framework for this spending. This report discusses the framework that was last reviewed in 1989, and describes how practices have changed – particularly in the context of MMP.

The report is not intended to be critical of any government or party, and tries to find a way forward. The issues we identify cover the boundary between the executive and legislative branches of government. Any new framework will therefore require a cross-party consensus, and input from the parliamentary agencies as well as government departments. I have consulted widely with both branches of government, and have been encouraged by the strong support for the need for change.

I have carefully considered the timing of this report, particularly with a general election imminent. In my view, the right time to consider a new framework for publicly funded publicity and advertising is after the election. However, I have determined that the report should be presented now, so that this difficult area can be properly understood.

I am grateful to all who took part, for the helpful way in which they addressed the topic, and for the useful suggestions that we received.

K B Brady
Controller and Auditor-General

17 June 2005

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Summary

This report is about how public funds are managed in relation to government and parliamentary publicity and advertising.

Introduction

Publicity and advertising are legitimate areas of government and parliamentary spending. But they are also inherently sensitive. The nature and purpose of publicity or advertising, paid for with public funds, is open to being questioned in Parliament or by the community. The likelihood of scrutiny increases in the lead-up to elections.

This makes it important to have clearly understood standards of conduct, underpinned by sound administrative practices and a means of ensuring accountability.

Those who use public resources for publicity and advertising can be divided into 3 groups. They are:

- Ministers of the Crown, and their staff;
- government departments, Crown entities, and other central government entities; and
- parliamentary party leaders, their staff, and other Members of Parliament (MPs).

The administrative framework applying to these 3 groups is complex.

A complex and changing environment

Part 2 of the report describes the environment in which government and parliamentary publicity and advertising occurs. We first describe why public funds are spent on government and parliamentary publicity and advertising, using 3 guiding principles. We found universal acceptance of the 3 guiding principles by those we consulted when preparing the report. The principles are set out in paragraph 2.3.

In paragraphs 2.4 to 2.12, we explore the difficulty of distinguishing between “party political” business (which, as a rule, taxpayers should not fund), and “ministerial” business or “parliamentary party” business (which do involve spending public funds). In our view, there must be a framework enabling commonsense decisions on these distinctions, based on the exercise of good judgement.

But there are also wider issues to consider. Paragraphs 2.13 to 2.27 discuss 3 types of changes that have occurred since government advertising practices were last reviewed in 1989:

- publicity and advertising practice has evolved;
- advertising by parliamentary parties has increased; and

- the influence of the mixed member proportional (MMP) electoral system has emerged.

The consequences of these changes are:

- it is increasingly difficult for publicity and advertising by government departments to be kept free of party political benefit (perceived or actual);
- there is increased potential for Ministers and parliamentary parties to gain party political advantage; and
- there is a lack of transparency and accountability in the publicity and advertising administrative framework.

We consider it is time to review publicly funded publicity and advertising. Such a review should address:

- the provision of a framework of rules and guidance surrounding all types of publicly funded publicity and advertising, with a clearly understood set of principles, standards, and expectations that can be consistently applied;
- the funding arrangements for government department, ministerial, and parliamentary party publicity and advertising; and
- the administrative and oversight arrangements.

The current administrative framework

Part 3 describes the current administrative framework for government and parliamentary publicity and advertising, including:

- the separate guidelines that apply to government and parliamentary party advertising;
- the different funding arrangements, and the different ways in which the costs of advertising and publicity can be met; and
- who manages the guidelines and funding arrangements, and how.

The parliamentary parties we consulted agreed that the report is an accurate and fair description of past and current practice.

In Part 4, we discuss 4 concerns that we have about the framework:

- the current guidelines are unclear, produce inconsistent results, and make it difficult to establish the legitimacy of publicity and advertising undertaken by Ministers, government departments, MPs, and parliamentary parties;
- current arrangements do not support the evolution of best practice in the use of communication techniques, and in procurement of communications services;
- arrangements surrounding the sources of funding, and disclosure of spending, do not assist transparency; and

- the administrative arrangements, including those applying to the oversight of the relevant guidelines, do not support accountability.

A new publicity and advertising framework is required

Our analysis in Parts 3 and 4 leads us to the conclusion that the framework for managing publicity and advertising is weak, and needs to be reviewed. Significant improvements are needed to assure the integrity of the overall administrative framework. There is a need for new and more consistent guidelines, better centralised oversight of publicity practices, and more transparent and effective funding and administrative arrangements.

Part 5 of the report outlines a possible new framework for government and parliamentary publicity. The framework would be based on a single overarching set of principles. Complementary rules and standards would apply to the two separate branches of government (legislative and executive). Certain office holders would set the rules, while specific agencies would implement them. The appropriations under which such activities are funded would also be clarified. Our suggestions are informed by overseas practice.

Both Parliament and the Government have an interest and a role to play in establishing a new framework. We envisage that a framework could be created by officials from central agencies of the Government and the Parliamentary Service, under the oversight of relevant Ministers and the Speaker. The Parliamentary Service Commission, as an advisory body to the Speaker, would clearly need to be involved.

There was general agreement, among the parliamentary parties we consulted with, that there should be a single set of principles, with complementary rules and standards, governing the spending of public funds on publicity – whether by departments, Ministers, or parliamentary parties. Most parties also agreed that Part 5 of the report offers a starting point for further work on this difficult topic. Some party leaders were, however, concerned about aspects of our proposals – particularly about how any new rules on Ministerial and parliamentary party publicity would be enforced. It is clear that the detail of such arrangements would need further debate.

Advertising in the pre-election period

The period before a general election has particular implications for publicly funded publicity and advertising. Part 6 of the report outlines the risks that can arise at such times for the integrity of public spending on advertising and publicity, and suggests how those risks can best be managed. We summarise the general election guidance issued by the United Kingdom's Cabinet Office in 2001, as an example of the sort of comprehensive guidance which, in our view, would be helpful.

Part 1 – Introduction

What is this report about?

- 1.1 This report is about how public funds are managed in relation to government and parliamentary publicity and advertising.
- 1.2 Publicity and advertising are legitimate, but inherently sensitive, areas of government and parliamentary spending. Advertising involves bringing matters of parliamentary or government business to the attention of the public – an action that, in turn, may raise the political profile of the Ministers, Members of Parliament (MPs), or parliamentary parties¹ involved.
- 1.3 The nature and purpose of any spending on publicity or advertising at public expense may be questioned, in Parliament or by the community. The likelihood of scrutiny increases in the lead-up to elections.
- 1.4 This makes it important to have clearly understood standards of conduct, underpinned by sound administrative practices, and a means of ensuring accountability.
- 1.5 This report examines the existing administrative framework and practices, and identifies where, in our view, changes are needed.

Who, and what, is involved?

- 1.6 Those who use public resources for publicity and advertising can be divided into 3 groups. They are:
 - Ministers of the Crown, and their staff;
 - government departments, Crown entities, and other central government entities; and
 - parliamentary party leaders, their staff, and other MPs.
- 1.7 The current administrative framework for these 3 groups is complex. It includes:
 - 2 sets of guidelines:
 - The *Cabinet Manual 2001*² – Appendix 2: Guidelines for Government Advertising. These guidelines apply to Ministers and

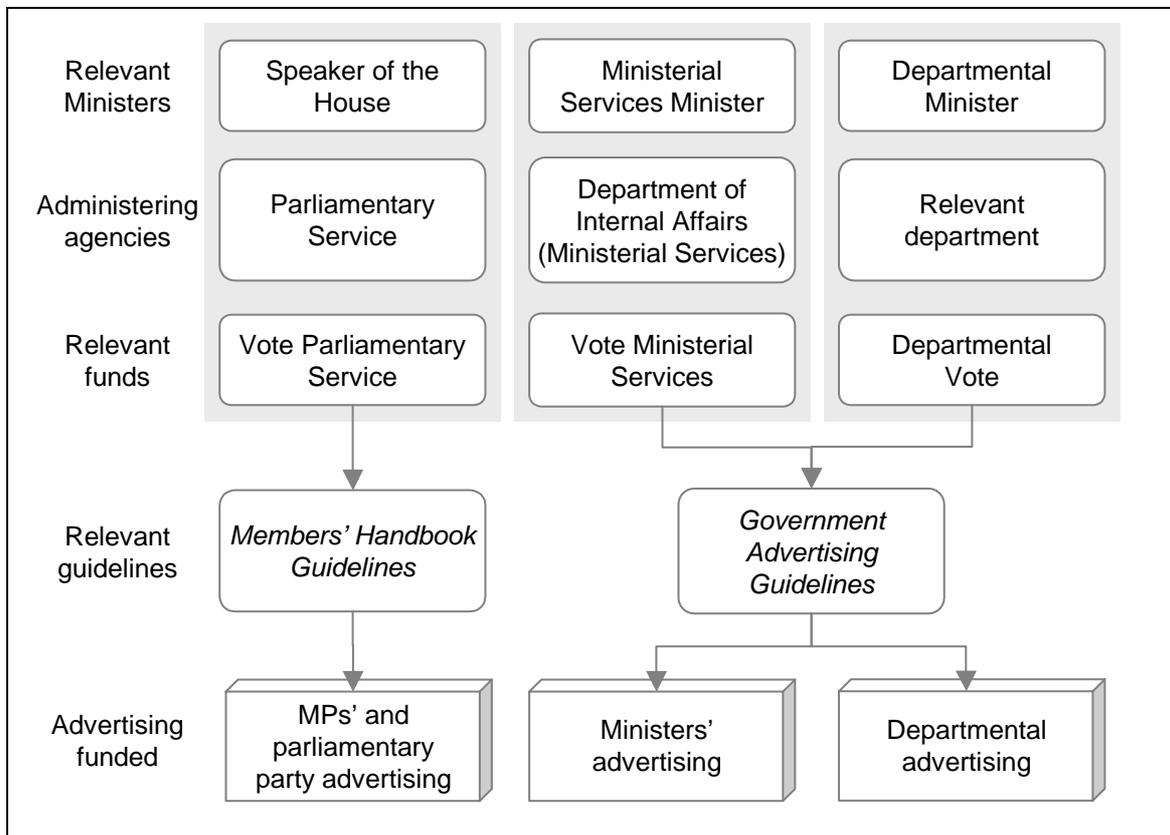
¹ The term “parliamentary party” refers to a party of sitting Members of Parliament. The term “political party” refers to a registered political party organisation.

² *Cabinet Manual 2001*, Department of the Prime Minister and Cabinet, Wellington.

government departments, and, indirectly, to Crown entities. We refer to this set of guidelines as the *Government Advertising Guidelines*. They are reproduced in Appendix 1 of this report.

- The *Members’ Handbook of Services*. Section 1.3 of these guidelines applies to MPs and parliamentary parties. We refer to this set of guidelines as the *Members’ Handbook Guidelines*. They are reproduced in Appendix 2 of this report.
- 3 different sources of funding – ministerial, government department, and parliamentary – and different Ministers responsible for the funding; and
- different agencies with different management roles and responsibilities:
 - the Department of Internal Affairs provides services to Ministers through its Ministerial Services business unit;
 - individual government departments, Crown entities, and other central government entities provide services to the public, and are responsible for making the public aware of those services through publicity and advertising; and
 - the Parliamentary Service provides support services to MPs and parliamentary parties.

Figure 1
The current administrative framework



Definitions of publicity and advertising

- 1.8 We use the terms “publicity” and “advertising” as having separate meanings, depending on the manner in which the material is published or disseminated. Our definitions reflect how the terms are used under the current administrative framework.
- 1.9 We use the term **publicity** in a wide sense, to encompass all forms of communication that are designed to convey information in a promotional manner to an audience of more than one person. Publicity includes:
- posters, pamphlets, brochures, advertisements, and newsletters;
 - stationery, business cards, and other material designed to promote an individual, entity, or brand;
 - information designed for use by the media, including releases, statements, background material; and
 - websites and other forms of electronic communication.
- 1.10 **Advertising**, in its ordinary sense, is how publicity material is published or otherwise made available to the public (or a section of the public). Advertising is usually disseminated on an indiscriminate basis. Advertising may, for example, be undertaken by:
- **purchasing** space in a newspaper or on a billboard, or time on radio or television;
 - **distributing** material on an unsolicited basis, through mail-outs or other forms of direct marketing; or
 - **offering** information to the public, either on a website or by other means.
- 1.11 A newsletter, for example, that is sent only to a specified group of recipients, or a promotional brochure that is distributed only to people who have indicated an interest in a particular area of government or parliamentary business, may be “publicity” but is not “advertising”.
- 1.12 We exclude from the definition of “publicity” any information or document that a public entity must produce for formal accountability purposes (for example, an annual report).

Why are we interested in government and parliamentary publicity and advertising?

- 1.13 Over the years, we have regularly been called on – by Ministers, and by government department chief executives – to give independent assurance on whether proposed advertising complies with existing guidelines. We also investigate complaints about improper spending on government publicity and advertising.

- 1.14 We have not sought this role. Rather, the situation has arisen because there is no centralised oversight of government publicity and advertising.
- 1.15 The volume and sophistication of government and parliamentary publicity and advertising has noticeably increased over the past decade. The introduction of the mixed member proportional (MMP) electoral system (see paragraphs 2.23-2.27) has been one of several factors contributing to this increase.
- 1.16 During 2004, we received a number of requests for assurance about proposed government advertising campaigns, including a ministerial promotion of government drug policies, and a campaign to advertise the new entitlements available through the Working for Families programme. For the first time, we received a number of complaints related to publicity undertaken by a parliamentary party. In another first, we also had a parliamentary party come to us seeking assurance that its proposed advertisement complied with the applicable guidelines.
- 1.17 Our review of these matters has confirmed the extent of disparity and confusion that exists about the various guidelines applied to government and parliamentary publicity and advertising, and the way the guidelines are administered. Our review has also heightened our concern about the lack of transparency and accountability for this area of spending.
- 1.18 The problems with the existing framework are:
- the 2 sets of guidelines are not complementary, and are confusing to those who must apply them;
 - much of the spending of public funds on publicity and advertising is not transparent. This makes it difficult to quantify the overall cost to the public purse; and
 - administrative structures and oversight mechanisms are complex, and diffuse.
- 1.19 These systemic problems, and the associated changes that we have observed, led us to question whether the existing administrative framework is still able to manage publicly funded publicity and advertising.
- 1.20 We decided that it would be timely to report comprehensively to Parliament about the situation, to provide an informed basis for further discussion.

What our report does not cover

- 1.21 Our report does not cover the administration of advertising that is generated by political parties using their own private funds, nor the publicly funded broadcasting by political parties during an election campaign.

- 1.22 Our report does not attempt to provide a comprehensive analysis of issues about publicity and advertising undertaken by Crown entities and State Owned Enterprises (SOEs). Many of the concerns we raise may be relevant to those entities. However, this will depend on what they are doing, and their degree of independence and autonomy.

How we prepared this report

- 1.23 We prepared an issues paper to discuss with parliamentary party leaders. Most leaders accepted our invitation to meet with them to discuss the issues. We also met with the then Speaker of the House, and 3 former senior MPs.
- 1.24 We held separate discussions with the Cabinet Office, the State Services Commission, the Department of Internal Affairs, the Parliamentary Service, and the Electoral Commission.
- 1.25 We studied the government and parliamentary publicity and advertising practices used in Australia, Canada, and the United Kingdom. We then travelled to Australia, to obtain first-hand accounts of the practices at the Federal Government level, and at State Government level in New South Wales.
- 1.26 Finally, we circulated this report in draft to a number of government departments and agencies, and to the leaders of all parliamentary parties. All the parties that responded agreed that the report is an accurate and fair description of past and current practice. There was also broad agreement that Part 5 of the report offers a starting point for further work on this difficult topic. However, some leaders were concerned about aspects of our proposals – particular about how any new rules on Ministerial and parliamentary party publicity would be enforced. We have recorded those concerns in more detail in Part 5.
- 1.27 A number of other helpful comments were received, which we have reflected in the report.
- 1.28 We are grateful to all who took part, for the helpful way in which they addressed the topic, and for the wide range of useful suggestions that we received. We hope that our report will stimulate further consideration of the issues by the House, and the agencies that are responsible for these matters.

Part 2 – A complex and changing environment

2.1 In this Part, we discuss the environment in which government and parliamentary publicity and advertising occurs. We discuss:

- the rationale for spending public funds on publicity and advertising, in the form of 3 guiding principles;
- balancing competing interests in a complex environment;
- changing practices and patterns of behaviour; and
- the consequences of recent changes in practices and behaviour.

2.2 We conclude that this area of public expenditure needs to be reviewed.

Our starting premise – 3 guiding principles

2.3 At the start of this project, we identified 3 principles that inform existing policy and practice. Most of the people we talked to when preparing this report accepted the principles. The principles are also widely accepted in other jurisdictions. We describe them as:

- democratic interaction;
- public accessibility; and
- proper purpose.

Democratic interaction

Dialogue between elected representatives and the public is a valid and fundamental aspect of a democracy. MPs are expected to inform the public of their activities in Parliament, and to seek the public's involvement in parliamentary processes. Publicity and advertising are, therefore, an integral part of representative democracy and accountability.

MPs and parliamentary parties may legitimately use public funds for publicity and advertising, to help them to meet these expectations.

Similar dialogue is expected between Ministers and those who have an interest in their portfolio responsibilities.

Public accessibility

All members of the public can expect access to comprehensive information about current and proposed government policies, programmes, and services that affect their obligations, rights, entitlements, and interests.

In meeting this expectation, governments may legitimately use public funds for information programmes or education campaigns to explain government policies, programmes and services, and to inform members of the public of their obligations, rights, and entitlements.

This principle is an extension of the principles of open government which are articulated in the opening provisions of the Official Information Act 1982.

Proper purpose

Parliamentary and ministerial communications take place in a political environment. But taxpayers do not pay for political parties' publicity, *except* to the extent that it derives indirectly from the proper conduct of parliamentary or ministerial business.

This is broadly consistent with the accepted position in New Zealand that the State does not fund political parties.³

Balancing competing interests in a complex environment

- 2.4 Our 3 guiding principles, when taken together, reflect a convention about the relationship between the systems of executive and parliamentary government, and the political process.
- 2.5 As with many conventions, the interests compete and sometimes conflict. Much depends, in particular, on how “party political” business is distinguished from “ministerial” business and “parliamentary” business.
- 2.6 The distinction is not always easy to make. Some “party political” publicity – for example, publicity seeking political party donations – is easy to recognise. But there are large grey areas.
- 2.7 Three other points can be made. The first is that the environment in which much publicly funded publicity and advertising takes place is inherently “political”. The players include both politicians and administrators. It is important that each understands the needs and requirements of the other.
- 2.8 Secondly, what is acceptable in publicly funded publicity or advertising may depend on the context. For example, there may be no objection to a government MP including political comment about a new government policy in a newsletter that is posted on the MP’s parliamentary website. But it is important that the official government advertising of the policy be free of any party or other political references.

³ This position is clearly set out in the *Government response to the Report of the Electoral Law Committee on the Inquiry into the Report of the Royal Commission on the Electoral System*, 1.20, 1989. Broadcasting time allocated during a general election campaign is the only form of State funding available to political – as opposed to parliamentary – parties.

- 2.9 Thirdly, it is inevitable that people will have different views about what constitutes an unacceptable party political advantage from publicly funded publicity and advertising, even in a given context.
- 2.10 This is not, therefore, an easy or straightforward area of public management – as acknowledged in other jurisdictions. For example, in the United Kingdom, it is recognised that the effectiveness with which the Government communicates its policies and presents information about them to the public carries political benefits. The United Kingdom’s Cabinet Office publication *Guidance on the work of the Government Information Service*⁴ states –
- It is possible that a well-founded publicity campaign can create political credit for the Party in Government. But this must not be the primary or a significant purpose of Government information or publicity activities paid for from public funds.*
- 2.11 The reality is that governing parties – and those in Parliament – have advantages over others. However, those advantages should not be taken for granted. There are strong influences and incentives at work in this area of public expenditure. A common message that we heard in our discussions with party leaders was that “boundary pushing” is not only inevitable, but also largely irreversible after it happens.
- 2.12 In our view, it is essential, in such an environment, to have rules and standards that are not only relevant and applicable to all types of publicity, but also widely understood, and accepted by, those to whom they apply. Their benefit is to provide a framework for commonsense decisions, based on the exercise of good judgement. Without clear guidance, judgements will continue to be surrounded by political controversy.

Changing practices and patterns of behaviour

- 2.13 Government advertising practices were last reviewed in this country in 1989. However, much has changed since then. In particular:
- publicity and advertising practice has evolved;
 - advertising by parliamentary parties has increased; and
 - the influence of the MMP electoral system has emerged.

Evolution of publicity and advertising practice

- 2.14 The theory and practice of communications and marketing, which includes publicity and advertising, have become increasingly multi-dimensional, as technology and audience expectations become more sophisticated. The existing

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Published in July 1997. Available on the website www.cabinetoffice.gov.uk.

administrative framework was designed largely for paid advertising, and is increasingly out of date in other ways.

- 2.15 An effective publicity campaign nowadays is strategic and multi-faceted:
- Mass advertising of government policies by pamphlet, poster, and through the mainstream media is now routinely supported, or supplemented, by websites and a range of other information.
 - Ministers and MPs routinely communicate – sometimes interactively – through the Internet with the public and constituents.
 - Readily available computer software enables attractive, professional looking material – from newsletters and booklets to fridge magnets and desk calendars – to be produced at low cost, for quick and easy distribution.
- 2.16 The exponential growth in publicity and advertising has been matched by increases in the resources available to governments for such purposes. Ministerial support funding provides substantial budgets for communications services – including websites and printing – for individual Ministers’ offices (including the Office of the Prime Minister).
- 2.17 In our view, these changes create powerful, but understandable, incentives for governments to introduce party-oriented perspectives to publicly funded publicity and advertising. This can place considerable pressure on public servants who serve Ministers.
- 2.18 For example, an advertising campaign by a government department is largely the responsibility of the Chief Executive, subject to financial expenditure limits (see paragraph 3.22). It is increasingly likely that such a campaign will form a single component of an integrated government publicity strategy co-ordinated at Ministerial level – the overall goal of which is to present the Government’s policies in the best political light for the party or parties that make up the Government at the time. Public servants would have little, if any, involvement in or ability to influence that wider strategy.
- 2.19 A number of Crown entities (for example, the Accident Compensation Corporation, and Land Transport New Zealand) also engage in extensive advertising using Crown funding. The *Government Advertising Guidelines* implicitly apply to that activity, which is otherwise subject to the same forms of oversight and accountability as apply to Crown entities in general.

The growth of parliamentary party advertising

- 2.20 In the time since government advertising practices were last reviewed, significant public resources have become available to all parliamentary parties to support their parliamentary activities.

- 2.21 For governing parties, these resources provide an additional source of public funds to supplement those available through Ministerial support funding. (In practice, the same Ministerial staff usually administer both budgets.) For opposition and other parties, the public funds can be used to provide resources and facilities to publicise policies and activities in the parliamentary context.
- 2.22 Again, there are strong incentives to promote the parliamentary party in these activities. The most spectacular manifestation of this has been the use by some parliamentary parties of full-page newspaper advertisements and outdoor billboards to promote particular policy initiatives.

Figure 2
Examples of publicly funded parliamentary party advertising

<p>Newspaper advertisements</p> <p>Several parliamentary parties have used full-page newspaper advertisements to highlight issues or provide information; for example:</p> <ul style="list-style-type: none"> • The National parliamentary party, to raise its concerns about the Government's approach to the Foreshore and Seabed Bill. • The United Future parliamentary party, to outline its services and activities in Parliament. <p>Billboard publicity</p> <p>Several parliamentary parties have used billboards to raise the profile of issues being discussed in Parliament, or to state their positions on specific business before the House. For example:</p> <ul style="list-style-type: none"> • the United Future parliamentary party advertised its position on applying GST to rates; • the National parliamentary party advertised its position on the Foreshore and Seabed Bill; and • the New Zealand First parliamentary party advertised its views on crime, immigration, and the Treaty of Waitangi.
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The influence of the mixed member proportional electoral system

- 2.23 The growth in parliamentary party and ministerial support funding is a direct consequence of the MMP form of representation that took effect at the 1996 general election. It is also helpful to understand that changing patterns of behaviour in relation to ministerial and parliamentary party publicity – and its increasing emphasis on raising the profile of political parties – are MMP-driven.
- 2.24 MMP is fundamentally a party-based electoral system. It has changed not only the way in which MPs are elected, but also the way in which governments are formed and managed. Over time, MMP has also driven fundamental changes in governments' behaviour. This can be seen most clearly in the formulating of government policy, and the preparation of proposals for legislation.

- 2.25 Under the previous (first-past-the-post) system, coalitions of interest on policy issues were usually formed within the major political parties, and translated into action by majority, single-party governments. Now, in an era of coalition and/or minority governments, they are more often formed between several different parties.
- 2.26 Inevitably, these changes have increased the influence of political parties. In the parliamentary context, this has led to an increase in the sophistication of parliamentary party support infrastructure. A related effect in government has been the need to more actively manage inter-party relationships – with a matching increase in staffing.
- 2.27 The nature of MMP politics also makes it essential for parties to differentiate themselves from each other, both in Parliament and when in government, and visibly to take ownership of particular policies and initiatives. Party poll ratings have become important throughout the electoral cycle, because they help to determine a party's voter support base going into an election. Continuous visibility of the party to the electorate is, obviously, critical to poll success.

The consequences of changing patterns of behaviour

- 2.28 In our view, these changing practices and patterns of behaviour are irresistible trends that have 3 significant consequences for the integrity of public funds spent on publicity and advertising. The consequences are that:
- it is increasingly difficult for publicity and advertising by government departments to be kept free of party political benefit (perceived or actual);
 - there is increased potential for Ministers and parliamentary parties to gain party political advantage; and
 - the administrative framework for publicity and advertising now has insufficient transparency and accountability.

Increased difficulties for government department publicity and advertising

- 2.29 The first consequence affects government departments that are directed to undertake publicity and advertising to inform the public of policies, entitlements, and such. Advertising prepared by a department may meet all the requirements of legitimacy and political neutrality. However, other ministerial and parliamentary publicity activities could mean that there is a greater risk that the publicity and advertising will be used to achieve indirect political benefits for a governing party. This makes it more difficult for public servants to exercise the type of judgement that is necessary in complying with their obligations.

- 2.30 For example, it may suit a government department's communications objective to establish an easily recognisable brand for a set of entitlements. An example is the Working for Families brand, currently used to tell the public about new financial entitlements. A brand may be free of any explicit party political references. However, if the advertising campaign is part of a wider, more politically driven, publicity strategy, there is a greater risk that the brand will have value to the Government as a political tool. This in turn would open the department to the risk of having the non-political objective of its own campaign undermined. It would also make it harder for the public servants involved to preserve political neutrality, as is required by the *Public Service Code of Conduct*.
- 2.31 This makes it important for Ministers and chief executives of government departments to clarify their respective roles, and responsibilities, in relation to publicity and advertising.

Increased potential for Ministers and parliamentary parties to gain party political advantage

- 2.32 The second consequence of the changing patterns of behaviour is that they raise a question about what manner of party political advantage is acceptable from publicly funded publicity and advertising – in particular, in material that comes from Ministers' and parliamentary party leaders' offices.
- 2.33 We have observed that publicity focusing on governing parties' achievements in government has grown in both volume and sophistication during the past 5 years. Explicit references to governing parties, and statements differentiating them from previous administrations, had already become apparent in some ministerial publicity in the second half of the 1990s. Such references are now commonplace.
- 2.34 More recently still, we have observed in ministerial publicity the use of branding techniques – in the form of unofficial logos, colour schemes, and slogans – which do not name the governing parties but, nevertheless, appear designed to present them in a favourable light.
- 2.35 We have also observed that much parliamentary party publicity and advertising is of a highly political nature – both in the manner of its presentation and in the language used. Even if the publicity and advertising is for clear parliamentary purposes, there is undoubtedly significant potential for collateral “party political” benefit.
- 2.36 However, it does not necessarily follow that ministerial or parliamentary material should be subject to the same constraints that apply to publicity and advertising generated by government departments. Parliament has allocated public funds to the offices of Ministers and parliamentary party leaders, which they can legitimately spend on publicity and advertising. That material is prepared in a “political” context, which is likely to be reflected in its content, and manner of presentation.

Lack of transparency and accountability

- 2.37 The third consequence is a lack of transparency and accountability. It is difficult for an observer of the current administrative framework to understand how publicity and advertising is funded, commissioned, and conducted. It is also difficult to establish how compliance with relevant standards is monitored. The preceding discussion helps to explain why different standards have evolved for different forms of publicity and advertising. However, the rationale for the differences is not clear – to the public, to those who administer the current guidelines, or to those who incur the expenditure.
- 2.38 The lack of transparency is also a problem in the area of publicly funded websites. The usefulness of many websites is enhanced by their links to other related sites, providing more comprehensive information on matters of interest to the website visitor. However, it is becoming difficult to differentiate websites that are publicly funded, endorsed by government departments, and which provide government information, from those that are associated with political bodies and disseminate political information.
- 2.39 We are firmly of the view that the funding arrangements and accountability for government and parliamentary publicity and advertising need to be clarified. A better framework for publicity and advertising is needed, to ensure that the necessary guidance is in place, and to promote good practice in the creation of advertising campaigns, the presentation of website material, and the procurement of contractors and advertising space.
- 2.40 Public confidence in the integrity of publicly funded publicity and advertising depends as much on the integrity of the underlying administrative framework as it does on the adequacy of the guidance available.

Our conclusion

- 2.41 We consider that it is time to review the area of publicly funded publicity and advertising. Such a review should address:
- the provision of a framework of rules and guidance surrounding all types of publicly funded publicity and advertising, with a clearly understood set of principles, standards, and expectations that can be consistently applied;
 - the funding arrangements for government department, ministerial, and parliamentary party publicity and advertising; and
 - the administrative and oversight arrangements.

Part 3 – Current administrative framework

3.1 In this Part, we explain the current administrative framework for government and parliamentary publicity and advertising. This includes:

- documented guidelines;
- funding arrangements; and
- management roles and responsibilities of relevant government agencies.

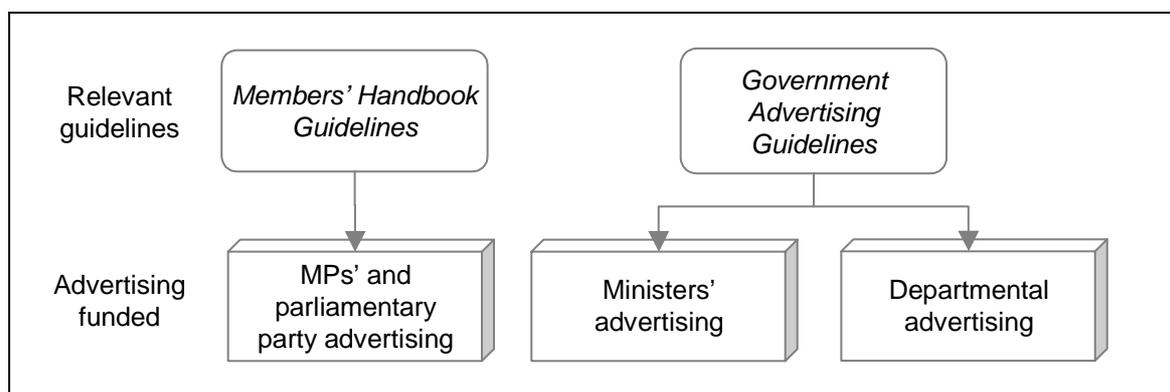
Documented guidelines for publicity and advertising

3.2 Two sets of documented guidelines currently apply to government and parliamentary publicity and advertising:

- the *Government Advertising Guidelines*; and
- the *Members' Handbook Guidelines*.

Figure 3

Publicity and advertising activities affected by current guidelines



Government Advertising Guidelines

3.3 Cabinet approved the *Government Advertising Guidelines* on 20 November 1989. While these guidelines have been accepted and used by successive governments since that time, they have not been updated since their introduction.

3.4 The *Government Advertising Guidelines* form an appendix to the *Cabinet Manual 2001* (the procedural guide to Cabinet for Ministers and government

departments). The guidelines are “for Ministers and government departments for the preparation of and expenditure of public funds on advertising and publicity”.

3.5 The stated purpose of the *Government Advertising Guidelines* is –

Governments may legitimately use public funds for advertising and publicity to explain their policies, and to inform the public of the government services available to them and of their rights and responsibilities. These guidelines recognise the public concern that government advertising should not be conducted in a manner that results in public funds being used to finance publicity for party political purposes.

3.6 The purpose recognises the competing interests that we discussed at the start of Part 2. There is specific guidance in relation to:

- *Scope* – The term “government advertising” is explained as referring to “any process for which payment is made from public funds for the purpose of publicising any policy, product, service or activity provided at public expense by the government.” Possible objectives of such advertising are also outlined.
- *Presentation* – This section emphasises the need for such advertising to be factual, “free from partisan promotion of government policy and political argument”, and lawful.
- *Format and production* – The forms that government advertising may take, and how advertising material may be produced.
- *Distribution* – The general expectations around the nature of distribution. These include expectations on delivering unsolicited material to the public.
- *Procurement* – Reasonable and fair procedures must be used to engage consultants and agencies when preparing a public relations strategy.
- *Justification and accountability* – This includes the need for clear attribution. The material must state the origin of the advertising and the responsible Minister or agency.

Members’ Handbook Guidelines

3.7 The *Members’ Handbook of Services* is a guide for MPs about the support services that they receive from the Parliamentary Service. The handbook is updated regularly, and the November 2003 version is current.

3.8 Section 1.3 of the handbook – which we refer to as the *Members Handbook Guidelines* – provides guidance about parliamentary advertising. It states –

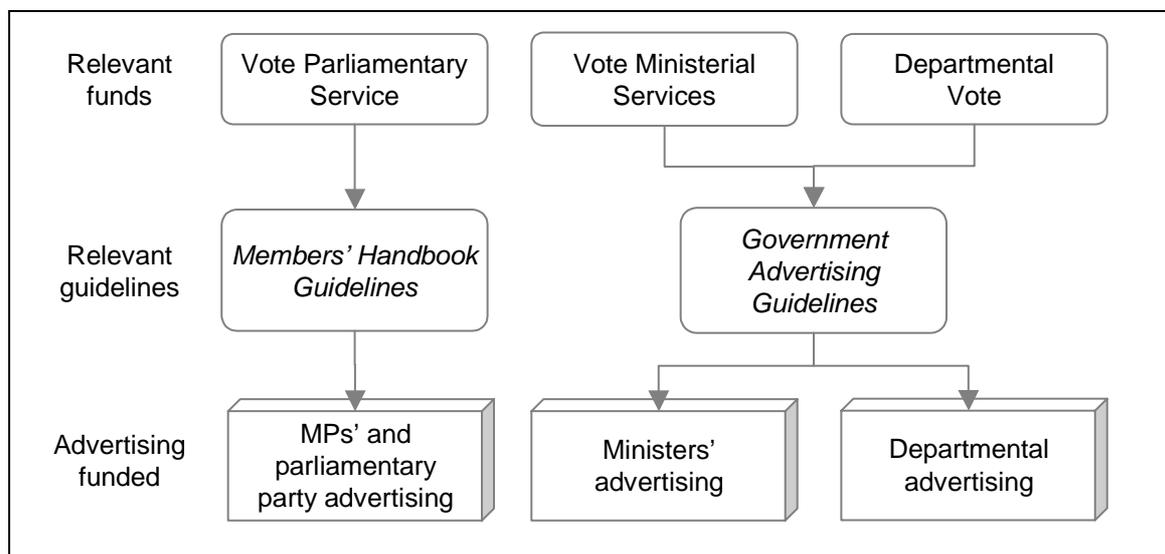
Funding is provided...to allow each member to advertise their services or activities on parliamentary business.

- 3.9 The section also includes:
- A definition of “advertising” and what forms it may take – including websites.
 - An explanation of what “parliamentary business” may include, and what it does not include. Expressly excluded are:
 - soliciting subscriptions or other financial support for a political party or a candidate at an election;
 - party political, promotional or electioneering material for the purpose of supporting the election of any person; or
 - any work undertaken as a Minister of the Crown and a Member of the Executive Council.
 - Requirements regarding contact details that need to be included with the advertising, and the use of the parliamentary crest in advertising.
 - Guidance about the use of parliamentary party logos.
- 3.10 On 16 December 2003, the Parliamentary Service Commission adopted a set of principles governing advertising that is paid for from Vote Parliamentary Service (see Appendix 3). We understand that the principles are intended as a guide for MPs and parliamentary parties when implementing the *Members’ Handbook Guidelines*.

Funding arrangements

- 3.11 Each year, Parliament authorises Ministers to incur expenses or liabilities, or to spend public funds, for specific purposes. These authorisations, known as appropriations, are grouped into separate areas of responsibility, known as Votes. Each Vote is generally the responsibility of one Minister and administered by one government department.
- 3.12 Any public funds spent under an appropriation must be spent lawfully, and for the purposes specified in the appropriation. The Controller and Auditor-General (using the functions of Controller) has various powers to ensure that the spending is lawful.
- 3.13 There are 3 separate sources of funding in relation to government and parliamentary publicity and advertising. They are best explained in 2 groupings:
- ministerial and government department funding; and
 - parliamentary funding.
- 3.14 The funding arrangements are shown in Figure 4.

Figure 4
Sources of publicity and advertising funding



Funding of ministerial and government department publicity and advertising

3.15 The publicity and advertising activities that Ministers and government departments undertake are funded from different sources. The source usually depends on whether the activity has been generated by:

- a Minister, and relates to their role as a Minister; or
- a government department.

Ministers' publicity and advertising activities

3.16 Vote Ministerial Services contains an appropriation titled *Support Services to Ministers*. This provides for –

... *Support services to Ministers, including office administration, accounting, personnel, information technology, facilities management, media and advisory services...*⁵

3.17 The total appropriation for Vote Ministerial Services in 2004-05 was \$42.884 million, of which \$24.870 million was allocated to *Support Services to Ministers*.

3.18 The *Support Services to Ministers* appropriation provides considerable publicity and advertising resources for Ministers, by:

- meeting the costs of employing technical and/or media advisers within Ministers' offices;

⁵ *The Estimates of Appropriations for the Government of New Zealand for the Year Ending 30 June 2005, B.5. Vol.II, page 929.*

- preparing material for written or oral presentation by Ministers (for example, media statements, speeches, and newsletters); or
 - compiling publicity outlining government achievements, to be used by Ministers (in both hard copy and electronic form).
- 3.19 Funding under Vote Ministerial Services is also used to meet the costs of hosting the official website of the Government (www.beehive.govt.nz).
- 3.20 The Department of Internal Affairs administers Vote Ministerial Services.

Government departments’ publicity and advertising activities

- 3.21 If a government department manages a Vote that includes funding for providing services to the public, the department can meet the costs of publicising and advertising those services from within the Vote. This publicity and advertising can range from simple newspaper advertisements, pamphlets, and brochures, to major advertising campaigns targeted towards recipients of government services. This is also true for Crown entities that are funded through an appropriation.
- 3.22 Chief Executives of government departments have full financial authority (within the constraints of the Public Finance Act 1989) to spend up to \$100,000 on publicity expenses. For proposed spending on publicity above this amount, specific Ministerial or Cabinet authorisation is required. A Cabinet Circular sets out the procedures that must be followed when seeking authorisation of spending above \$100,000, including that the publicity must comply with the *Government Advertising Guidelines*.⁶
- 3.23 The Working for Families programme is an example of a major advertising campaign. The programme involves significant changes to benefits and other forms of social assistance, to be introduced in a 3-year period. The changes are provided under Vote Social Development and Vote Revenue. The costs of publicising and advertising the changes were approved by Cabinet, and can lawfully be met under the appropriations contained within those 2 Votes.
- 3.24 Many government departments also undertake their own publicity, for example, through newsletters to interest groups. Each department also has its own website.
- 3.25 In some cases, funding under both Vote Ministerial Services and a government department Vote may be used to meet publicity or advertising costs. As a hypothetical example, let us say the “Health Department” is to provide a new service to the community, and is initiating an advertising campaign to advise community members how they can access the service.

⁶ CO (99) 7 Financial Delegations and Delegation Limits for Responsible Ministers and Departmental Chief Executives.

- 3.26 The advertising campaign may involve:
- the “Health Minister” announcing the new service, providing media information packs, posting material on the ministerial website, preparing background information for government MPs, and making speeches – activities that are allowed to be funded under “Vote Ministerial Services”. This activity would complement –
 - advertisements paid for by the “Health Department” to provide information to the public on how to access the services. This advertising can be funded under “Vote Health”.
- 3.27 The advertising campaign outlined above would involve dialogue between the staff of the Minister’s office and those of the government department, to ensure that the information disseminated was accurate and consistent.

Funding of parliamentary publicity and advertising

- 3.28 Vote Parliamentary Service includes several appropriations that let publicity or advertising be paid for with public funds. The appropriations are intended to achieve an equitable distribution of funding for support services provided to MPs and parliamentary parties, so that no party is disadvantaged.
- 3.29 The relevant appropriations are:⁷
- *Services to Members*, which allows funding for “provision of secretarial support...to members”. All MPs are able to access secretarial services funded under this appropriation.
 - *Members’ Communications*, which allows funding for “members’ communications (voice and data) entitlements, and members’ use of stationery in Parliament”. Like the *Services to Members* appropriation, all MPs are able to access communications services funded under this appropriation.
 - *Party and Member Support*, which allows funding for each parliamentary party to “support its Leader’s office, research operations, Whip’s office and members parliamentary operations”. Each parliamentary party receives a set amount of funding under this appropriation.⁸
- 3.30 The appropriations for Vote Parliamentary Service in 2004-05 totalled \$86.559 million, including:⁹
- \$18.043 million allocated to *Services to Members*;
 - \$3.946 million allocated to *Members’ Communications*; and

⁷ *The Estimates of Appropriations for the Government of New Zealand for the Year Ending 30 June 2005*, B.5. Vol.II, pages 1040-1041.

⁸ The Party and Member Support appropriations are set based on each parliamentary party’s proportionate representation in the House of Representatives.

⁹ *The Estimates of Appropriations for the Government of New Zealand for the Year Ending 30 June 2005*, B.5. Vol.II, pages 1040-1042.

- \$14.633 million allocated among 8 *Party and Member Support* appropriations (one for each parliamentary party represented in Parliament).
- 3.31 Different appropriations within Vote Parliamentary Service are used depending on how publicity and advertising is commissioned, produced, and disseminated.
- 3.32 For example, an MP or a parliamentary party may decide to initiate a newsletter for the public, explaining the party's views on an issue that is being considered by a select committee. The proposed publicity or advertising activity would be allowed under the *Members' Handbook Guidelines*, as it relates to parliamentary business.
- 3.33 The costs of the newsletter could be met in different ways:
- The MP or parliamentary party might engage a professional to design the newsletter, and use an external commercial printer for production. A commercial service might be used to put the newsletter in envelopes, and the newsletter might be distributed by post. In this case, all the costs of the advertising – design, production, and distribution – would be met under the *Party and Member Support* appropriation relevant to the parliamentary party in question.
 - The MP or parliamentary party might use MPs' secretarial support to design the newsletter. The newsletter might be printed on existing stationery (headed with the parliamentary crest) at Parliament using a laser printer, and MPs' secretarial support staff might put the newsletter into envelopes. It might finally be distributed by post. In this case, the costs would be split 3 ways. Design costs would be met under the *Services to Members* appropriation; production costs would be met under the *Members' Communications* appropriation; and distribution would be met under the *Party and Member Support* appropriation.
- 3.34 Under these funding arrangements, if an MP or parliamentary party uses the first approach to fund printing, they use more of their specific *Party and Member Support* funding. If they take the second approach, they use less of their *Party and Member Support* funding, but use more of the other shared funding provided for all MPs.

Management of funding and guidelines

- 3.35 Publicity and advertising is divided between Ministers and agencies responsible for:
- managing the funding used for publicity and advertising; and
 - maintaining the applicable guidelines, and ensuring compliance.

- 3.36 Approaches to financial management and administration differ slightly, depending on whether the publicity or advertising originates from a Minister's office, a government department, or an MP's or parliamentary party leader's office.

Who manages the funding used for publicity and advertising?

- 3.37 Different management arrangements apply to funding used for publicity and advertising by Ministers and government departments, and MPs and parliamentary parties.
- 3.38 While administrative arrangements may differ, proposed or actual publicity and advertising spending is generally reported to Parliament in the same way – in an aggregated form, combined with other operational expenditure.

Managing funding for Ministerial publicity and advertising

- 3.39 In relation to publicity and advertising funded through Vote Ministerial Services:
- The Minister Responsible for Ministerial Services, as the Vote Minister, is responsible to Parliament for managing appropriations within the Vote. This includes responsibility for any breaches of appropriation.
 - The Chief Executive of the Department of Internal Affairs has day-to-day responsibility for managing all resources that are used or administered by the Department, including those provided under Vote Ministerial Services. The Chief Executive employs all staff within the Department, including those who work in the Ministerial Services business unit.
- 3.40 Typically, preparing and paying for publicity or advertising generated within a Minister's office takes the following course:
- The publicity or advertising material is prepared, and printing and/or distribution commissioned, by the Minister's office. After being authorised and then certified by the Minister's office as a true and correct expense, an invoice is forwarded to the Department for payment.
 - A copy of the publicity or advertising material may be (but is not required to be) attached to the invoice, for the information of Ministerial Services business unit staff.
 - Advice on the appropriateness of proposed publicity material may be sought from Department officials, but this does not always happen.

Managing funding for publicity and advertising by government departments

- 3.41 The same roles, responsibilities, and accountabilities apply in relation to publicity and advertising undertaken by government departments, which is funded under other Votes. The relevant Vote Minister is responsible to

Parliament for managing appropriations within the Vote. The Chief Executive is responsible for day-to-day management of resources, and must answer to the Minister for such matters.

- 3.42 In the case of Crown entities, the responsible Minister is answerable to Parliament for the performance of the entity. However, the entity's board sets the strategic direction of the entity, and is responsible for overseeing the management of its resources. This includes oversight of resources used for publicity and advertising.

Managing funding for publicity and advertising by MPs and parliamentary parties

- 3.43 The management of publicity and advertising funded through Vote Parliamentary Service is broadly similar, except that the administrative arrangements recognise the constitutional separation between Parliament and executive government:

- The Speaker is the Minister responsible for Vote Parliamentary Services.
- The General Manager of the Parliamentary Service is responsible for the day-to-day administration of the resources used to support MPs and parliamentary parties.

- 3.44 The accountabilities of the Speaker and the General Manager of the Parliamentary Service are similar to those that apply to Ministers and government department chief executives, except that they are not primarily responsible for how publicity activities are undertaken. That responsibility rests with the individual MPs and parliamentary parties to whom the resources are made available.

- 3.45 Typically, preparing and paying for publicity and advertising within an MP's or parliamentary party leader's office takes the following course:

- If any part of the publication is to be produced externally, the office makes arrangements with the external supplier.
- The office receives the invoice for the work, and the relevant MP or party leader certifies that the invoice should be paid.
- The invoice is sent to the finance area of the Parliamentary Service, which directly pays the supplier.

Who is responsible for, and ensures compliance with, the guidelines?

- 3.46 The *Government Advertising Guidelines* were approved by Cabinet in 1989, and first promulgated as a Cabinet Office circular. The guidelines were subsequently included as an appendix in the 1996 Cabinet Office Manual, and the *Cabinet Manual 2001*. However, the Cabinet Office (within the Department of the Prime Minister and Cabinet) does not enforce the *Government Advertising Guidelines*. The onus is on Ministers, government departments,

and other central government entities to ensure that the *Government Advertising Guidelines* are followed.

- 3.47 In the case of MPs' and parliamentary parties' publicity and advertising, the Speaker is responsible for adopting criteria governing funding entitlements for parliamentary purposes. The Parliamentary Service Commission (PSC), a multi-party body chaired by the Speaker, advises the Speaker in this role.¹⁰ The Parliamentary Service administers the *Members' Handbook Guidelines*, and provides advice to the Speaker and the PSC, to help with interpreting and applying the guidelines to particular circumstances.
- 3.48 If publicity or advertising material breaches the *Members' Handbook Guidelines*, the guidelines note that "the Speaker will usually require the member to personally reimburse the Vote for the costs incurred".

¹⁰

Parliamentary Service Act 2000, section 14(1)(b).

Part 4 – Our concerns with the current administrative framework

Introduction

4.1 In this Part, we discuss 4 concerns that have emerged during the preparation of this report:

- The current guidelines applying to publicly funded publicity and advertising are unclear, produce inconsistent results, and make it difficult to establish the legitimacy of publicity and advertising undertaken by Ministers, government departments, MPs, and parliamentary parties.
- Current arrangements do not support the evolution of best practice in the use of communication techniques, and in procurement of communications services.
- Arrangements surrounding the sources of funding, and disclosure of spending, do not assist transparency of government and parliamentary publicity and advertising.
- The administrative arrangements, including those applying to the oversight of the relevant guidelines, do not support accountability.

Guidelines are unclear and produce inconsistent results

4.2 The *Members' Handbook Guidelines* are widely permissive as to the scope and content of publicity and advertising by an MP or a parliamentary party. Advertising is allowed in respect of any aspect of “parliamentary business”. This covers many activities, and may include:

- promoting or providing details of the services an MP is offering to the public;
- material of an informational nature, to inform the recipient of the MP's views on public issues of the day; and
- information about an MP's activities.¹¹

¹¹ The term “parliamentary business” is also defined by the Remuneration Authority, for the purposes of setting MPs' remuneration and allowances. We commented on the scope of an MP's role in our report *Parliamentary Salaries, Allowances and Other Entitlements – Final Report*, ISBN 0-477-02880-2, July 2001.

- 4.3 The definition recognises the political context in which much of an MP’s work is undertaken and, in practice, allows parliamentary party publicity and advertising to contain party political content. The only limits are on:
- soliciting of subscriptions from the public;
 - promotional or electioneering activity; and
 - any work undertaken by an MP in their capacity as a Minister.
- 4.4 Advertising can stop short of these areas while still containing considerable political content, and achieving advantage and visibility for the political party. Some recent advertising under these guidelines has been highly political (as we noted in Part 2).
- 4.5 A contrasting picture emerges under the *Government Advertising Guidelines*, where political content and rhetoric of any kind are expressly prohibited. This is most apparent from paragraph 5(b) of the guidelines, which requires government advertising to be presented in a “fair, honest, impartial” manner that is –
- ... in unbiased and objective language, and ... free from partisan promotion of government policy and political argument.*
- 4.6 This does not pose a problem for government department publicity and advertising because, under the *Public Service Code of Conduct*, department staff are required to conduct themselves in a politically neutral way.
- 4.7 However, it is problematic for Ministers in the presentation of their own publicity about government policies and achievements because Ministers, like other MPs, operate in a political environment.
- 4.8 As we explained in Part 2, there are strong incentives for those engaged in the politics of MMP to present media and publicity material in a manner that identifies policies with one or more governing parties. The restrictions of the *Government Advertising Guidelines* simply do not fit these realities.
- 4.9 This has led some ministerial staff (including the Office of the Prime Minister) to question whether the scope of the *Government Advertising Guidelines* covers these forms of publicity. This, in turn, has raised questions about whether the *Government Advertising Guidelines* should be given a legalistic interpretation, or applied according to their spirit and original intention.
- 4.10 It is clear from reading the *Government Advertising Guidelines* that they were not drafted as a legal document. The title indicates the status of guidance, rather than rules, for spending behaviour.
- 4.11 The introduction says that the *Government Advertising Guidelines* apply to “government publicity and advertising”. However, those terms are used inconsistently in the guidelines. For example, in Paragraph 3, under the heading of “scope”, the guidelines are limited to “advertising” –

Government advertising refers to any process for which payment is made from public funds for the purpose of publicising any policy, product, service, or activity provided at public expense by the government.

- 4.12 Does this apply to publicity material about government policies and achievements, prepared by Ministers for use in the political context in which they operate? It is hard to say.
- 4.13 In recent years, the number of publications reporting the progress of incumbent governments has increased. These publications usually take the form of a collection of stated “achievements”, rather than detailed information on services or entitlements, and how the public can access them. The publications may be distributed to a relatively small or targeted number of recipients.
- 4.14 We have received several complaints about these publications since 2001. The complaints focus on the inclusion of party political material – including references to the parties that make up the current government and, on occasions, comparative references to previous governments. That type of material would not, in our view, be acceptable under the *Government Advertising Guidelines*.
- 4.15 However, we found it difficult to consider the publications under the *Government Advertising Guidelines* because:
- The distribution of the publications was limited, in that they were sent unsolicited only to predetermined and restricted lists of recipients, and otherwise were sent to anyone who sought a statement on what the Government had achieved while in office. In our view, given the limited distribution, the publications did not constitute a publicity or advertising “campaign”.
 - The content of the publications was essentially no different to the kind of material issued from Ministers’ offices in the form of media or other statements – albeit that the difference in the case of the publications was the use of technology to present the material in a different form.
- 4.16 The electronic age has enabled information to be distributed inexpensively and widely in an unsolicited manner, while simultaneously providing a basis for ongoing and direct 2-way communication between Ministers and members of the public. Because the *Government Advertising Guidelines* were written in 1989, they did not anticipate such communications – it is unclear, for example, whether the guidelines apply to websites. Neither do the *Members’ Handbook Guidelines* contain any guidance in relation to MPs or parliamentary parties’ websites.
- 4.17 In our view, there is a need to clarify whether Ministers’, MPs’ or parliamentary parties’ websites should be subject to publicity guidelines (including interactive e-mail communications). There is, in any event, a need for protocols to govern the appearance of those websites, and their links to other (for example, political party) websites.

- 4.18 There is also a need to clarify how the *Government Advertising Guidelines* apply to publicity by Crown entities.

Other problems of application

- 4.19 In general, conventions applying to the spending of public funds are most easily interpreted and applied when they include:

- clearly stated principles, which make clear the overall purposes of spending, and any fundamental riders on the use of resources;
- a clear understanding about what activities can be funded, and what cannot, and who has authority to approve such spending;
- relevant and understandable guidance about how the principles are to apply, and how rules should be interpreted; and
- appropriate sanctions for any breaches.

- 4.20 We have observed the following problems in relation to the *Government Advertising Guidelines*:

- The guidelines place considerable emphasis on the principles of justifiable purpose (that is, advertising should only be undertaken when there is a justifiable information need by the intended recipients), and political neutrality. However, there is no guidance on how these principles ought to be applied in particular circumstances.
- The language used in the guidelines provides opportunities for debate about whether compliance is required or preferred – for example, use of words such as “may” and “should” make seemingly clear statements open to interpretation.
- There are no sanctions for non-compliance, and it is not practical to control expenditure by using the appropriations funding (see paragraph 4.56).

- 4.21 In relation to the *Members’ Handbook Guidelines*:

- The Parliamentary Service considers the handbook to be, primarily, a guide to entitlements and resources available to MPs. This casts doubt on the standing of the advertising guidelines contained within the handbook.
- The *Members’ Handbook Guidelines* has the most “rule-like” statements about the forms of advertising that can and cannot be produced at public expense. However, in the absence of a principles-based approach, making distinctions as to what is “party political” and “parliamentary business” can be difficult in practice.
- The *Members’ Handbook Guidelines* also includes sanctions for transgression of the guidelines, which may be imposed by the Speaker. Even so, the lack of articulated principles makes it hard to see how

sanctions would be imposed in any but the most extreme cases of non-compliance.

Two examples of inconsistent results

- 4.22 In 2004, there were 2 significant examples of the problems caused by the 2 sets of guidelines, and their ambiguities, involving:
- integrated publicity strategies; and
 - publicity by coalition government partners.

An integrated publicity strategy – Working for Families

- 4.23 In Part 2, we commented on the trend towards integrated publicity strategies being used to promote government policy initiatives.
- 4.24 An “integrated publicity strategy” typically involves simultaneous publicity activities for a particular purpose. These activities are likely to include:
- Cabinet-authorised advertising by a government department, to inform the public of a new or revised policy or set of entitlements;
 - preparing targeted publicity material for constituents and interest groups by staff in Ministers’ offices; and
 - publishing the parliamentary party’s views about the policy, from a parliamentary business perspective.
- 4.25 In the case of the Government’s Working for Families programme, announced in the 2004 Budget:
- The Ministry of Social Development and the Inland Revenue Department prepared extensive advertising to advise the public of the programme, and of the changes to benefit entitlements. The advertising complied with the *Government Advertising Guidelines*, and contained no party political content, although it strongly promoted the programme’s Working for Families brand.
 - At the same time, the Labour parliamentary party issued extensive publicity and advertising, funded from parliamentary sources, which likewise publicised the programme under the Working for Families brand. However, this time the material contained explicit party political content. The standard for that material was taken from the *Members’ Handbook Guidelines*.
- 4.26 Members of the public who received both sets of advertising were understandably confused about what the overall standard for the publicity and advertising should have been – and told us so.

Publicity by coalition government partners – advertising drug policy initiatives

- 4.27 We also described in Part 2 how the MMP electoral system raises issues for parliamentary parties and for partners in coalition governments.
- 4.28 MMP has created a multi-party Parliament, in which individual parliamentary parties legitimately need to:
- differentiate themselves from others;
 - communicate with their constituents and respective communities of interest on matters of parliamentary business; and
 - draw public attention to their policy positions on issues that are of major importance to them.
- 4.29 The *Members' Handbook Guidelines* allow political party logos to be used on parliamentary letterhead, and in any form of publicity – which enables differentiation to be achieved.
- 4.30 The situation is different for coalition partners in government. The *Government Advertising Guidelines* have not been updated to reflect the realities of coalition government.
- 4.31 A problem arises when a junior government coalition partner wishes to be differentiated from the senior partner on a particular issue or government policy. This could happen in either of 2 ways, where:
- a coalition agreement contains an “agree to disagree” provision, which allows Ministers to maintain, in public, different party positions on particular issues or policies; or
 - coalition partners agree that a junior partner will advance and take responsibility for a particular government policy initiative.
- 4.32 The *Government Advertising Guidelines* do not allow the junior partner to be differentiated in either of these circumstances by referring to the name of the political party, because this would breach the guideline that government advertising must be presented in a manner free from partisan promotion of government policy.
- 4.33 This became an issue in 2004, when the Progressive coalition partner in the current government wished to promote its role in producing a government policy initiative about drug abuse.
- 4.34 Advertising material was first prepared which identified the Minister concerned as the leader of the Progressive party. This was not allowed under the *Government Advertising Guidelines*. However, if the Minister had issued the advertising in his capacity as an MP and party leader (not as a Minister), and funded the advertising from within the Parliamentary Service funding allocations, the advertising would have been permitted under the *Members'*

Handbook Guidelines. Subsequent material prepared was consistent with the *Government Advertising Guidelines*.

- 4.35 In such cases, the conflicting approach of the 2 sets of guidelines causes confusion and uncertainty.

The overall result – a confused environment

- 4.36 We said in Part 2 that we had found universal acceptance of the principle of “proper purpose”. This was stated as –

Parliamentary and ministerial communications take place in a political environment. But taxpayers do not pay for political parties’ publicity, except to the extent that it derives indirectly from the proper conduct of parliamentary or ministerial business. This is broadly consistent with the accepted position in New Zealand that the State does not fund political parties.

- 4.37 The application of 2 different sets of guidelines, combined with the ambiguities about the scope of the *Government Advertising Guidelines*, create an environment where it is difficult to say whether this principle really applies. This is undesirable in an era when the importance of publicity and advertising is growing, and where the focus on political parties creates further pressures. It creates opportunities for abuse, which is naturally of concern to us as the public sector auditor.

Administrative arrangements do not support the evolution of best practice

- 4.38 The lack of any centralised oversight of publicity and advertising practices results in a missed opportunity for good practice to evolve and be encouraged. We have identified 3 areas of weakness.

Use of brands

- 4.39 Branding is an important element of a publicity strategy. A brand can increase audience recognition and acceptance of a product or service, and provides a focus for the creative content of elements of the strategy. Branding can be applied to paper-based, electronic media, and Internet publicity and advertising.
- 4.40 State emblems have a value as “brands”, representing the State or an instrument of government. Emblems most commonly used in publicly funded publicity and advertising include:
- the New Zealand coat of arms;
 - the parliamentary (House of Representatives) crest; and

- the official logos of government departments.
- 4.41 However, there is also widespread use of brands of an unofficial nature – for example, in the production of a government department newsletter, or to promote a particular government policy. Other frequently used elements of branding include the use of slogans, catch phrases, by-words, colour schemes, and photographs.
- 4.42 In addition, political party brands are permitted on parliamentary stationery and in parliamentary party advertising.
- 4.43 Branding clearly has its benefits if used in a way that enables a target audience to connect with the message being communicated. However, we are concerned about the proliferation of brands in publicly funded publicity and advertising for 2 reasons. First, the lack of a standardised approach to branding government activities can reduce the public’s ability to recognise a product or service as being that of the Government. Secondly, the use of branding techniques can undermine the neutrality of publicity and advertising, for example, by building in a “feel good” factor to an advertisement, which can provide an opportunity for indirect political benefit.
- 4.44 We consider that a standardised approach to the use of brands in publicly funded publicity and advertising in New Zealand, including website design, has merit. Matters that should be addressed include how unofficial brands in their various forms may be used, including logos, slogans, colour schemes, and political party identifiers and website links. Government agencies should, at the same time, be encouraged to be innovative in communicating their message, and to focus on the information requirements of the recipient.
- 4.45 Similar concerns were discussed in the recent report of an independent committee appointed to review the appropriations of the Parliamentary Service under the Parliamentary Service Act. The committee expressed concerns about the signs used on MPs’ out-of-Parliament offices –

Out-of-Parliament offices are typically presented (sometimes aggressively so) in the colours and/or the “brand” and signage of the political party each MP represents.

We believe that consistent with the purpose of out-of-Parliament offices as part of the democratic process, and with the fact that they are publicly funded, décor and signage should be standardised. Consideration should also be given to establishing a parliamentary ‘brand’ on out-of-Parliament offices. [Emphasis in original]

We think this would be an enhancement to democracy. It is vital that all citizens feel comfortable about using the services of an out-of-Parliament office, regardless of their political persuasion. People should not be put off visiting an out-of-Parliament office by a perception that the office is for party political purposes. We suggest the Parliamentary Service Commission determine what the appropriate standard should be.

- 4.46 The independent review committee’s suggestion of a standard for office signs could usefully be extended to include parliamentary party websites.

Identifying information needs and strategies

- 4.47 Information programmes should always be prepared based on sound research of the subject matter, and the information needs of the intended audience. A recent example has involved the work of the Climate Change Office (based in the Ministry for the Environment) to prepare a campaign aimed at changing people’s attitudes and behaviours in respect of the environment and climate change. Based on comprehensive research and consultation, the Office was able to produce a multi-faceted information programme, at a relatively modest cost, which included newspaper, radio, and Internet publicity and advertising – backed up by an informative and interactive website.
- 4.48 We found a similar emphasis on research and development in our overseas enquiries. In many instances, this is supported by the work of centralised information units (such as the Government Communications Unit in Australia). Centralised involvement appears to enhance the growth of good practice. The State Services Commission has an increasingly important, but still relatively limited, role in New Zealand – particularly through a forum for government department senior communications advisers, and the work of its E-government Unit.

Procurement and costing

- 4.49 The *Government Advertising Guidelines* acknowledge the possibility that advertising campaigns may involve the use of “public relations consultants, market research agencies, advertising agencies, or other specialist consultants”. Paid advertising also involves the purchase of space in the print and electronic media (including, most recently, website banner space).
- 4.50 All of these activities require procurement decisions. The *Government Advertising Guidelines* require “reasonable and fair procedures” to be used, unless there are exceptional circumstances such as “extreme urgency”. Our guidelines on procurement¹² are also relevant in the advertising context.
- 4.51 Advertising and communications services are specialised products, which can have a significant creative component. Making a “pitch” for an advertising campaign can, therefore, involve considerable time and effort on the part of a prospective provider. In the course of our review, we became aware of concerns in the communications industry about some public entities’ lack of appreciation of these factors. We were told, for example, of unrealistically tight timeframes for submitting proposals, of large numbers of prospective parties being short-listed and asked to prepare creative “pitch” material, and, in one case, of a project brief being withdrawn after such material had been prepared.

¹² *Procurement: A Statement of Good Practice*, July 2001 (available on our website, www.oag.govt.nz).

- 4.52 In New Zealand, individual government departments are responsible for their own procurement, and there is no centralised resource for advertising procurement – other than the Government Electronic Tenders Service (GETS) Internet facility, which is used for inviting expressions of interest or proposals. We highlighted the risks involved in the creation and costing of advertising strategies in a report on the budgeting of the Working for Families campaign in September 2004. We also heard of concerns in the industry that the threshold at which departments must place contracts for tender on the GETS system is too low, making it uneconomic in some cases for prospective providers to respond.
- 4.53 Subject to economies of scale, there could be advantages in a more centralised or co-ordinated approach to the preparation and procurement of government publicity campaigns. This could also result in a better understanding, throughout the public sector, of the nature of communications and advertising services, how best to involve external agencies in the creation of communications campaigns, and the emergence of good practice in the engagement of those agencies.

Financial management lacks transparency

- 4.54 Wherever public funds are involved, transparent financial management is essential. While there are many factors which support financial transparency, 2 are relevant to this discussion:
- the nature of the appropriations that allow publicity and advertising expenditure; and
 - the nature of any financial reporting associated with publicity and advertising expenditure.

Nature of appropriations relevant to publicly funded publicity and advertising

- 4.55 When the appropriations relevant to publicly funded publicity and advertising are considered, the following factors become apparent.

The appropriations are not clear and enforceable

- 4.56 As mentioned previously, appropriations constitute high-level authorisation for spending public funds. The Auditor-General, using the Controller function, has various powers to ensure the lawfulness of expenditure.
- 4.57 The effectiveness of the Controller function depends on how much information appropriations provide on how funds are to be spent. We are not aware of “advertising” or “publicity”, as an activity, being separately identified in any appropriations used by Ministers or MPs to fund publicity or advertising activities. This has a 2-fold effect:

- At a high level, it is unclear what publicity or advertising activities are proposed within a Vote, and how much they may cost.
- The lack of clarity makes it impractical to control “inappropriate” advertising spending under the appropriations.

The parliamentary appropriations do not support the equitable distribution of resources

- 4.58 Equity is an important principle underlying funding of parliamentary parties. Larger parties receive more funding than smaller parties – but the formula used to set the funding is the same, no matter what size a parliamentary party is.
- 4.59 We have previously highlighted that, while some of the funding provided to parliamentary parties is specific to those parties, other funds are shared between parliamentary parties. We have also described how publicity and advertising can be produced using any of these resources. It is possible for a party to access more than its fair share of funds, which may give the party a resourcing advantage. This could result in a political benefit being achieved with the additional resources.

It is unclear what funds are used for publicity and advertising

- 4.60 We are aware (from the complaints that we receive) that the public wants to know how Ministers, government departments, and MPs use public funds for publicity and advertising. However, we have observed that it is becoming harder to tell what publicity and advertising has been paid for with public funds, and what has been paid for with private, party funds.
- 4.61 The main issue is attribution. In theory, publicly funded publicity and advertising should show how the advertisement has been funded:
- Under the *Members’ Handbook Guidelines*, the parliamentary crest must be included on advertising funded through Vote Parliamentary Services.
 - Under the *Government Advertising Guidelines*, all government advertising should include information about its origin, and the responsible Minister or agency.
- 4.62 However, we are aware of examples of advertising from Ministerial and parliamentary sources that do not clearly attribute the source of funding. This can lead to confusion.
- 4.63 In relation to parliamentary party publicity and advertising, the *Principles on Advertising Paid for From Vote Parliamentary Service* say this about transparency –
- The reasons for, and the circumstances surrounding, the use of public resources by individual members or parliamentary political parties should be publicly available. The process by which funds are expended should also be publicly known.*

- 4.64 During consultation for this report, we became aware of a concern held by some parliamentary party leaders about whether using the parliamentary crest is sufficient to meet the attribution requirements of this principle and, in particular, to inform the reader that an advertisement has been paid for by public funds (rather than the funds of the political party).
- 4.65 We can understand the reason for concern, given the political nature of some parliamentary party publicity and advertising. We consider that a member of the public is entitled to assume that an advertisement containing party political statements has been funded from private sources, unless there are clear indications to the contrary. The question is whether the appearance of the parliamentary crest on the advertisement is sufficient indication, or whether a more direct form of attribution is required.
- 4.66 In our view, this issue deserves further consideration by the Parliamentary Service Commission.

Expenditure reporting

- 4.67 One of the core functions of the Auditor-General, as the auditor of public entities, is to provide assurance that entities present their accountability information to Parliament in a financially transparent manner.
- 4.68 We are not aware of “advertising” or “publicity” costs being routinely reported in the audited annual reports of any government departments. Such forms of disclosure have some precedent overseas.

The administrative framework does not support accountability

- 4.69 In our view, the administrative framework does not support accountability in:
- financial management arrangements; and
 - oversight of the guidelines.

Financial management arrangements

- 4.70 While the Department of Internal Affairs and the Parliamentary Service are responsible for managing resources used by Ministers and MPs for publicity and advertising purposes, these agencies could be more effective in this role.

- 4.71 We note that there are some factors that create difficulties for the 2 agencies, for example –
- the specific roles and responsibilities of the administering agencies are not defined, nor are the agencies formally recognised as having this responsibility;
 - the agencies must apply unclear guidelines;
 - the manner in which spending is incurred by Ministers and MPs, and met by the agencies, minimises opportunities for pre-press review of proposed advertising; and
 - the publicity and advertising environment is highly politicised, which may further complicate the implementation of administrative solutions.
- 4.72 It is important to respect the political autonomy of Ministers, MPs, and parliamentary parties to communicate with the public in the manner they see fit. However, that does not eliminate the need for a sound administrative framework, and proper controls, which should reflect good practice and be applied consistently to all publicity and advertising spending.

Oversight of guidelines

- 4.73 Both sets of guidelines suffer, to varying degrees, from a lack of ownership and oversight.

Government Advertising Guidelines

- 4.74 There is no clear “owner” of the *Government Advertising Guidelines*, and no single agency responsible for enforcement. Although the *Government Advertising Guidelines* appear in the *Cabinet Manual 2001*, it is not the Cabinet Office’s responsibility to enforce them (although the Office has taken responsibility for initiating a review of whether revision is required).
- 4.75 We have traditionally had a measure of oversight in relation to the *Government Advertising Guidelines* through the provision of assurance about compliance by Ministers and government departments. We are sometimes asked to provide independent assurance on whether proposed publicity and advertising complies with existing guidelines, and to investigate complaints about improper spending on government publicity and advertising. However, while such roles are in keeping with the independent status of the Auditor-General, we cannot carry out any formal enforcement role.

Members’ Handbook Guidelines

- 4.76 The Speaker is responsible for establishing and enforcing the *Members’ Handbook Guidelines*, on advice from the Parliamentary Service Commission. For example, changes to the *Members’ Handbook Guidelines* are made after consultation between the Commission and the Parliamentary Service.

4.77 The Parliamentary Service does not have a clearly stated role to ensure compliance with the *Members' Handbook Guidelines*. It is able to exert some influence through its financial management role in relation to Vote Parliamentary Service. However, the overall responsibility for owning and enforcing the guidelines is not clear.

Our conclusions

4.78 There are 2 important factors that distinguish publicity and advertising activities from other areas of public management:

- Publicity and advertising are important operational tools for government departments, Ministers, MPs, and parliamentary parties. They need to be recognised as such, and to be understood as products in their own right – not just operational expenses.
- Publicly funded publicity and advertising can also be a valuable tool for those engaged in political activity. There is a need for clearly defined principles, rules, and standards to protect the public interest against the potential for misuse of public funds.

4.79 While the current administrative framework is intended to manage these factors in a context of prudent financial management, it has serious deficiencies that undermine its effectiveness.

4.80 In relation to the 2 sets of guidelines applying to government and parliamentary publicity and advertising, we have observed that:

- The guidelines appear inconsistent, and are confusing to those who must apply them. The differences arise from whether the publicity or advertising is, broadly speaking, of a government department, ministerial, or parliamentary nature.
- The different practices arising from the guidelines are confusing and hard to understand. This is especially so for staff in ministerial offices, who have access to funds from both executive and parliamentary sources, but must apply different guidelines when preparing publicity material – depending on which source they use.
- The practices under each set of guidelines produce different results. This is most obvious in the extent to which publicity or advertising can contain party political content. It is not always clear which set of guidelines has been applied to a particular publication. Publicity or advertising material produced under one set of guidelines can also undermine the integrity of material produced under the other set.

4.79 A lack of centralised oversight limits the opportunity for good practice to be identified and encouraged:

- We are concerned about the proliferation of brands in publicly funded publicity, and consider that guidelines on the use of brands could have benefit.
- There is a need for guidance in the research, preparation, and evaluation of communications programmes.
- There could be advantages in a more centralised or co-ordinated approach to procurement.

4.81 The funding arrangements for publicity and advertising lack transparency:

- None of the relevant appropriations that fund government department, ministerial, or parliamentary publicity and advertising refer to the activity as such.
- Departments and the Parliamentary Service report the activity as an operational expense, and usually in an aggregated form combined with other operational spending. There is no reporting of publicity or advertising spending by individual Ministers or parliamentary parties.
- The guidelines about attribution do not ensure that the source of funding for publicity or advertising is always clear.

4.82 We are concerned that, in relation to administrative arrangements:

- The 2 different sets of guidelines have been produced in isolation. Overall “ownership” of the guidelines for spending public funds on publicity and advertising is unclear. Better co-ordination is needed.
- The separation between ministerial and parliamentary appropriations is not reflected in the way that some budgets are managed. It is not uncommon for ministerial staff to manage a Minister’s executive and parliamentary budgets as a single set of resources.
- The ability of the Department of Internal Affairs’ and Parliamentary Service’s managers to oversee and monitor publicity and advertising activity under their Votes is variable and, in some cases, minimal.

Part 5 – So what needs to happen?

A new publicity and advertising framework is required

- 5.1 The framework for managing publicity and advertising is weak, and needs to be reviewed. Significant improvements are required to assure the integrity of the overall administrative framework.
- 5.2 In order to facilitate this, we outline in this Part a possible new framework for government and parliamentary publicity and advertising. We have been informed by overseas practice, and we summarise Australian practices in Appendix 5.
- 5.3 Both Parliament and the Government have an interest and a role to play in establishing a new framework. We envisage that a framework could be created by officials from central agencies of the Executive and the Parliamentary Service, under the oversight of relevant Ministers and the Speaker. The Parliamentary Service Commission, as an advisory body to the Speaker, would clearly need to be involved.
- 5.4 In our discussions with parliamentary party leaders and administering agencies, concerns were raised that would limit the approaches that could be used to clarify these matters. These concerns were that:
- The constitutional separation between the Executive and Parliament must be maintained. The responsibilities for establishing guidelines for Ministers and MPs are split – as a way of recognising the constitutional separation between the Executive and Parliament. There is a similar separation of staff, with Ministers’ staff employed by the Department of Internal Affairs, and MPs’ staff employed by the Parliamentary Service.
 - The position of public servants in relation to Ministers must be recognised. While public servants may advise Ministers, they must uphold the principle of political neutrality in their dealings with the Government of the day. A balance must therefore be struck between ensuring that public servants can carry out their roles (such as conducting publicity) in a politically neutral manner, and Ministers’ oversight of government departments.
 - The autonomy of Ministers and MPs in their relationship with the public must be preserved. Ministers and MPs are elected officers, not employees. They have a right to freely interact with the public as their elected representatives, without restriction.
- 5.5 In our view, these concerns should be respected. In doing so, considerable improvement could still be achieved within the administrative framework. It is in this context that we make the following suggestions.

The framework should be principle-based

5.6 A single set of principles should apply to parliamentary, ministerial, and State sector publicity.

5.7 The principles should:

- recognise the legitimacy of taxpayer funds being spent on publicity of government and parliamentary business, subject to appropriate constraints;
- describe the appropriate constraints (including purpose and scope, justification, and manner of presentation);
- take account of the multi-party political environment under MMP, including the particular publicity requirements of coalition partners;
- set out an acceptable test for dealing with political content and indirect party political benefit. The test should recognise the different contexts in which publicity material may be prepared, but articulate clearly the minimum public expectation¹³; and
- say how, and to whom, responsibility for using resources and complying with relevant rules or standards is to be assigned.

5.8 The principles should also:

- recognise that publicity, like any form of taxpayer funded activity, should be undertaken in an efficient and financially prudent manner, and achieve value for money;
- address the need for appropriate standards of transparency (including what rules and standards apply, their objectivity, clarity and accessibility, and how decisions are made under them); and
- say how, and to what extent, those who have access to resources for publicity purposes should be held accountable for their use.

Complementary rules and standards should apply

5.9 Separate rules and standards should apply to ministerial, parliamentary, and State sector (including government departments and Crown entities) publicity.

5.10 The rules and standards should be complementary. They may be different, in recognition of the different contexts in which publicity activities are undertaken, but should be consistent with the overarching principles and, when read together, be compatible with each other.

¹³ For example, the minimum requirement applicable in the United Kingdom is – ...*It is possible that a well-founded publicity campaign can create political credit for the Party in Government. But this must not be the primary or a significant purpose of Government information or publicity activities paid for from public funds.*

- 5.11 Each set of rules and standards should:
- apply to all forms of publicity (we would abandon the term “advertising”);
 - apply to all public organisations associated with central government, irrespective of the source of their funds;
 - clearly set out what publicity activities are authorised under the relevant appropriations;
 - include workable guidance about purpose and scope, justification, and manner of presentation, and what standards apply (in the particular context) in respect of political argument and partisan promotion of policy;
 - identify clear and workable procedures for the approval of publicity before publication takes place; and
 - establish a regime for disclosing annual spending on publicity, incurred by those to whom resources are made available for that purpose.
- 5.12 From our overseas research, we envisage that rules and standards would be set on matters of generic importance, such as:
- the use of official emblems (including the New Zealand coat of arms and the parliamentary crest), in accordance with the appropriate legislation and conventions;
 - attribution (who has authorised the publicity, and how it has been paid for);
 - the use of other branding tools (for example, whether a single government brand must be used, or whether and to what extent government departments can use their own brands), and the conditions on their use; and
 - procurement processes that reflect best practice, and recognise that government is a significant client of the communications industry.

Certain office holders should set the rules

- 5.13 The Speaker of the House of Representatives should set rules and standards for parliamentary publicity.
- 5.14 The Minister Responsible for Ministerial Services should set rules and standards for ministerial publicity.
- 5.15 We would expect Cabinet to set rules and standards for State sector publicity (that undertaken by government departments and other central government agencies). We consider that the State Services Commissioner is best placed to advise Cabinet on these matters, given the Commissioner’s role and responsibilities.

- 5.16 We would expect consultation to occur, to ensure that the rules produced are complementary.
- 5.17 Those who set rules and standards would also be responsible for:
- ensuring that the rules and standards are consistent with the overarching principles, and complement other rules and standards that apply within the overall framework;
 - promulgating any revisions;
 - ensuring that sufficient resources are available to the agency responsible for administering the relevant rules and standards;
 - making rulings when administrative guidance leads to dispute; and
 - deciding what sanctions, if any, should apply in the event of a breach, and applying those sanctions in particular cases.
- 5.18 With respect to State sector publicity, we would not expect Cabinet to make rulings or decide sanctions in specific cases. However, we would expect that, where State sector agencies have difficulty in applying the rules and standards set by Cabinet, the State Services Commissioner would be able to provide appropriate advice to the agency or relevant Minister to help them avoid breaching those rules and standards.
- 5.19 The parliamentary parties we consulted agreed that there should be a single set of principles, with complementary rules and standards, governing the spending of public funds on publicity whether by departments, Ministers, or parliamentary parties. However, it is clear that the details would need further debate. One party, for example, expressed reservations about making the Minister Responsible for Ministerial Services responsible for setting rules and standards for ministerial publicity, noting that the Minister would not have the same amount of independence as would the Speaker in respect of parliamentary publicity. We recognise those reservations. But we note that the Minister is responsible, under the Public Finance Act 1989, for all ministerial expenditure. A rule-setting role would be consistent with that responsibility.

Specific agencies should administer the rules

- 5.20 Different administrative arrangements would be needed depending on whether publicity was generated by Ministers, MPs, or State sector agencies. The Auditor-General also has a role under such a framework.

Ministerial and parliamentary publicity

- 5.21 The Chief Executive of the Department of Internal Affairs should be responsible for the day-to-day monitoring of Ministers' compliance with the rules and standards applying to ministerial publicity. The General Manager of

the Parliamentary Service should have the equivalent responsibility in respect of MPs' and parliamentary parties' publicity. The responsibility in each case would include investigating any possible breaches of the rules and standards, and assisting the Minister Responsible for Ministerial Services or the Speaker, as the case may be, to issue guidance on how they are to be applied – both generally and in particular cases.

- 5.22 The administrative role would include:
- confirming that any proposed publicity is within the rules and standards, before its publication;
 - retaining copies of, and collecting financial and other performance information on, all publicity paid for with the resources they administer; and
 - publishing annual information about the costs incurred.
- 5.23 The Chief Executive and the General Manager should be responsible for ensuring that the necessary capability, systems, policies and procedures are in place in the Department of Internal Affairs and the Parliamentary Service to discharge their respective responsibilities.
- 5.24 One parliamentary party told us it would be opposed to any suggestion of making elected MPs accountable to officials. The Department of Internal Affairs has also expressed concern that such a role places the Chief Executive in an “invidious position”, because the Department’s ministerial services are provided to serve the Government of the day, not to regulate or control it. We acknowledge that our proposals would introduce a greater amount of oversight than is currently undertaken by public officials in New Zealand. However, it is important to repeat the point we made in paragraph 5.4, that a new framework should acknowledge the autonomy of Ministers and MPs to interact with the public.
- 5.25 We also note that this type of activity is a characteristic of oversight in certain Australian jurisdictions (see Appendix 5). The oversight is confined to ensuring that material complies with the relevant rules. It does not question the reasons for the publicity. We envisage that any new oversight procedures in New Zealand would have the same limitations.
- 5.26 Ministers would remain individually responsible to Parliament for the conduct of publicity activity in relation to ministerial business.

State sector publicity

- 5.27 The State Services Commissioner should be responsible for issuing guidance on how the rules for State sector publicity are to be applied by State sector agencies, and providing advice in relation to possible breaches of the rules.

- 5.28 Government department chief executives should be responsible for the day-to-day monitoring of their department's compliance with rules and standards on State sector publicity, and for ensuring that appropriate systems, policies, and procedures are in place to achieve compliance.
- 5.29 For Crown entities, the entity's board should be responsible for complying with the rules and standards. The entity's Chief Executive should be responsible for the day-to-day monitoring of the entity's compliance, and for ensuring that appropriate systems, policies, and procedures are in place to achieve compliance.
- 5.30 Ministers would remain responsible to Parliament for the conduct of publicity activity in the area of their portfolio responsibilities.
- 5.31 The Speaker would be responsible for guidance to the Offices of Parliament and the parliamentary agencies – the Office of the Clerk and the Parliamentary Service. The chief executives of those offices would be responsible for the matters set out in paragraph 5.28.

Role of the Auditor-General

- 5.32 We would retain the ability to provide assurance on, and inquire into, any issues in relation to the use of public funds for publicity – but in the expectation that involving us would be required only should the administrators not be able to resolve a matter.
- 5.33 We would also examine any disclosures of publicity-related spending by the administrators, as a normal part of our annual audit of government departments and other entities.

Appropriations should be transparent

- 5.34 The administrative improvements that we have proposed would need to be supported by clearly stated high-level expenditure parameters. This is particularly relevant to publicity generated by Ministers and MPs, who (as mentioned previously) are not employees of the agencies that administer funds used for publicity purposes.
- 5.35 In relation to the appropriations that fund publicity activities, we propose the following measures:
- Reducing, from 3 to 1, the range of appropriations within Vote Parliamentary Service through which publicity-related activities can be funded – and clearly identifying the single appropriation.
 - Clearly stating the appropriation through which publicity-related activities are funded under Vote Ministerial Services.

- Where possible, identifying the appropriations in government department Votes under which major departmental publicity outputs will be provided.
- 5.36 In relation to ministerial and parliamentary publicity, we consider that publicity outputs should be appropriated as “other expenses” in the relevant Votes. This would recognise the significance of ministerial and parliamentary publicity activities as outputs.
- 5.37 In the case of government departments, publicity activities are incidental to other outputs appropriated under the Votes administered by departments, and thus the extent to which appropriations could be clarified may be restricted. In such situations it might be more acceptable to identify the appropriations that include major publicity expenses in the scope of a single appropriation, rather than allowing those expenses to be spread across a number of appropriations.

How the new framework can be progressed

- 5.38 A process is needed to develop and introduce a new framework.
- 5.39 The Remuneration Authority (Members of Parliament) Amendment Act 2002 introduced a new model for fixing the travel, accommodation, attendance and communications services available to Ministers and MPs. Under the model, the Speaker and the Minister Responsible for Ministerial Services make determinations, in consultation with particular agencies, which must be published on the Internet and made available to the public. A determination may incorporate other information by reference.¹⁴
- 5.40 In our view, the model offers an example of how rules and standards for ministerial and parliamentary party publicity could be promulgated in a way (which need not necessarily be legislated) that meets the transparency requirements set out above.

¹⁴ See sections 20A and 20B of the Civil List Act 1979, as amended by the 2002 Amendment Act.

Part 6 – Advertising in the pre-election period

Introduction

- 6.1 The period preceding a general election has specific implications for publicly funded publicity and advertising.
- 6.2 We mentioned in Part 3 the “benefits of incumbency” that enable Ministers and MPs to achieve indirect party political benefit from publicity or advertising at public expense. That potential undoubtedly increases in the period leading up to a general election.
- 6.3 Similarly, the risks for government departments in undertaking publicity and advertising activities increase as an election draws near – especially if the subject matter of the publicity or advertising is politically contentious.

Why are we concerned about pre-election publicity and advertising?

- 6.4 At present, publicly funded publicity and advertising by Ministers, government departments, and parliamentary parties in the pre-election period is not subject to any comprehensive rules or guidance. This contrasts with the detailed requirements of the Broadcasting Act 1989 that fix the amounts of pre-election broadcasting that are allocated to political parties.
- 6.5 During an election period, successive governments have chosen to avoid conducting advertising campaigns that may create a perception that funds are being used to finance publicity for party political purposes. Paragraph 4.14 of the *Cabinet Manual 2001* states –

In the period immediately before a general election, the government is not bound by the caretaker convention...unless the election has resulted from the government losing the support of the House. But successive governments have chosen to restrict their actions to some extent at this time, in recognition of the fact that an election, and therefore potentially a change of government, is imminent. For example...some government advertising has been thought to be inappropriate during the election campaign (that is, where it might create a perception that public funds are being used to finance publicity for party political purposes – see the Guidelines for Government Advertising at appendix 2 for general guidance). In practice, restraints have tended to be applied from approximately three months before the general election is due, or (if the

period between the announcement of the election and polling day is less than three months) from the announcement of the election.

- 6.6 Judgements about when and how restraints should be applied are matters for Ministers and, ultimately, the Prime Minister. The question under the guidelines of whether publicity or advertising has resulted in public funds being “used to finance publicity for party political purposes” must be considered with reference not only to the content of the publicity or advertising, but also to its timing.
- 6.7 The *Members’ Handbook Guidelines* expressly exclude “party political, promotional or electioneering material for the purpose of supporting the election of any person” from the definition of “parliamentary business” in relation to advertising by MPs or parliamentary parties.
- 6.8 There is no guidance as to how this should be applied in the period before Parliament is dissolved. However, there is clear potential for MPs’ and parliamentary parties’ publicity and advertising activities in the weeks and months leading up to a dissolution to bring considerable party political benefit. That potential increases as political content is permitted in such publicity and advertising.

What needs to happen?

- 6.9 It needs to be recognised that government and parliamentary publicity and advertising outside the 3-month period before a general election can have electoral advantage for governing parties and parliamentary parties.
- 6.10 It is clearly impracticable for government publicity and advertising to cease completely during a pre-election period. The routine business of government must continue, and publicity and advertising is an integral part of that business. However, the potential for improper benefit exists nonetheless.
- 6.11 The basic expectations of the *Cabinet Manual 2001* and the *Members’ Handbook Guidelines* are clear about conducting advertising campaigns close to a general election, and not using parliamentary advertising for electioneering or related purposes. Beyond those basic expectations, the potential for indirect political benefit requires risk management by Ministers and government department chief executives.
- 6.12 We have provided comprehensive guidance on communications by local authorities in a pre-election period (see Appendix 4) in our report *Good Practice for Managing Communications by Local Authorities* (April 2004).

6.13 Our guidance for local authorities states that –

A local authority must not promote, nor be perceived to promote, the re-election prospects of a sitting member. Therefore, the use of Council resources for re-election purposes is unacceptable and possibly unlawful.

6.14 And –

A Council's communications policy should also recognise the risk that communications by or about Members, in their capacities as spokespersons for Council, during a pre-election period could result in the Member achieving electoral advantage at ratepayers' expense. The chief executive officer (or his or her delegate) should actively manage the risk in accordance with the relevant electoral law.

6.15 There is a need for similar guidance in respect of government department and ministerial publicity activities in a pre-election period. In recent months, we have been approached on several occasions for assurance about advertising campaigns at public expense that have been planned by government departments or Crown entities during a general election year. In each case, the content of the advertising was consistent with the *Government Advertising Guidelines*, had the advertising been scheduled to take place outside an election period.

6.16 We do not regard it as our role to make judgements on whether electoral advantage might accrue as a result of particular publicity or advertising being undertaken close to an election. In our view, that judgement is one for chief executives and, ultimately, for Ministers.

6.17 However, the making of those judgements would clearly be enhanced if there were more comprehensive guidance about how to manage the risks involved.

6.18 The United Kingdom's Cabinet Office issued, in 2001, specific guidance relating to government information activities during a general election. The general principle is –

... to do everything possible to avoid competition with Parliamentary candidates for the attention of the public. In addition, it has always been recognised that special care must be taken during the course of an Election since material produced with complete impartiality which would be accepted as objective in ordinary times, may excite criticism during an Election period when feelings are running high.¹⁵

6.19 The guidance is comprehensive, and sets out how different types of publicity should be managed during the pre-election period, including:

- relations between government departments and news media;
- press articles, interviews, broadcasts, and webcasts by Ministers;
- exhibitions that may advocate government policies;

¹⁵

See www.cabinetoffice.gov.uk/propriety_and_ethics/publications/pdf/electguide2005.pdf.

- window displays;
- films, videos, and photographs from government department libraries;
- printed material (including posters and leaflets);
- advertising campaigns; and
- the Internet.

Appendix 1 – Current guidelines for government advertising

Reproduced from the Cabinet Manual 2001

APPENDIX 2

GUIDELINES FOR GOVERNMENT ADVERTISING

These guidelines were approved by Cabinet and issued on 20 November 1989

INTRODUCTION

1. This document provides guidelines for Ministers and government departments for the preparation of and expenditure of public funds on government advertising and publicity. The guidelines may also be a useful reference point for other organisations which spend public funds on advertising and publicity.

PURPOSE

2. Governments may legitimately use public funds for advertising and publicity to explain their policies, and to inform the public of the government services available to them and of their rights and responsibilities. These guidelines recognise the public concern that government advertising should not be conducted in a manner that results in public funds being used to finance publicity for party political purposes.

SCOPE

3. Government advertising refers to any process for which payment is made from public funds for the purpose of publicising any policy, product, service, or activity provided at public expense by the government.
4. Government advertising should deal with matters in which the government has direct responsibility. The objective of the advertising may be to:
 - (a) inform the public of proposed/new/revised/existing government policies;
 - (b) inform the public of government services available to them;
 - (c) advise the public of new/revised/existing entitlements or responsibilities;
 - (d) encourage the public to adopt certain kinds of social behaviour generally regarded as being in the public interest (eg road safety advertising).

PRESENTATION

5. Government advertising should be presented in a manner which is:
 - (a) **Accurate, factual, truthful.** Factual information should be outlined clearly and accurately. Comment on and analysis of that information, to amplify its meaning, should be indicated as such.
 - (b) **Fair, honest, impartial.** The material should be presented in unbiased and objective language, and in a manner free from partisan promotion of government policy and political argument.
 - (c) **Lawful, proper.** The material should comply with the law.

FORMAT AND PRODUCTION

6. Government advertising may be in the form of:
 - (a) printed matter such as parliamentary papers, discussion and consultative documents, booklets, pamphlets, and posters;
 - (b) audio-visual material such as films and video-tapes;
 - (c) advertisements and sponsored features in the press, on radio, and on television.
7. The preparation of well structured public relations strategies, involving one or more of the above forms of advertising, may be appropriate to guide the announcement and dissemination of information about major approved policy initiatives, particularly if the issue is relevant to a number of Ministerial portfolios.
8. The development of advertising material may involve the use of public relations consultants, market research agencies, advertising agencies, or other specialist consultants. In such cases reasonable and fair procedures for the tendering and employment of consultants should be followed. Only exceptional circumstances, such as extreme urgency, should necessitate a departure from reasonable and fair tendering procedures.

DISTRIBUTION

9. Major policy proposals may be presented to Parliament as White or Green papers, or publicly released by way of discussion documents. Such publications should be deposited in the Parliamentary Library at the time of publication and may be sent unsolicited to media representatives and interested parties. They are not, as a rule, distributed unsolicited to the general public, although copies may be provided on request either free or at a price to cover publication and distribution costs. A period allowing for public submission and comment is often specified.
10. Brief factual information documents and leaflets informing the public of new policies or entitlements may be sent unsolicited to the public, particularly when forming one element of a wider advertising strategy on a major policy issue, as suggested in paragraph 7 above.

JUSTIFICATION AND ACCOUNTABILITY

11. Governments are accountable to Parliament for the use they make of all public funds. Government advertising should be undertaken only where there is an identified and justifiable information need by the intended recipients. This is particularly important in the case of major publicity strategies requiring significant amounts of public funds. It is appropriate in such cases to designate one person as project manager to be responsible for implementation. In any event every piece of material disseminated should include a clear attribution as to its origin and the Minister/agency accountable for it.

IMPLEMENTATION

12. The onus is on Ministers and government departments to ensure that these guidelines are followed. They need to be read in association with other requirements that govern the expenditure of public monies such as the presence of an appropriation and other statutory provisions affecting such expenditures.

REFERENCES

These guidelines have been formulated with reference to the following documents:

- 1 The United Kingdom Cabinet Office Note on Central Government Conventions on Publicity and Advertising of 25 April 1985.
- 2 The Suggested Guidelines for a Convention on Publicly-Funded Government Advertising and Publicity, tabled in the House of Representatives by the Controller and Auditor-General on 2 May 1989.

Appendix 2 – Current guidelines for parliamentary advertising

Reproduced from the Members' Handbook of Services (November 2003), section 1.3

1.3 ADVERTISING

1.3.1 Allocation

Funding is provided through the members' support allocation to allow each member to advertise their services or activities on parliamentary business.

1.3.2 Definition

'Advertising' is defined as advertisements and information relating to the member's activities when engaged on parliamentary business and made available by a member in print, via electronic media or the Internet and includes:

- advertisements in newspapers or other publications
- fliers and newsletters
- signage
- entries in public telephone directories
- material intended for public distribution (without charge) such as business cards, fridge magnets, pens etc
- radio and television advertising
- websites

1.3.3 Use and Content of Advertising

1(a) For the purposes of this section "parliamentary business" means all business relating to the work of a member of Parliament and may include:-

- promoting or providing details of the services a member is offering to the public;
- material of an informational nature to inform the recipient of the member's views on public issues of the day;
- information about a member's activities.

1(b)“Parliamentary business” does not include:-

- soliciting subscriptions or other financial support for a political party or a candidate at an election;
 - party political, promotional or electioneering material for the purpose of supporting the election of any person;
 - any work undertaken as a Minister of the Crown and Member of the Executive Council.
- 2 Any advertising material must display the parliamentary crest or include the member’s contact details. Contact details must include at least one of the following for either the member’s parliamentary or out-of-Parliament office
- the physical or mailing address
 - the electronic mailing address
 - the telephone number

For this purpose, contact details **do not** include addresses, electronic mail addresses or telephone numbers which are direct political party contacts.

- 3 Party names may be used in advertising material. The party name to be used, and any abbreviation thereof, shall be in accordance with the name and abbreviation approved and registered by the Electoral Commission.
- 4 Where a party logo is displayed in an advertisement which also displays the parliamentary crest, the party logo should not be the dominant feature.
- 5 In addition to complying with the requirements of this section, any radio or television advertising must also comply with any necessary requirements of the Broadcasting Act 1989 Part 6, Parliamentary Election Programmes.
- 6 In the event of Vote funded advertising material which is determined as being in breach of these rules, the Speaker will usually require the member to personally reimburse the Vote for the costs incurred.

Appendix 3 – Parliamentary Service Commission principles for advertising paid from Vote Parliamentary Service

On 16 December 2003, the Parliamentary Service Commission adopted the following set of principles to govern advertising paid for from Vote Parliamentary Service. We understand that the principles are intended as a guide for MPs and parliamentary parties when implementing the *Members' Handbook Guidelines*.

Principles

3. At the Commission meeting of 16 December 2003, Commission members advised the Speaker to adopt the following principles:
 - **Accountability** - ultimately, members are personally responsible for the way they and parliamentary political parties use the public resources entrusted to them. This responsibility cannot be avoided, even though delegations may exist for others to incur costs on a member's or a parliamentary political party's behalf. Records about a member's or a parliamentary political party's use of public resources should be kept to facilitate scrutiny if required.
 - **Appropriateness** – members and parliamentary political parties must only incur expenditure on “parliamentary business” unless explicit authorisation to the contrary exists.
 - **Integrity** - members and parliamentary political parties must use public resources only for the purposes for which they are provided and in accordance with the conditions attached to the provision of such resources.
 - **Openness** - members and parliamentary political parties must be open in the use of public resources and disclose any conflict of interests in utilising entitlements, be it pecuniary, personal, familial or as a result of any association.
 - **Transparency** - the reasons for, and the circumstances surrounding, the use of public resources by individual members or parliamentary political parties should be publicly available. The process by which funds are expended should also be publicly known.
 - **Value for money** - when using the public resources entrusted to them to perform their official duties, members and parliamentary political parties must seek the appropriate value for money in the circumstances.

Appendix 4 – Communications guidance in the local government pre-election period

Extract from Part 4 of Report of the Controller and Auditor-General, *Good Practice for Managing Public Communications by Local Authorities*, April 2004, ISBN 0-478-18117-5.

Communications in a pre-election period*

Principle 12 –

A local authority must not promote, nor be perceived to promote, the re-election prospects of a sitting member. Therefore, the use of Council resources for re-election purposes is unacceptable and possibly unlawful.

- 4.45 Promoting the re-election prospects of a sitting Member, directly or indirectly, wittingly or unwittingly, is not part of the proper role of a local authority.
- 4.46 Council would be directly promoting a Member's re-election prospects if it allowed the member to use Council communications facilities (such as stationery, postage, internet, e-mail, or telephones) explicitly for campaign purposes.
- 4.47 Other uses of Council communications facilities during a pre-election period may also be unacceptable. For example, allowing Members access to Council resources to communicate with constituents, even in their official capacities as members, could create a perception that the Council is helping sitting Members to promote their re-election prospects over other candidates.
- 4.48 For this reason, we recommend that mass communications facilities such as –
- Council-funded newsletters to constituents; and
 - Mayoral or Members' columns in Council publications –
- be suspended during a pre-election period.
- 4.49 Promoting the re-election prospects of a sitting Member could also raise issues under the Local Electoral Act 2001. For example:
- Local elections must be conducted in accordance with the principles set out in section 4 of the Local Electoral Act – see Appendix 1 on page 27. The principles apply to any decision made by a Council under that Act or any other Act, subject only to the limits of practicality. A breach of the principles can give rise to an “irregularity” which could result in an election result being overturned.**

- The publication, issue, or distribution of information, and the use of electronic communications (including web site and e-mail communication), by a candidate are “electoral activities” to which the rules concerning disclosure of electoral expenses apply.

4.50 “Electoral expenses”*** include:

- *the reasonable market value of any materials applied in respect of any electoral activity that are given to the candidate or that are provided to the candidate free of charge or below reasonable market value; and*
- the cost of any printing or postage in respect of any electoral activity.

4.51 A Member’s use of Council resources for electoral purposes could therefore be an “electoral expense” which the Member would have to declare – unless it could be shown that the communication also related to Council business and was made in the candidate’s capacity as a Member.

Principle 13 –

A Council’s communications policy should also recognise the risk that communications by or about Members, in their capacities as spokespersons for Council, during a pre- election period could result in the Member achieving electoral advantage at ratepayers’ expense. The chief executive officer (or his or her delegate) should actively manage the risk in accordance with the relevant electoral law.

4.52 Curtailing all Council communications during a pre-election period is neither practicable nor (as far as mandatory communications, such as those required under the LGA, are concerned) possible. Routine Council business must continue. In particular:

- Some Councils publish their annual reports during the months leading up to an October election, which would include information (including photographs) about sitting Members.
- Council leaders and spokespersons need to continue to communicate matters of Council business to the public.

4.53 However, care must be taken to avoid the perception, and the consequent risk of electoral irregularity, referred to in the commentary to principle 12. Two examples are:

- journalistic use of photographic material or information (see paragraph 4.42 on page 21) that may raise the profile of a Member in the electorate should be discontinued during the pre-election period; and

- access to Council resources for Members to issue media releases, in their capacities as official spokespersons, should be limited to what is strictly necessary to communicate Council business.

4.54 Even if the Council’s Communications Policy does not vest the power to authorise Council communications solely in management at normal times, it should do so exclusively during the pre-election period.

* By “pre-election period” we mean the three months before the close of polling day for the purposes of calculating “electoral expenses”: see Local Electoral Act 2001, section 104. However, a Council may decide to apply restrictions over a longer period.

** See *Aukuso v Hutt City Council* (District Court, Lower Hutt, MA 88/03, 17 December 2003).

*** Also defined in section 104.

Appendix 5 – Examples of Australian approaches to government and parliamentary publicity and advertising

Introduction

1. Part 5 of this report has been informed by several examples of positive administrative practice that we identified in Australia at the Federal Government level, and at State Government level in New South Wales. We note that none of these systems are fully proportional.
2. The specific examples were:
 - **in relation to government publicity:**
 - the central co-ordination of government publicity and advertising; and
 - the use of guidelines for government department branding;
 - **in relation to parliamentary publicity:**
 - more active monitoring and oversight of advertising resources used by MPs; and
 - provision of guidance to MPs and Ministers about their individual responsibilities in relation to the public resources they use.
3. We also noted that certain expenses incurred by MPs were disclosed in the interest of financial transparency and public accountability.

Government publicity and advertising-related examples

4. We have made a range of comments in our report about the oversight of State sector advertising.
5. In Australia, the Government Communications Unit (GCU) plays a significant procurement role in State sector advertising. The GCU's role involves:
 - maintaining a whole-of-government overview of current and forecast communications activities;
 - providing advice on communications best practice, including research, public relations, and advertising, to government departments and agencies;
 - monitoring current industry developments and trends;

- maintaining a register of communications consultants (including advertising agencies, public relations consultants, market research companies, graphic designers, writers and the like) interested in undertaking government work, which is drawn on by government departments and agencies seeking to engage consultants for communications activities;
 - assisting in developing communications strategies and briefs for consultants; and
 - managing a central advertising system, to achieve effective media planning and cost-effective media placement for government advertising.*
6. We also noted that the Commonwealth Government of Australia has introduced a new branding design for government departments and agencies, intended to –
- ...improve recognition of the many policy initiatives, programmes and financial services delivered across the Australian Government.*
7. In this regard, GCU has prepared Branding Design Guidelines, which provide information about the different elements of the design and guidance on common applications.**

Parliamentary publicity and advertising-related examples

8. The soundness of the systems, policies, and procedures for oversight and administration of publicity and advertising resources used by MPs is a specific focus of this report. We found positive examples of how such matters are approached in Australia.
9. In New South Wales, members of the Legislative Assembly are provided with Electorate Mail-out Accounts, to assist them to communicate with their electorates using publications, letters, flyers, brochures, and newsletters. The Speaker of the Legislative Assembly has promulgated specific instructions for the administration and use of this entitlement. The Clerk of the Legislative Assembly has the role of making sure that the instructions are complied with.
10. The instructions include the following requirements:
- the accounts must not be used for electioneering or political campaigning;
 - the month and year of printing must be shown on the publication, and the publications must be distributed in the same month of printing, or the following month;
 - publications cannot be issued on behalf of a lobby group, political party, charity or other special interest group;
 - publications are not to be distributed with electioneering or campaign material which is funded from non-parliamentary sources;

- members are not permitted to pre-purchase letterhead, paper, envelopes or postage stamps, or other services for future mail-outs; and
 - members are recommended to supply a proof copy of the publication to the Clerk of the Legislative Assembly before printing, to confirm that the content complies with the instructions.
11. Administrators use a checklist to help them to review printed material that members wish to have funded through their mail-out accounts.
 12. We were also interested to note that the disclosure of information about MPs' entitlements is an approach used in Australia to help satisfy financial transparency and public accountability expectations. In New South Wales, the travel expenditure of Members of the Legislative Assembly, their spouses, and electorate office staff are disclosed in the Legislative Assembly Annual Report.
 13. Finally, we were impressed with the guidance published by the Department of Finance and Administration in the Commonwealth Government of Australia for Senators and Members, which provides useful clarification of the roles of administrators, in contrast to that of the Members who access services – ***

...While Ministerial and Parliamentary Services can provide advice and assistance, it remains the responsibility of the Senator or Member to satisfy themselves that their use of parliamentary entitlements is lawful. It is also in the Senator's or Member's interest to satisfy themselves that it is publicly defensible.

In deciding whether or not to access taxpayer-funded entitlements, it would be advisable for Senators or Members' to adopt a risk assessment approach by asking themselves the following questions:

IS IT WITHIN THE RULES	HOW WOULD IT LOOK? IS IT DEFENSIBLE?	WHAT IS OVERALL RISK ASSESSMENT?
Clearly yes	Fully defensible	Low risk
Technically yes	Some difficulty in defending policy	Medium risk
Arguably yes	May/would attract criticism	High risk
Clearly no	Would certainly attract criticism	Unsafe/unlawful

* See www.gcu.gov.au.

** See www.gcu.gov.au/code/infodept/branding.

*** Australian Government Department of Finance and Administration, *A Guide to the Entitlements of Senators and Members*, Commonwealth of Australia 2004.