



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

SELECT COMMITTEE ON CAMPAIGN ADVERTISING

(Reference: Government Agencies (Campaign Advertising) Bill 2009)

Members:

**MS JOY BURCH (The Chair)
MR SHANE RATTENBURY (The Deputy Chair)
MR ALISTAIR COE**

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 23 JULY 2009

**Secretary to the committee:
Dr S Lilburn (Ph: 6205 0199)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Committee Office of the Legislative Assembly (Ph: 6205 0127).

WITNESSES

CAPPIE-WOOD, MR ANDREW , Chief Executive, Chief Minister’s Department ...	36
CARTWRIGHT, MS CAROL , Executive Director, Arts, Communications, Events and Protocol Division, Chief Ministers Department.....	36
KINSMORE, MR SIMON , Senior Manager, Arts, Communications, Events and Protocol Division, Chief Minister's Department.....	36
RUDDER, MR GAWEN , Manager, Business Services and Advice, Advertising Federation of Australia	53
STANHOPE, MR JON , Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts and Heritage.....	36
SULLIVAN, MR MARK , Managing Director, Actew Corporation Ltd.....	64

Privilege statement

The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings.

All witnesses making submissions or giving evidence to an Assembly committee are protected by parliamentary privilege.

“Parliamentary privilege” means the special rights and immunities which belong to the Assembly, its committees and its members. These rights and immunities enable committees to operate effectively, and enable those involved in committee processes to do so without obstruction, or fear of prosecution. Witnesses must tell the truth, and giving false or misleading evidence will be treated as a serious matter.

While the committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

Amended 21 January 2009

The committee met at 2 pm.

STANHOPE, MR JON, Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts and Heritage

CAPPIE-WOOD, MR ANDREW, Chief Executive, Chief Minister's Department

CARTWRIGHT, MS CAROL, Executive Director, Arts, Communications, Events and Protocol Division, Chief Minister's Department

KINSMORE, MR SIMON, Senior Manager, Arts, Communications, Events and Protocol Division, Chief Minister's Department

THE CHAIR: Good Afternoon. Welcome to this public hearing which is looking at campaign government advertising. Before we commence, I refer you to the privilege statement. You are aware of that and you accept and acknowledge the content of that? Fantastic. Mr Stanhope, would you like to make an opening statement?

Mr Stanhope: Thank you, Madam Chair. Not specifically, no. I do not believe that is necessary. The government has, as you are aware, provided a submission to the committee in relation to this particular inquiry.

The government accepts that this is a very important issue. It is an issue that certainly does attract the attention, and of course appropriately so, of the Assembly, and indeed of members of the community. Issues in relation to government expenditure of funds across the board are always issues of significant attention and moment. Of course, one would expect that level of interest and scrutiny to extend to moneys expended by government in the advertising of government programs and policies, and indeed in attempts which governments take to seek to engage with the community.

As you would be aware, Madam Chair, from the submission which the government has made, we do believe that aspects of the legislation which the committee is inquiring into are not well framed. We believe that there are, or will be, a number of significant negative implications in relation to the capacity of government to engage with the community if the legislation as presented were to be passed.

It is probably fair to say that the government believes that the legislation is a significant overreaction—although certainly a significant issue—that would lead to significant negative consequences. It would impact significantly on the capacity of government to inform the community. The community has a right to be fully engaged, to have access to information, to understand ACT government programs and services. There are a number of what one can charitably suggest would be unintended consequences of the implementation of the legislation.

There are aspects of it that we believe are serious in the context of their misunderstanding of statutory responsibilities and relationships—the extent to which the legislation seeks to bind the activities of statutory corporations and, significantly, proposals in the legislation in relation to a role for chief executives vis-a-vis their ministers—which I think completely misunderstand the nature of relationships between ministers and their responsibility for the administration of their departments. Particularly, of course, there are issues in relation to the possible role of the Auditor-General in making judgements on government decisions and the separation

that one believes should rightly exist between the Auditor-General in the pursuit of her statutory responsibilities and government.

The government has provided a submission. I, and most particularly my departmental officials, will be more than happy to provide what assistance we can on any aspects of the issue or the submission.

I will conclude on this point: I have been provided, for the purposes of a briefing for me today, with a paper prepared by the department of justice. I am not quite sure whether that has been provided to you.

THE CHAIR: No.

Mr Stanhope: It was provided to me but I would be more than happy to do so, perhaps at the conclusion, so that I might refer to it if I am asked about it. It is a paper which was prepared by the Department of Justice and Community Safety as a briefing for me in preparation for this hearing today. I believe it is a very useful summary of significant definitional and interpretational issues and difficulties with the bill that you are inquiring into. I believe that would be of some assistance to the committee.

THE CHAIR: I would appreciate a copy of that once we have finished.

Mr Stanhope: I, if I can, and most certainly Mr Cappie-Wood and other officials from the Chief Minister's Department are more than happy to respond to issues relating to the legislation and the government's proposed enhancements to the particular issue, if the committee wishes.

Just in that context, through our submission, and indeed in our response in the Assembly, the government has indicated that it sees room for the creation of a framework around government advertising that we would be more than happy to engage with and to pursue. We believe it is a better model that is more suited to government than that proposed through the legislation. We are happy to expand on that if you would wish.

THE CHAIR: Thank you, Mr Stanhope. Thank you for your submission. My approach is looking at it from the principles point of view, but then looking at the mechanics and implementation. The early part of your submission, and I think you have raised it in your opening comments, is around difficulties or limitations with the existing technicalities and inclusions or exclusions and definitions. I am interested in hearing your comment around the flaws in that and how that will impact on the mechanics and the implementation of it.

Mr Stanhope: First and foremost, one of the great difficulties with this proposition is that much of what government does is inherently perceived as political. The legislation which the committee is reviewing starts from a position that advertising or communications for party-political purposes cannot be supported. None of us disagrees with that. I support that particular position and principle absolutely—that no government funds, no taxpayers' funds, ratepayers' funds, should ever be utilised for party-political purposes. I agree absolutely with that, as does the government; and I sit here and say honestly that I do not believe that any money, in my time as Chief

Minister, has ever been inappropriately used or used for party-political purposes. But, of course, it is in the eye of the beholder.

I believe it is fair, in the context of the argy-bargy of politics and of Assembly life, for me to claim that this legislation, developed with significant public funding through the Office of Parliamentary Counsel, and time of officials, and this inquiry into this legislation, occupying the time of full-time staff of the Legislative Assembly at taxpayers' expense, could be conceived or considered to be a very political exercise—politically inspired legislation being reviewed by a politically motivated Assembly inquiry. I could argue that. I will not, because I am too respectful, but I could. And I could make the argument cogently, clearly and significantly.

So here we have what I regard, but you perhaps do not, as politically inspired legislation being reviewed by a politically motivated Assembly inquiry. But that is a matter of perception.

The difficulty with the legislation is that it proscribes something which we all believe should be proscribed—party-political advertising at taxpayers' expense—but it does not provide a definition of what is a party-political purpose. Of course, that is the rub, isn't it? It is in the eye of the beholder. Something that an opposition, and oppositions traditionally, might regard as blatantly political advertising will always be defended by a government as a government pursuing its responsibility to the community to disseminate information.

For legislation to be presented which seeks to proscribe or to control government advertising that is deemed to be advertising for party-political purposes, without even attempting to provide a definition of what is a party-political purpose, of course, is doomed to fail, because the debate will never cease—the debate we have now about “That advertising is inappropriate.”

It seems to me that what the proponents of this legislation need to do, and the issue that this committee needs to address and grapple with, is: what are the examples? What are the examples of party-political advertising that we wish to proscribe? And then defend the claim that it is party-political and was not, as I would submit in relation to any advertising that I may have been responsible for, a matter or a case of the government seeking to inform the community.

I think we go to the issues of definition and the lack of definition. I think the fact that this legislation is based on a notion that there should be no taxpayer funding of party-political advertising is a principle we all accept absolutely and without argument. But the legislation then does not define it, so it leaves it in the eye of the beholder forever. So the arguments will never cease. It seems to me that the legislation will not resolve that particular point of tension.

But there is a framework around advertising that I believe we can all agree on. In response to the interest shown in this issue by the Assembly, the government has responded with an alternative set of propositions which we believe avoid those fatal flaws around constructing a legislative framework around government advertising that would inhibit the capacity of government to advertise, that would actually cause delays of itself that would actually involve expense and would inhibit the business of

government. We believe that this is an issue that does rightly require a response but we believe the response expressed through the legislation to be the right one.

THE CHAIR: Thank you. I will ask one more question and then I will hand over to the others. One of the comments you have made is around the role of the Auditor-General which is in the bill versus an independent panel. The Auditor-General in her submission expressed concerns around her part in that and that, indeed, it may compromise her independence. Can you explain a little bit about how that independent panel would work—who you would recruit to it and its processes.

Mr Cappie-Wood: The concept of a panel replaces the accountability proposed in the bill around the Auditor-General. The Auditor-General is there, and has a legitimate role associated with inquiring into the distribution and application of resources by government. This brings the Auditor-General into a more proactive management role as opposed to a reviewing role. Going to the same principles that the Chief Minister pointed out, there is perhaps a more effective means by having independent parties who can fulfil the role quickly, expeditiously and with some degree of capacity where they have familiarity in the difficult area that this is, to be able to provide a rapid response to government, without engaging with or dictating to the Auditor-General about her role or the distribution of her resources to fulfil this role.

THE CHAIR: Thank you.

MR COE: Mr Cappie-Wood, you say it is a proactive role but it is after the government has taken some action. The Auditor-General is not delving into any particular area of government, willy-nilly. The Auditor-General would be responding to action taken in the government. So it is not a proactive role at all; it is a review mechanism. Do you agree with that?

Mr Cappie-Wood: It is a mechanism at which point the trigger of \$20,000 for an advertising campaign would be reviewed, so as to say, “Did that meet the principles et cetera?”

MR COE: Yes.

Mr Cappie-Wood: What the government is proposing is to get on the front foot, again having an independent party or parties associated with a review of a proposed campaign, and say, “Does this comply or otherwise?” There are many circumstances in a campaign area where the government’s name has to be mentioned. I reflect upon the issue of accountability which the Auditor-General is party to. In terms of the accountability mechanisms, government has to actually say who is accountable for achieving certain outcomes. There is an interesting way of looking at it. Under one interpretation of the proposed bill, government might not even be able to say who is responsible for what because it would be mentioning that government is responsible. So we have to be very careful about the interpretations and the lack of interpretations in the bill.

Therefore, if we want to be proactive, if we want to be able to have those principles applied—fundamentally, it is more about how the principles are applied rather than any debate about the principles that I can see—it is about having a proactive

independent party review of a proposed campaign that says that this falls within or outside of the principles that are on the table. That would be much better than having a review mechanism which would be, if you like, judgemental either in reverse or, if you put the Auditor-General at the front of that process, you are involving the Auditor-General in a management role.

It is far better, from our perspective, to have independent parties, who could be agreed by all parties—if I were to use that term—who would be able to help not only in determining whether the principles were being applied appropriately and hence the campaign would be able to progress, but also in assisting in the education and refinement of people's understanding, particularly within the public service, as to how best to apply these principles in the future.

Mr Stanhope: It involves, doesn't it—unless I misunderstand the provision—every advertising campaign that a government pursues which might exceed \$20,000 in cost? Before it can proceed, the Auditor-General must determine whether the advertisement is for a party-political purpose. I think it is completely inappropriate for the Auditor-General to be asked to rule on whether a particular advertisement is for party-political purposes when there is no definition of a party-political purpose. I think that is at the heart of the discomfort, a discomfort expressed by the Auditor-General herself.

MR COE: But do you agree that the process you have just outlined is a review mechanism; it is not a proactive mechanism?

Mr Stanhope: I thought there were two possibilities. Unless it has been amended and I have not caught up with the—

MR COE: No. Part 3 of the bill states:

If the campaign costs of a government campaign proposed by a government agency are likely to exceed \$20 000, the responsible Minister for the agency must ask the auditor-general to review the proposed campaign ...

Mr Stanhope: Yes, that is because they are proactive. That is before the campaign can be agreed.

MR COE: As you said, that would be if the government were to pursue a campaign advertisement, after that pursuit, therefore the Auditor-General would make the review. Do you agree with that?

Mr Stanhope: That is not how I read proposed section 10. I understood section 10 to mean—and I am not an expert in this—that if a minister receives a proposal from a department, for instance in relation to a swine flu campaign which will cost \$100,000, and the minister knows it will cost more than \$20,000 the minister must ask the Auditor-General to provide advice on whether a \$100,000 campaign in relation to swine flu has a party-political purpose. That is my understanding.

MR COE: But, as you are well aware, there are exemptions for health.

Mr Stanhope: All right. You give me a campaign that you believe is for a party-political purpose in your experience which actually generated the need for this bill and I will use that as my example.

MR COE: How about you discuss the Actew advertisements?

Mr Stanhope: Well, that is—

MR COE: You just asked me for an example. I am giving you an example. What about the Actew advertisements?

Mr Stanhope: The Actew advertisements were actually approved by an independent statutory authority operating under the corporations legislation. They were not approved by the government—appropriately were not approved by the government—and were not sought by the government. A perfect example of the difficulties with this legislation is that the Liberal Party obviously believes that the statutory independence and the operation of the corporations legislation in relation to Actew Corporation should in some way be adjusted by some sort of amendment that the government should make.

Your example goes to the heart of the problems with this bill. The ACT government did not seek the advertisements that are of concern to you that Actew ran, nor did it approve them. Under this legislation, as I understand it, the Auditor-General would have no role because they are not government advertisements; they are advertisements of an independent statutory authority. So it is a wonderful example, Mr Coe, that you have raised. Raising as an example for my response advertisements which were not approved by the government, which were not sought by the government and which were not funded by the government, is a perfect example of what is wrong with the legislation.

MR COE: So how does that tie in with your comments on 20 May: “No, the government—that is, the executive—should accept full responsibility for the advertising it does”?

Mr Stanhope: The government did not approve, fund or seek—

MR COE: So are you taking responsibility for the advertising that government agencies do with taxpayers’ money or not?

Mr Stanhope: Not statutory authorities, no.

MR COE: You are not?

Mr Stanhope: Absolutely not.

THE CHAIR: I think he has responded to that question.

Mr Stanhope: Never have and never will.

MR COE: So as a shareholder of Actew, as one of two shareholders of Actew—you

and the Deputy Chief Minister—you are not going to take any responsibility for the advertising that Actew does?

Mr Stanhope: That is correct.

THE CHAIR: As shareholders. Mr Coe, I have a follow-on question.

Mr Stanhope: You need to understand the roles and responsibilities of directors in the operation of the Corporations Act, Mr Coe. It probably would be illegal for me to seek to do so. It probably would be against the law.

THE CHAIR: If I can go to the review process of the Auditor-General, and we might have some other matters. The Auditor-General herself has expressed concern around her function as articulated in the bill, but thought then that a role of the Auditor-General was clearly in performance. So through the normal Auditor-General's audit of an organisation, as part of that review process, this would be included in the performance and financial audits. Would you agree that that would be the right place for the Auditor-General to be able to comment on compliance with the guidelines?

Mr Stanhope: I would have thought that that is a perfectly reasonable, legitimate and appropriate role for the Auditor-General to take in relation to any government expenditure for any government purpose. We have in our response to this particular legislation and to this issue acknowledged—and we concede this—that the development of a framework around government advertising is an issue of significant community and Assembly concern. We are not saying that this is an area where there should not be a framework or guidelines.

We have proposed, as an alternative to the Auditor-General's involvement, what I believe, and supported by her, would be appropriate as an alternative framework—namely, an independent group that would actually remove the Auditor-General from that point of conflict. I believe it would put the Auditor-General in a most invidious position having to clash with the government of the day over the legitimacy of its decision making on what is appropriate for government to advertise. That would be an invidious position for an Auditor-General to be placed in. Say it was an emergency advertising campaign on an emergency of the day—and these things happen—where we wanted legislation to deal with a priority issue of the day, let alone some of the more routine advertising that the government does.

We are not saying that there should not be a structure. We just do not accept that that is the best way forward. We have proposed an alternative and of course we look forward with interest to this committee's views on the range of possibilities that it might be considering.

THE CHAIR: Thank you. Mr Rattenbury, questions?

MR RATTENBURY: Thank you. I follow on, Chief Minister, on the alternative in your submission. I found the submission very interesting. We appreciate your giving it to us. What is the status of your alternative proposal?

Mr Stanhope: I think the status is very much that it is a serious proposal and an expression of the willingness of this government to engage with this committee in a process of rules and regulations. I must say our position has always been that we think the legislation is probably something of an overreaction to the issue. This is a serious submission for this committee in relation to the best way forward. This is the government's view of how best and how most appropriately to deal with this. The issue of government advertising and the bases on which government takes decisions to advertise is a quite difficult issue.

I have to say in the context of this government that we are not particularly big advertisers, but nevertheless over the course of a year I guess we spend a few hundred thousand dollars on advertising. In the context of our budget and on a comparison of advertising by this government and others, we are minnows in this area. Nevertheless, these are government funds, community funds, and we are prepared to accept that there should be a framework against which governments, particularly agencies, will make decisions in relation to advertising.

This is a serious response to this issue, Mr Rattenbury, for the benefit and the information of this committee with a view to your recommendations being informed by an honest view of government and a determination to be part of a solution to the issue.

MR RATTENBURY: So if the Assembly were to not pass the legislation, what would be the time line for the introduction of these guidelines?

Mr Stanhope: It is something that we could do immediately. We do not wish to pre-empt. We do not wish now to pre-empt your deliberations, but I would be prepared to commit now to the earliest implementation of the proposals we put if that reflected the outcomes of this particular inquiry.

MR RATTENBURY: In your proposal you have a \$100,000 threshold for a government advertising campaign. The original legislation envisages a \$20,000 threshold. Can you just talk us through why you have chosen \$100,000 as the threshold?

Mr Stanhope: I might wish to defer, but I have to say that a \$20,000 electronic advertising campaign in this day and age is probably a one-day campaign.

MR RATTENBURY: You did not see the Greens election budget then.

Mr Stanhope: Yes. It may be that Ms Cartwright or Mr Kinsmore can actually give some advice on what a \$20,000 three commercial TV station campaign would give you—how many days, how many minutes.

Mr Kinsmore: That is probably a difficult one to answer, but when you take into consideration the creative that needs to be done, the concepts that need to be to-ing and fro-ing between the creative agency and the department, \$20,000 will not get you terribly far. It probably would not get you a day's advertising, as the Chief Minister said, but I cannot be held to that comment. But certainly in our experience \$20,000 is a very, very low threshold.

MR RATTENBURY: And approximately how many campaigns each year that would be run in the ACT by the government would be over \$100,000?

Mr Kinsmore: I would have to take that one on notice. It is difficult to say throughout the agencies and Chief Minister's how many are over that \$100,000 threshold. A significant campaign would certainly exceed that amount.

MR RATTENBURY: So as the Chief Minister has just indicated—

Mr Stanhope: I would be happy—

MR RATTENBURY: that he only spends a couple of hundred thousand dollars a year on advertising—

Mr Stanhope: A few hundred.

MR RATTENBURY: but you are talking about a \$100,000 threshold. So how do—

Mr Stanhope: I think it is an interesting question. It probably would have been worth us being prepared to respond to that today, Mr Rattenbury. I would be very happy to take that question on notice. When I reflect on it, I imagine that there would, over the last couple of years, in a year have been campaigns from the department of health that would perhaps have exceeded \$100,000. There would be a campaign from the department of education that would have exceeded \$100,000. There would certainly be campaigns run by Tourism ACT that would have exceeded \$100,000.

I would be surprised—but I will take it on notice—if there are five campaigns a year, and indeed in the last two years, that would have exceeded \$100,000. It would surprise me, but I will take it on notice. I think it would be in education, in health and in tourism. Beyond that, I just cannot recall. I think it is a moot point, Mr Rattenbury, and it would be worth getting that information.

MR RATTENBURY: One last question from me for the time being. You may recall this brochure that was published about last July or August by the ACT government. It is called *Budget highlights 2008-2009*.

Mr Stanhope: An excellent document.

MR RATTENBURY: Was any such brochure published in previous years?

Mr Stanhope: I would have to take that on notice, Mr Rattenbury. I am more than happy to respond to the committee on that.

MR RATTENBURY: If you could give us an indication of whether they were published for, say, 2007-08 and 2006-07, for example?

Mr Stanhope: Sure.

MR RATTENBURY: My next question is whether—

Mr Stanhope: Do you think it has a party-political purpose, Mr Rattenbury?

MR RATTENBURY: I will come to that in a minute, Mr Stanhope. My next question is whether such a brochure was published for the 2009-10 budget.

Mr Stanhope: I would have to refer to the Treasurer on that; I cannot quite recall. I do not believe it was.

MR RATTENBURY: You were the Treasurer for 2006-07 and 2007-08; you do not recall?

Mr Stanhope: I do with this one; that is why I say it is such an excellent document.

MR RATTENBURY: Your photo is in it; I presume it is a—

Mr Stanhope: It is an excellent document. That is why I was prepared to—

MR RATTENBURY: I guess my question is—

Mr Stanhope: comment on its quality and its value.

MR COE: So the other ones were not so memorable, if they were not produced?

Mr Stanhope: This one I was responsible for. I do have a memory for things that I am responsible for, slightly clearer than the memory I have for things that—

MR RATTENBURY: So your recollection is the only one that was published was for the year immediately before the ACT election?

Mr Stanhope: No, that is not my recollection at all. I am not prepared to provide an answer today that I am not sure about, Mr Rattenbury, so I will take some advice. I simply do not know. I simply cannot remember.

MR RATTENBURY: As you are responsible for this document, are you aware why it was broken down to geographic areas of Canberra that largely coincide with the electoral boundaries?

Mr Stanhope: For the convenience and information of the people of Canberra. The people of Belconnen, Mr Rattenbury, most particularly, are most interested in budget initiatives that actually impact. That is how the *Canberra Times*, and indeed how our sterling other media, report the budget. They report specifically on impact on particular communities, and they do it most particularly, conveniently, by electorate.

MR COE: As per the fact sheet provided in the budget.

Mr Stanhope: I must say, Mr Rattenbury, it is just the government seeking to be as useful and as helpful as it can to the people of Canberra, as always. Why wouldn't you seek to delineate expenditures by geographic area—and by geographic area, of course, we can, particularly here in Canberra, with three electorates, most

conveniently refer to geographic areas by electorate, don't you think?

MR RATTENBURY: You could do it in a number of other ways, Mr Stanhope.

Mr Stanhope: Particularly most conveniently for those of us who live in our electorates, of course.

THE CHAIR: Thank you. Mr Stanhope, back to your submission, and again it goes to a little bit of the role and function of review. You have made some comment around the review framework or the process of certifying whether a campaign meets guidelines or not. Can you walk us through your process and the benefits of that as opposed to what is articulated in the bill?

Mr Stanhope: Thanks, Ms Burch.

Mr Cappie-Wood: By way of clarification, you are referring to the proposed government arrangements or in the submission itself?

THE CHAIR: I am looking at your submission—page 7, review framework. That is what is in front of me at the moment. But I have read your guidelines.

Mr Cappie-Wood: In terms of the submission to the select committee—and I will just make sure I have got the right one—it is referring to the proposed improvements there. I might say, whilst I am pulling up the other part of the submission, that the government's proposal is based upon the federal government's recently reviewed advertising campaign guidelines. Hence, using that as a very recent reference base, to have the principles associated with that clearly enunciated, to give greater clarity to the differentiation between literally information and party-political advertising was seen to be appropriate, but still having the review mechanism in place. I note that the review mechanism did mention \$100,000. There is also provision that other amounts of a more sensitive nature could also be reviewed. So it is not necessarily solely a \$100,000 limit. So there is some sensitivity built into that.

It was seen that the review process would operate with up to three people as an independent group. The independent group would be made up of people with expertise in governance, legal and media backgrounds, and that agreement would be reached between the various stakeholders as to who they should represent. Agencies would take proposals that are over the threshold, or where they are concerned that they might breach any of the principles associated with that, and require any clarification in relation to the principles, and to take that quickly before that group, who would be able to respond regarding the interpretation of the principles and the application.

We saw that as a means of continuing to evolve the understanding, not only in terms of the public sector but more generally, about how those principles would be applied. Those principles, as I said, have been based upon a very recent review, given that the commonwealth government has also had concerns about making sure there is clarity in this area.

THE CHAIR: The first part of that certification, though, is the chief executives

ensuring that their campaign meets the conditions and the principles of the guidelines. So before a minister ticks or flicks, all those internal processes are in place?

Mr Cappie-Wood: Yes. As I said, it is about making sure that there is an understanding within the public service as to the principles and how they are applied. So in the formation of advice to government around any form of advertising or related activity, those principles could be understood and the guidelines were clearly there—there are five particular guidelines—and making sure that, in the formation of advice to government around any such campaigns or activities, those guidelines and principles be applied inside the public service and then advice, in accordance with those, going up to government.

THE CHAIR: I have a question on the pre-election period. Do you have other questions?

MR COE: Yes, I do. Chief Minister, you said at the beginning that you agree with the principle that public funds should not be used for party-political advertising.

Mr Stanhope: Absolutely.

MR COE: So how does that tie in with the Labor Party using hospitals and schools for their advertisements?

Mr Stanhope: Is that relevant to this legislation?

MR COE: I think it is, yes.

Mr Stanhope: How? Which provision of the legislation is that relevant to? I am more than happy to have—

MR COE: If you—

Mr Stanhope: I am more than happy to have a political stoush here, if that is what you want. If you want to have a rant and rave about—

MR COE: Chief Minister, you raised the principle—

Mr Stanhope: why you lost the last election, Mr Coe, I am more than happy to engage, but I was here—

MR COE: You raised the principle that you do not think it is appropriate for public resources to be used—

Mr Stanhope: I was here—

MR COE: Chief Minister, please!

Mr Stanhope: for the purposes of responding to questions on this particular piece of legislation—

MR COE: Madam Chair, can I please have the call?

Mr Stanhope: and I am not interested in going off on some big, political rant.

MR COE: Madam Chair, may I please have the call? I have not asked my question.

THE CHAIR: Mr Coe, I understand that this has been raised before. Also, my understanding from it being raised was that the public assets were open to other parties and other—

MR COE: With respect, whether it has been raised before or not is irrelevant. I am entitled to ask a question of the Chief Minister, and I seek to do so.

THE CHAIR: Is it relevant to the legislation?

Mr Stanhope: I will take the question. Thank you, Ms Burch; I will take the question.

MR COE: You stated, Chief Minister, that the principle of public resources being used for party-political advertising is wrong.

Mr Stanhope: Absolutely.

MR COE: Therefore how does that tie in with the Labor Party using hospitals and schools, government hospitals and schools, public resources, for party-political advertising?

Mr Stanhope: It is not at all relevant, Mr Coe, as far as I can see.

THE CHAIR: Thank you, Mr Stanhope. Other questions, Mr Coe?

MR COE: That is fine for the moment.

THE CHAIR: I would not mind coming back to no advertising—blackout periods. Some bodies have been before the committee and raised serious concerns that that would impede their functions, their responsibilities, to different elements of the community. Do you think there is a reasonable period for advertising to be in or out, taking those needs aside?

Mr Stanhope: I would have thought at the start of the caretaker period, Madam Chair. To actually draw an arbitrary line three months before an election and to suggest that a government must cease all advertising three months out from an election because governments cannot be trusted, actually creates some very significant problems. Of course, the electoral commissioner has raised some of those in a practical sense. The electoral commissioner has basically said that if this opposition bill was implemented as presented, he could not run an election. That is essentially what the electoral commissioner is saying, and that is advice that is supported in the paper from the department of justice which I will provide to the committee today.

I would have thought that we have, along with all other parliaments in Australia, and probably within the Westminster world, through the caretaker convention that applies

to responsible government, Westminster systems and our electoral systems, a date or a time frame that has been contrived by every parliament around Australia. I am sure that part of this debate and this discussion is around what is an appropriate time—it is the time that has been determined and has been in place for as long as I can remember. It is a period that varies a little bit, I think, between jurisdictions by a few days, but no more. I ask: why would you change it? Why would you go from an established position in relation to the caretaker conventions that apply under Westminster and, through this quite contrived sort of response—certainly it is a serious issue but it is a contrived response, an over-reaction—say, “There should be no government advertising at all three months out from an election”?

I do not understand the rationale—the way in which that particular three-month time frame was arrived at, why you would arrive at it, and then the need. It is not just in relation to the practicalities of running an election; it is in relation to some of the other implications for government, in terms of some of the quite reasonable business of government advertising or engagement that a government would seek to do three months out from an election. In other words, what advertising do you proscribe or prevent? Do you stop the community billboard that is run every week in the *Canberra Times*?

MR COE: It is routine and you know that is exempted.

Mr Stanhope: That is an interesting point. I was just reflecting on Mr Rattenbury’s question before. Probably the most expensive advertising that the government does now is the community billboard. As one extrapolates it out over 52 weeks, it is probably \$6,000 a—

MR COE: You know that is exempted. You know that. This is a scare campaign. You know this—

Mr Stanhope: No, it is not. I would like seriously—

MR COE: Section 8(c)(iii). You know it is exempted.

Mr Stanhope: Well, if that is exempted it might be that the government withdraws its actual objection to the legislation. That is probably advertising in excess of \$300,000 a year, is it? How much a week?

Mr Kinsmore: I would have to take that on notice about the total amount, but I think around \$77,000 a year. I will take that on notice.

MR COE: It is almost 300.

Mr Stanhope: It is only \$1,000 a week.

THE CHAIR: It is getting close to the end of time. Do you have one more question?

MR COE: Yes, I have one more.

THE CHAIR: Mr Coe and then Mr Rattenbury.

MR COE: The federal guidelines which this bill is based on, as developed by Kevin Rudd, has the Attorney-General as a review mechanism and—

Mr Stanhope: The Auditor-General.

MR COE: The Auditor-General, sorry. The federal Auditor-General is largely happy with how it is going. Based on their success, surely that would be well worth taking into account. On another note, in addition to that, you said earlier that the Westminster convention is that when the caretaker period starts that is when other laws come into effect. That was largely developed before fixed terms. Now that fixed terms are widely adopted in many jurisdictions, it means there is a capacity to name a time 12 weeks out, 14 weeks out, six months out. Surely those conventions are not as relevant as they might have been? I would appreciate it if you could answer both those questions.

Mr Stanhope: Three months is purely arbitrary. This is just so hypothetical. You need to explain, in your justification of a three-month blackout, what advertising you regard as advertising for party-political purposes so that we, the government and the Canberra community, have a better idea of precisely what advertising you propose to ban. What is the advertising that you propose to ban fully three months out from an election? You have developed legislation which proscribes any advertising which has a party-political purpose. You have not identified what advertising that is, other than advertising done by a statutory authority without the authority or approval of the government and not paid for by the government. That is the only example you have provided today.

You do not believe ActewAGL should advertise the Cotter Dam. You use that as an example of party-political advertising. I must say I find that remarkable. I find two things remarkable. Your one and only example is advertising which the government did not undertake. You have an objection to that statutory authority advertising issues in relation to water security. How or why you believe that advertisements in relation to water security have a party-political purpose is simply beyond me. I am being serious here. I cannot understand, imagine or conceive of a situation in which advertising in relation to water security is party-political. It is difficult for me to respond. You say, “Well, we think it is reasonable to ban all government advertising three months out from an election.”

MR COE: There are exemptions and you know it.

Mr Stanhope: Which advertising would you prevent? I cannot answer these hypothetical questions. You say three months is reasonable for a ban on government advertising without giving me a single example of the sort of advertising that you believe should be banned, except advertising which has a party-political purpose. In my nearly nine years as Chief Minister, I cannot think of a single example of party-political advertising—not one. There is not one, and you today will not draw one to my attention. Your only example was not even government advertising.

THE CHAIR: Mr Stanhope, we are coming close to the end of time so if we can have a question from Mr Rattenbury and a brief response and then a question from me.

MR RATTENBURY: Chief Minister, during the winter of 2008, both the education department—

Mr Stanhope: An election year?

MR RATTENBURY: Yes—and the health department undertook what might be considered reasonably extensive campaigns promoting how much money the government was spending on both of those departmental areas. How were those decisions taken to conduct those advertising campaigns at that time?

Mr Stanhope: I would have to take advice specifically in relation to those, but routinely or ordinarily an ACT government agency, particularly where there was a major or quite significant policy initiative being pursued in relation to which it was important for better engagement with the community, would make proposals to government in relation to its intentions and would develop a proposal. It would almost certainly at least inform its minister of its intentions. I am not sure that in every event it would actually seek a minister's approval.

I have to say in relation to the routine business of government that I see advertisements all the time, I think most particularly in the *Canberra Times* and from time to time in the electronic media, which I am not aware of until I see them. There is a whole range of campaigns through leaflets, pamphlets and media advertising. As minister, I become aware of it when I see a pamphlet in my letterbox or when I see an advertisement in the *Canberra Times*. Most of our advertising, I think, is print advertising. Our print advertising would far exceed, I think, our electronic advertising. That is probably an interesting breakdown for us to provide to the committee as well. The health advertising that you refer to was advertising relevant to the most significant health decision, I think—it was in relation to the rebuild of the health system—that has been taken since self-government. It was a decision by a government to expend \$1 billion over 10 years in completely reconfiguring and rebuilding the ACT health system.

MR RATTENBURY: Why did the Canberra community need to know about that in the winter of 2008?

Mr Stanhope: Because that is when the decision had been taken. What do you do? Do you just stop? Do you just say: "It's an election year. We won't advertise this year. We'll put off building a women's and children's hospital for another 12 months"?

In the context of the tension around consultation, the adequacy of consultation and the timeliness of consultation—and, indeed, in relation to an Auditor-General's report of recent times, a need to consult, in a pre-consultative way, before decisions are taken—I find it remarkable in the extreme that there should be suggestions that we should now hold back from consultation for a year: why do you need to do it this year? So we advertise and pursue policy initiatives in three of the four years but not the fourth? Governments cannot operate like that.

MR RATTENBURY: I do not recall consulting on any of those campaigns, but as Ms Burch has a question, we should leave it there.

THE CHAIR: If we can, please—

Mr Stanhope: The significance of the decision that we took in the budget before last in relation to health and its implications for this community was perhaps the most significant decision that this government has taken in its time. To suggest that we should not seek to engage with this community fully and wholly in relation to our plans, to give them an opportunity to understand and to respond and to engage, is remarkable.

Similarly, one can ask the blunt question: what is the most important bill a government passes every year? The budget. How can it be suggested that one can rely exclusively on the media to actually outline and detail the \$3.5 billion worth of expenditure? How long is the budget—500 pages? How long is the *Canberra Times* reporting of the budget—four pages? What about the other 450 pages of detail? What about the hundreds of projects that are funded in every budget that are not reported on? I could go out into the street today and ask people whether they are aware of this particular policy initiative that was funded in the budget or that particular policy. People are interested in these things and it is only appropriate that the government inform the community of how its money is being expended.

Mr Rattenbury, I just cannot agree with your suggestion or the implication that the government providing every household in the ACT with a detailed explanation of how its money, that community's money, is being spent and the implications for it in the place where it lives is party-political. That is the government telling the people of Canberra how it is spending their money.

MR COE: Why not this year? Why not this year?

THE CHAIR: Thank you. Mr Coe! I am sorry, Mr Stanhope, but we have already used a few extra minutes of your time.

Mr Stanhope: Yes, I am late as well for another appointment. Thank you very much. Good luck with your deliberations. May good sense prevail, as I am sure it always does.

THE CHAIR: Thank you. You are going to table the paper from JACS?

Mr Stanhope: I will. It is a very useful legal exposition of issues with the definitions, or the lack of definitions, and the implications of that contained within the bill.

THE CHAIR: Thank you, Mr Stanhope. My understanding is that you are providing some answers to questions on notice around the cost of print and electronic media and budget publications.

Mr Stanhope: Shortly.

THE CHAIR: Thank you very much. Thank you for coming.

Meeting adjourned from 2.51 to 3.02 pm.

RUDDER, MR GAWEN, Manager, Business Services and Advice, Advertising Federation of Australia

THE CHAIR: Thank you for appearing before the committee. Before we start, I ask you to look at the privilege statement in front of you there. Have you read through it, do you understand it and are you comfortable with the statement?

Mr Rudder: Yes.

THE CHAIR: Welcome to the Select Committee on Campaign Advertising. Would you like to make an opening statement, Mr Rudder?

Mr Rudder: Yes. By way of an opening statement, if it is appropriate, I might give you a little background on myself. Is that appropriate?

THE CHAIR: Yes, please.

Mr Rudder: I have been in the advertising, marketing and communications business for 39 years, the last nine years with the Advertising Federation of Australia and in previous years working with various advertising agencies in all states of Australia. I started my career in advertising working on government campaigns, so I would suggest I know a wee bit about government campaigns for both the federal and state governments, going back to the first two campaigns I worked on, which were “Life. Be In It” and “Slip, Slop, Slap”. If you think that they are 30 years old and people still seem to know what they are—

THE CHAIR: Still remember them.

Mr Rudder: they must have had something going for them.

At the Advertising Federation, I am in charge of training, continuous professional development, training in trade practices, ethics, and I am a provider of ethical and legal advice to our 185 member agencies in all states of Australia. I lecture in advertising, marketing and ethics at RMIT and Melbourne university in Victoria, the University of New South Wales, the University of Sydney, UTS in Sydney and MBAs at the Graduate School of Management. Because of the number of years I have been in advertising, I have been appointed as some sort of advertising historian. We are currently preserving archives with the Melbourne university and ACMI, the Australian Centre for the Moving Image. That is who I am.

THE CHAIR: Thank you, Mr Rudder. As you say, some of those materials live on in memories, so it is good.

Mr Rudder: Good.

THE CHAIR: You have made a few clear points. The first one was around definition. Definition has been raised by a number of folk before the committee. Do you have a view around particular areas of concern or do you have a view of a better way to approach definitions and interpretations in—

Mr Rudder: Yes. Re-reading my letter, I failed to acknowledge the object of the bill, in part 1, clause 5, which is to prevent the use of public funds for advertising or other communications for party-political purposes. I totally applaud that, as does our federation.

In terms of the specifics of 8 (a) and (b), I said in my letter that they are not, in our opinion, adequate. They may be misleading, but I would rather concentrate on the fact that they are probably not adequate. They seem to imply that campaign advertising refers solely to the dissemination of information, whereas, even if you go back to those campaigns that I mentioned—“Life. Be In It” and “Slip, Slop, Slap”—whilst they did disseminate information, they were also engaging for the greater general public and specific markets and went well past the concept of simply providing information.

If one reviews advertising, and, as I say, I lecture in advertising, advertising is usually—not always but usually—a balance between information and persuasion. We would never resile from the fact that we are selling something. We might be selling an idea, we might be selling a concept, we might be selling a product, which is not necessarily appropriate but can be appropriate for some government advertising agencies. There is almost always a persuasive element in effective advertising.

In order to be able to judge whether that advertising is effective, in a research sense, there are numerous measures that we can take—not only whether the information has been disseminated but, more importantly, have people been persuaded, have the target market been persuaded, to accept that information and act upon it? Communication is very much a two-way thing. It is one thing to give people information; it is another thing to get feedback that they understand that information and are persuaded to do whatever it might be towards that.

THE CHAIR: Is that similar to jingles and slogans? They are an integral part of that persuasion, even with public health compliance, such as “Life. Be In It”. How could you get that without—

Mr Rudder: I do not see how we can actually separate them. There will be arguments as to whether a jingle might be appropriate; there will be arguments as to whether a particular slogan might be appropriate. There will be endless arguments over logos. The Victorian government at one stage identified 123 separate logos for their different departments, which is obviously taking communication into the area of complexity and confusion.

But I am not saying that all advertising should have a jingle. I worked for many years for an agency called Mojo, who made the jingle famous, I think. If you think of “Life. Be In It” and “Slip, Slop, Slap”, it is difficult to remove the words from the actual music, once it gets into your head. As for slogans, there are good slogans and bad slogans, but if a slogan is motivating and is tied in to the total message, it is entirely appropriate.

THE CHAIR: Thank you. Mr Rattenbury?

MR RATTENBURY: In your letter, you speak about clause 10. You say the federation feels that the \$20,000 threshold is too low.

Mr Rudder: Yes.

MR RATTENBURY: What do you consider would be an appropriate threshold? Do you have any advice for us?

Mr Rudder: That is fairly difficult for me to say, given my limited knowledge of your advertising budgets and so on. But I would say that if it is set at that low level, that would embrace a very high proportion of advertising briefs that come in. It might mean that there is some sort of communication constipation in getting things through, if I am allowed to use the words “communication constipation”.

THE CHAIR: I could adopt that!

Mr Rudder: I am guessing here; I would guess it is more likely to be proportionately, thinking of other government departments, closer to \$50,000 or perhaps \$70,000. But I bow to people more familiar with the local market than myself to actually set that figure. I do not think I am sufficiently armed with information to give you a definitive answer on that. It just seems too low.

MR RATTENBURY: I appreciate that. One of the other areas I am interested in that you may have some experience in is that the federal government has introduced a set of advertising guidelines in the last 12 months or so.

Mr Rudder: Yes, I have seen those.

MR RATTENBURY: What has the industry’s experience been of those guidelines? What sort of impact have they had in terms of doing business, slowing things down, being problematic or having had no impact?

Mr Rudder: Are you referring to the Auditor-General? Are you referring to the—

MR RATTENBURY: Yes.

Mr Rudder: In the light of past events, which I do not think we need to go over, and some of the campaigns in the latter part of the last federal government, I think the advertising industry as a whole saw that business had got out of control in a particular sense. The amounts of money that were being spent, rather than invested, in some of those campaigns seemed to be way over the top. I think, in general, the industry has accepted that there needs to be a little more probity in that area. So we would applaud that.

MR RATTENBURY: Have there been any practical issues that have arisen from those guidelines, that you are aware of?

Mr Rudder: There are always practical guidelines. Very few agencies work solely with government departments. Some of the international advertisers have similar guidelines and so on. So the advertising industry is used to working within them. I

think the main problem overall with government advertising—and this is across the board; this is not as it applies to you, necessarily—seems to be the lack of time that is given to advertising agencies to create a campaign. That is one issue. The other issue is that very often the actual awarding of business, or what is called in the business the pitching process, takes an incredibly long period of time. But they are not issues that I saw specifically in this paper.

MR RATTENBURY: Okay, thank you.

THE CHAIR: Mr Coe?

MR COE: I am interested in the overall process from when an advertising agency gets involved through to the actual delivery of the advertisement, and perhaps even when there is follow-up or whatever—in particular, that pitching stage, which I imagine is one of the early stages, and what sort of research is usually conducted, or ideally conducted, in terms of the actual market and working out what is the pitch, as opposed to just what the product is.

Mr Rudder: The pitching process can be looked at in two ways. Firstly, there is a pitch which is a competitive pitch between different advertising agencies, and they are then appointed by a government department or instrumentality. Then there is a pitching process once the advertising agency is appointed and the brief has been given to the advertising agency; they then pitch their ideas or concepts to the client, or the government department or agency. So there are two different sorts of pitches there.

The use of research is always a topic which divides the advertising industry. Some of the best campaigns that I can think of have not been researched at all, but there is always a certain amount of risk attached to that. In some cases one will get a very intuitive person as the client, who will accept something. With respect to research, I always carry a book with me on David Ogilvy. So it has been around since the days of *Mad Men*, if you ever watch that; it has been around since the 50s and so on. It has always had its fans and its detractors. For the record, neither of those campaigns was researched at all.

In terms of researching the advertising, the better way to research—and this is my opinion; it is not shared by all of my colleagues—is to research the target market to see what is in their heads. In all of those cases one might get an insight into what the consumer is thinking. With respect to the consumer in the case of “Life. Be In It”, we found in Victoria—where the campaign started before it went national—with the number of people who ran around the town, a very small number of people were actually exercising in that sense. The Minister for Youth, Sport and Recreation was a gentleman who had just come back from West Germany and saw that the West Germans, in their bid for Olympic gold, had got everyone running around the town. The brief was to get everyone running around the town. However, when we went and researched it, people showed no interest in that. They would rather go for a walk. They would rather do some sort of gentle exercise. They would rather do something with the family. They would rather get on a bicycle or whatever. So “Life. Be In It” was born out of that particular insight.

MR COE: What sort of research tools are on the table that could be used?

Mr Rudder: There is quantitative research and qualitative research. Quantitative, of course, deals with numbers; qualitative deals more with group discussions.

MR COE: Focus groups.

Mr Rudder: And probably with a skilled researcher, getting inside people's heads and seeing how far they might move. I am thinking of issues like road traffic, issues like smoking, which has gone, issues like alcohol, issues like drugs and so on. So there is always a fine balance. With road traffic or with workplace safety and so on, one can push it too far, and it gets into the area of "This would never happen to me." If it is too gruesome to watch, sometimes people will turn away and not accept it.

MR COE: If you had, say, a half-a-million-dollar advertising campaign that is relatively localised and not a national campaign, in terms of the risk management side, would that hint or suggest that some investment in research is advisable?

Mr Rudder: The simple and quick answer to that would be to invest in qualitative research to get inside people's heads to see what their existing attitudes were and how far you might be able to move those attitudes. Then, following the campaign, I would use quantitative research to find out how far one had gone in actually achieving those objectives. So you would use qual and quant, but you would use qual at the start and quant at the end. You would then, from the results of the campaign, be able to decide whether or not to reinvest in that campaign, to amend that campaign or to say, "We have achieved what we set out to do."

THE CHAIR: With respect to a bit of the mix on the costs and the process, if there is a limit of \$20,000, \$50,000 or \$100,000—

Mr Rudder: Yes, whatever it might be.

THE CHAIR: what actually is a legitimate inclusion within that cost? You have an ad that runs for 30 seconds on TV—a message on swine flu, for example. How much of that cost is happening in pre-development, development and the thinking part of it? Is there a ratio of cost about what we see and—

Mr Rudder: It can vary with the campaigns—for example, I worked on the Year of the Child, the Year of the Disabled, the Year of Peace and so on, and in some other campaigns—"Life. Be In It" to a certain extent—we were able to get community air time. That meant we did not have to spend an awful lot of money on media, so we could heavily invest in the actual production of the advertisement. However, they would probably tend to be the exception on your part. As a rule of thumb, I would be recommending that somewhere between 10 and 15 per cent of the money was spent on the actual production of the television, print, poster or whatever campaign it might be, and that the balance, which might be 85 per cent or whatever, was spent in the media. If no-one sees it, it is not going to have any force.

However, just to double-check on that, the more outstanding a campaign, the more that it attracts attention, the less media it might need. If you look at advertising for detergents and so on, or advertising for people like Harvey Norman, you will see they

spend an awful lot of money on repeating the same ad. After a while, that repetition becomes quite annoying.

THE CHAIR: So just to get that right, it is about 15 per cent on the end show of the product?

Mr Rudder: Yes.

THE CHAIR: And 85 per cent on the development—

Mr Rudder: Yes.

THE CHAIR: Production of the product; is that right?

Mr Rudder: No.

THE CHAIR: It was the other way round?

Mr Rudder: The media is the 85 per cent. That might vary down to 70 per cent. If it is less than 70 per cent you would have to say that you might not have enough total budget to get out there. But in some cases you might have a very finite market and it might be possible to reach them through other media than what used to be called mass media television.

THE CHAIR: Just a question on principles. The federal guidelines have been raised. There seems to be general agreement of the principles on guidance around campaign advertising. You are aware of the federal principles? I was just interested if you think there are any gaps in there that would be useful for us to consider.

Mr Rudder: That is a question without notice.

THE CHAIR: Yes, it is.

Mr Rudder: I would really need to go back and have a read through.

THE CHAIR: It is a big question. I just thought something was jumping out at you in the first instance.

Mr Rudder: Nothing stands out. I did mention to a number of advertising colleagues that I was taking the opportunity to come here and no-one said, “Hey, make sure you tell them this.”

THE CHAIR: Thank you. Mr Rattenbury?

MR RATTENBURY: I am fine at the moment. Alistair?

MR COE: Thank you. Going back to your letter, in the second paragraph on proposed section 8, you talk about the definition of government advertising. Can you expand on your comments earlier about that? Is it not black and white that if it is paid for by government then you can call it government advertising? I know you talked

about the “Life. Be In It” campaign and the greater good, as opposed to simply pushing a particular government product or service. Could you expand on your earlier comments about the definition of government advertising in a nutshell?

Mr Rudder: By definition, government advertising is advertising that is done for the government, the same as advertising for fast-moving consumer goods is for fast-moving consumer goods. That is not the answer that you want, I think.

MR COE: No, I guess it is more expanding on the greater good type “Life. Be In It” campaigns as opposed to specific government advertising.

Mr Rudder: Such as?

MR COE: As opposed to, say, the government has got a new tax system or something like that which is black and white—this is it. With that in mind—

Mr Rudder: So are you talking about information-rich campaigns?

MR COE: That is right—I guess some sort of underlying message as opposed to just facts. Does that somehow shift the ethics of government advertising or does it make it more controversial or less controversial if there is an underlying message and it is perhaps—

Mr Rudder: I could spend many hours talking about the ethics of government advertising, as I could about the ethics of any advertising.

MR COE: You run courses on it, in fact.

Mr Rudder: We have got legal processes in place, which is the ACCC and the Trade Practices Act, section 52, that ensure that advertising is not false and misleading. All the time we are getting giant companies, like the Coca-Cola corporation or GlaxoSmithKline, very big companies, in breach of the Trade Practices Act on a continuous basis—Telstra and so on—who are just pushing the boat out.

There are legal issues and then you get ethical issues, which are administered by the Advertising Standards Board, which apply more to taste and decency and so on. The Advertising Standards Board, which operates out of Canberra, is a self-regulatory body that is there to ensure that the public have a say in the sort of advertising we get in terms of sex, religion, bad language et cetera. In general, advertising has far more stringent guidelines than programming. Gordon Ramsay can say and do all sorts of things that would never be countenanced in advertising. We do not need to go any further. We have a lot of trouble saying the word “bloody”, whereas he has no trouble using other expletives. We are fairly well controlled, I think, in that sense, but not without fault.

THE CHAIR: Thank you. You also made comment on proposed section 14(g) which was around identifying a campaign and how they are tagged. Do you want to explain your position on that?

Mr Rudder: Yes. There has been in the past some privately conducted research that I

have seen about the cognitive process of watching a television ad, for example, and how the brain takes in the information. I think it would be counterproductive to announce at the beginning of a television commercial that this was a government television commercial and then have it at the end as well, where it has now become accepted practice.

The “Life. Be In It” ads back in 1976 were the first ads that were criticised, and rightly so I believe, because they had no tag line; no-one knew where they came from. They had a fair idea it was the government, but they were not tagged. It was at that stage back in 1976 that it was decided that the general public, the community, had a right to know where ads came from, who made them, rather than having some sort of strange message coming out to us that we should be walking or bike-riding or whatever. So that is to be applauded, and I think we have got it exactly right there.

What we would not have exactly right is by having an announcement at the beginning. There would be practical problems. We are talking about television and radio, so we are talking about broadcast. You have got commercial breaks. If your ad was first in the break the message would very possibly be lost amongst the preceding program. Very often if you are watching television or listening to radio, there is a very quick cut that goes from a program into a commercial, whether it is radio or television.

So number one, it might be missed. Number two, if it was second in the break, because the human brain is tuned into hearing something at the end of the commercial, you would have something at the beginning of your commercial that would sound as if it was on the end of someone else’s commercial. You would have a Harvey Norman commercial saying, “Go buy these flat screens,” or whatever, and “This message is brought to you by the government,” and then the government commercial comes on.

The other risk you take is—and I do not know the intention and what this opening statement would say, but I imagine it would say something about where it was coming from—you might get a proportion of the viewing or listening public just turning off: “I don’t want to listen to this. I don’t want to listen to a message about tax or about water or about gas or about road safety or about drugs or whatever. I don’t want to listen to it. Thank you for telling me. I’ll just switch channels.” I have not had any experience anywhere in the world of ads being what we call topped and tailed with messages. I think it would be a big mistake.

MR RATTENBURY: One of the issues for our committee is that this proposal has come forward as legislation. As we know, the federal government has used guidelines.

Mr Rudder: Yes.

MR RATTENBURY: The local government has suggested guidelines might be better. Do you have a view on the relative merits or the practicality of using either model?

Mr Rudder: Of guidelines versus legislation?

MR RATTENBURY: Yes.

Mr Rudder: I would say guidelines always until such time that both parties, all parties involved, were satisfied that both parties had got it right. If legislation made all the difference then there would be no need for the Trade Practices Act; there would be no need for the ACCC. Just because something is legal does not mean it is ethical. Just because something is ethical does not mean it is legal. Legal issues are usually meant to be black and white. Very often they are, but if you have ever met a lawyer who can say “yes” or “no” rather than “in my opinion,” then I would love to meet him. I am sorry, are any of you lawyers? No. By definition, lawyers are only right half the time, which is an extraordinary thing to say, but every time there is a court case there is a defence and a prosecution; someone wins and someone loses.

THE CHAIR: What are the time lines? How much notice do agencies need to run a campaign?

Mr Rudder: From the briefing?

THE CHAIR: No. It is more of a time line. If you know you want to put something on in February or December, how far back do you need to be booked in advance? What is the lead-in time?

Mr Rudder: You have got two issues. The first is the actual booking of the media. The booking of the media will depend on the time. If you want to book media in January, February, probably March, you can buy what they call short because there is very little demand. It is all about supply and demand. Normally, if you are advertising in October, November, December, the retailers have taken a lot of that space and you will need to be booking the media earlier. So you have got the media and the message, to simplify that.

The message, however, will depend on its complexity. Sometimes it will be a single television ad. That is getting rarer and rarer. Today one might have television plus supporting print posters, direct marketing, some sort of internet involvement and so on. What is now known as new media might be putting our messages out through Facebook or we might be using YouTube. The new media opportunities are very complex and take some planning.

What used to be called advertisements are often not called advertisements by anyone anymore. The campaign that was done by the Queensland government for tourism, the best job in the world, did not use traditional advertising media at all. It used the internet, YouTube and all sorts of things. So it becomes more and more complicated. Twenty years ago you could run an ad on *60 Minutes* and you would be pretty sure that 80 per cent of the target market in Canberra would have seen it. Today if you put something on *60 Minutes* you would be lucky if 10 per cent had seen it.

THE CHAIR: With the new and varied media coming on, guidelines should be applicable to all of those mediums?

Mr Rudder: Yes, they should be, but once you get into that new media, instead of mass media we now have mess media. It is very messy and very difficult to understand. It is beyond the age group of some people to even grasp.

THE CHAIR: Mr Coe?

MR COE: No, that is fine with me.

THE CHAIR: Mr Rattenbury?

MR RATTENBURY: I am finished, thank you.

THE CHAIR: It seems that we have no further questions, Mr Rudder. Do you have any final comments you would like to add? Do you think there is something you would like to say?

Mr Rudder: No, I do not think so. As to the identification of a campaign, section 14(g)—or it might have been 13(g)—at the beginning as well as the end, I would say absolutely not. As to the definition of advertising techniques, I would guess that many other people would have taken you to task on that. Advertising is all about technique. Jingles and slogans are part of that.

With regard to the threshold, I would not be so bold as to suggest what it should be, but I am sure it should be double, maybe even treble that figure. The definition of advertising as simply being the dissemination of information is very, very narrow and would hobble the government in its attempts to communicate with your public.

THE CHAIR: Thank you. I did have one last thought, if you do not mind?

Mr Rudder: Of course.

THE CHAIR: The other issue that has come up is around the certification and the review process. The bill refers to the Auditor-General. Locally in the submissions the public has expressed concern about that. The government is looking to a review process by an expert panel to consider compliance that meets the guidelines and has some rigour in the campaign. Do you think that is appropriate, if the Auditor-General has expressed concern and if a panel is convened for that review process? Do you think that is a suitable mechanism as well?

Mr Rudder: Yes. It is always going to depend on the panel. The Advertising Standards Board, for example, judge on ethical issues in advertising. There is a continual debate as to whether they have got the right panel. I would guess there will be a debate in the same area. It depends on the composition of the panel. I would suggest very strongly that you have someone who understands the principles of not simply advertising but the simple principles of communication as a two-way process. There are plenty of experts out there who understand that. I would be inclined to keep away from the academic and go more for the practical communication experts and so on.

THE CHAIR: Thank you, Mr Rudder.

Mr Rudder: It is a pleasure.

THE CHAIR: That is it. Thank you for coming here today. We will provide you with

a copy of the proof transcript so if you have any additions or changes to make there is a process for that.

Mr Rudder: Might you want me to comment further on the question of whether there were any improvements that might be suggested on the federal government guidelines?

MR RATTENBURY: No. I think your answer—and nothing has leapt out—addressed the key point I was making, but if you do think of something please feel free to send an email to the secretariat.

Mr Rudder: Yes.

THE CHAIR: Along that line in our deliberative processes should we have any questions the secretariat will be in touch with you. If you could provide info, that would be greatly appreciated.

Mr Rudder: Good.

THE CHAIR: Thank you very much, Mr Rudder.

Meeting adjourned from 3.40 to 3.59 pm.

SULLIVAN, MR MARK, Managing Director, Actew Corporation Ltd

THE CHAIR: Thank you, Mr Sullivan, for appearing before the Select Committee on Campaign Advertising. I draw your attention to the privilege statement. I am sure you are aware of it and you are comfortable with that.

Mr Sullivan: Yes.

THE CHAIR: Before we go to questions, would you like to make an opening statement?

Mr Sullivan: Thank you, Madam Chair. I guess at one level it was concerns about our 2008 water security campaign that was one of the catalysts for the drafting of this bill. I am not here, and I hope no-one else is here, to argue that matter again. We argued it was not political in nature, and certainly elements of the Assembly rejected that.

In our submission, we would point out the breadth of our information responsibilities. They range from statutory responsibilities in respect of water restrictions, water saving initiatives under the banner—or is it a slogan?—called “Save Water for Life”, including advertising, web-based materials, brochures, roadside signs and other materials, community consultation programs pertaining to water supply and demand, and a program of information and engagement on water security projects, including under the banner “Securing Water for Life”.

It is difficult for us to determine whether this bill, if it is enacted, will have an impact on us at all, whether it may stalemate us from preventing any material being published, or whether it seeks to change the basic characteristics of a corporation like Actew. That will be a matter for the Assembly to determine and get it right. I am happy to answer questions.

THE CHAIR: Thank you. The first question is the issue of certification around guidelines. There is a role for chief executives—and I take your point around Actew’s inclusion or exclusion under this bill. But if we go to other organisations that need to go through a certification review process and the role of the chief executive in ensuring adherence to a set of guidelines, do you have any comment on that—a tick or flick before it goes to the minister?

Mr Sullivan: I think the bill is structured around a government department or a government agency, not around a corporation. It basically puts most of the responsibilities in respect of campaigns in the hands of, I think the phrase is, the responsible minister. We have no responsible minister. That is why I say this bill, as I read it at the moment, if it covered us, would stalemate us, because we have no responsible minister who could make an exemption for us. We have no responsible minister who we could put a plan to. There is no responsible minister for Actew. It is a board of directors.

This bill is structured around public servant CEOs reporting to ministers. Actew does not have a public servant CEO and does not have a minister. It has a board of directors with a chair who is responsible for all matters to do with Actew. So we

cannot get to a responsible minister because we do not have one. Therefore I am not sure about me signing a certification process to whom—it becomes irrelevant.

THE CHAIR: Do you have any comment on that process at all or is it outside your domain?

Mr Sullivan: I think it is outside. We cannot comply—if we are covered. As I say, it is not clear that we are covered in it. This bill talks about government campaigns. We do not run government campaigns. We run Actew campaigns. It has a definition of a government agency, and it is not very clear whether it includes a corporation, a territory-owned corporation, or not. It is very unclear as to whether it even includes us.

If it does not include us, I am just happy to say it is very good that Actew is not included in this and we will just go on with our business. If it does include us, if it is intended to include us, I think it fails badly in including us at the moment, and would need to take account of the fact that we are a corporation.

I listened to the talk around the bill. I see things like the use of public funds, the use of government money. Actew does not use public funds; it does not use government money. Actew's revenue sources are from people who purchase water in the ACT and dividends, largely from its part-owned subsidiary and joint ventures such as ActewAGL, and then it provides its profit as a dividend to government which then becomes public funds.

A government campaign: Actew has never run a government campaign; it runs Actew campaigns. Government funding: no, we are not a government-funded organisation; we have no appropriation from government. We provide dividends back to government. A responsible minister: no, we do not have a responsible minister. Therefore, the role of a minister in respect of Actew is not covered in the Corporations Act. It is covered in the constitution of Actew. It is not covered in anything that I understand is present.

As I say, at the moment, my reading of this bill is that it either did not intend to cover Actew, that it was aimed at government departments and agencies using taxpayer funds on campaigns, or it misses its mark.

THE CHAIR: Thank you, Mr Sullivan. Mr Rattenbury?

MR RATTENBURY: You have obviously had a chance to have a look through the bill. I accept what you just said about whether Actew is covered by the bill or not. So can we put that to one side and acknowledge that I hear what you have already said on that. Do you see any practical issues in the bill which you could advise the committee on around definitional issues or specifics which, from your experience, we could use to improve the bill?

Mr Sullivan: I would need to be instructed in terms of what this bill actually seeks to do. As I say, we cover a number of things. Our campaigns, our marketing and our communication tools range from those that are required by statute—for instance, details about water restrictions, which are a decision of the Managing Director of Actew and which, by statute, must be advertised and covered in communications to

the public, which could occur at any time. It does not look for 12 weeks prior to elections or anything like that. And it is not something about which I would see any other statutory authority deciding whether or not they have to obey the statutory rules in communicating to people.

We see things like the “Water for Life” materials, which basically inform Canberrans how we are going with water. It includes roadside signs; it includes newspaper ads in every weekend’s newspaper, which advises them about gardening issues, about shower issues, about all sorts of issues around water. It got confused, unfortunately, in the debate around the Actew campaign, despite the fact that we provided factual material back to the parliamentary accounts committee which said how much we had spent on the water security ads. Numbers were quoted in the Assembly which were irrelevant and wrong, because they basically used the numbers that we had quoted to the Assembly for the “Water for Life” campaign, not the water security campaigns. It grossed the numbers up; it got them wrong. These are the things that make me wonder what this is about, in some respects.

But we do those. We do water security. We have got a communications campaign on at the moment to ensure that Canberrans respond on the enlarged Cotter Dam having regard to the development application process that is on. We are spending money on drop-in sessions to make sure that people understand what that dam is about, what the development application is about. We are spending money on a campaign which involves environmental approval through the commonwealth. We are spending money on a campaign which is around a development application for Casuarina Sands. These are corporately and commercially driven campaigns generally, which are about us meeting our obligations, as we see them, as a corporation in respect of the ownership and proper stewardship of Canberra’s water and sewerage assets.

There has been one instance where there has been debate as to whether our campaign had political overtones. I asked the parliamentary accounts committee, at the time it was debated, “Tell me what part of the campaign had political overtones,” and I got no response, but it was political. It stopped prior to caretaker; it stopped prior to the 12-week period before the election.

It was, in my mind, and it still remains, a decision that the Actew board and corporation made to run a campaign. If that is the style of campaign that you seek to have a statutory office-holder, a minister of some sort, the Assembly in some way, through a disallowable instrument, involving itself in, and possibly overrule the board of the corporation who are charged under the Corporations Act with its management and governance, I think it has to be extraordinarily explicit that you seek to reach out to a corporation. I think the only way you could make it explicit is for it to specifically state that you seek to reach out to Actew Corporation, and how you seek to do it—whether you substitute the “managing director” for the “minister” in respect of some of the issues. These are the issues. But the fundamental concern I have is that the bill talks about government campaigns. As I say, we do not run government campaigns. We do not use government funds in respect of any campaign that we run. We are not users of public funds; we are providers of public funds through dividends to the ACT government.

We are a fundamentally different thing to whether you seek to cover the health

administration, the education administration, the electoral administration or whatever other arms of government by a bill which covers government campaigns.

MR RATTENBURY: Was there any research undertaken by Actew prior to the water security campaign?

Mr Sullivan: There has been significant research undertaken by Actew in respect of the water security campaign since the options were developed for consideration by government.

MR RATTENBURY: Are you able to provide any of that research to the committee?

Mr Sullivan: We provided that to the parliamentary accounts committee.

MR RATTENBURY: Sorry, I am not on that committee.

Mr Sullivan: I will do it again.

MR RATTENBURY: Can we get that from the public accounts committee? It is probably easier.

Mr Sullivan: I am not providing the full details. I think we had a debate about this with the parliamentary accounts committee. I am not going to provide—

MR RATTENBURY: I am sure there are limits to what you can—

Mr Sullivan: But we can provide, and we have provided, I think I have even got it with me, in terms of the awareness that the community had of the processes and the dams and what we had done in respect of that. I am happy to copy that answer to this committee.

THE CHAIR: Thank you. If you could, Mr Sullivan.

MR RATTENBURY: And what was the basis for the timing of the advertisements on the water security campaign? Why did you run them last winter?

Mr Sullivan: Do we want to debate that campaign again? We ran them last winter because we had lodged our draft EIS for public consultation on the dam. We knew that people were not fully aware of the water purification project and the issues running around it. There was a lot of public concern, we felt, which had been, to a degree, legitimate public concern, and to another degree a beat-up on water purification. And while we were progressing with the design of a water purification plant, we had an ad which was around water purification.

We knew there was not a lot of knowledge around the Murrumbidgee to Googong transfer and we wanted to make sure there was knowledge around the Murrumbidgee to Googong transfer. And we were about to embark on the environmental impact statement on what will be one of the largest pieces of capital works ever delivered in non-urban Canberra. It was very important, in our mind, that people were aware of what the project was about, what it involved, its size, its scale, its potential impact. So

the decision was taken to run the campaign over spring. A very deliberate decision was taken that said, “This campaign must stop before the start of caretaker.” It was not a decision which said, “This is a big political campaign so let’s not run it during caretaker.” It was a prudence on behalf of the board which said, “Stay clear of caretaker, just to make sure.”

That was the decision-making process. As we covered in those hearings, the advertisements were referred to government for information by the board and we provided a number of government agencies with details of when the advertisements would be run. There was no clearance process for the ads with any agency of government or with any minister of government at that time.

THE CHAIR: Mr Coe?

MR RATTENBURY: Sorry, just one last question to help me to understand. How come the public consultation is only taking place now on the EIS, given you expected it to take place 12 months ago?

Mr Sullivan: When we lodged our draft EIS, we had expectations of the full EIS process being delivered fairly rapidly. The full EIS process really concluded with Minister Barr’s approval of the environment impact statement last month. So we are now in public consultation, not about the EIS; we are in public consultation about the development application.

MR RATTENBURY: Right.

Mr Sullivan: So that was the start of the EIS process. That was the first time an EIS had been lodged in respect of the dam. It was also the first time under the new planning legislation that any EIS had been lodged. So not only were we in new territory in respect of the planning laws of the ACT, but that was our first exposure to the community that these were the sorts of environmental issues that must be addressed in building a dam. And to understand that, you need to understand scale, you need to understand what we are building and why we are building it.

If you remember, the focus was on the television ads, but every Canberran in the *Canberra Times* got the full pull-out of how our water supply worked, where it ended and why the dam was important. That was a major piece of information work and consultation work. And we had drop-in sessions all around Canberra—again, basically to promote knowledge around the dam.

I have gone over every one of those ads in detail and I still offer, to anyone who wants to come out and say that what was in those ads made it a view: wherever in the ad was anything ascribed to government? I looked at the ads and looked at the guidelines in here that said: “If you run a campaign, don’t mention ministers. Don’t ascribe to a party. Don’t do this. Don’t do that. Don’t do that.” I looked at our ads, and we did none of them. We did none of that. We ran an ad about a dam, about a water purification scheme and about a water transfer scheme.

We will run another series of ads this spring for the same purpose, because it will be very important, once the approval processes for the dam are concluded, which we are

hoping will conclude in around September, and we start working in October, that again we go to the Canberra community and say: “This is what is going to happen. This is what it means. This is what it means if you want to use Cotter Avenue. This is what it means if you’ve got horses along Cotter Road. This is what a 700-metre exclusion zone will mean during times of blasting. This, again, is the scale. This, again, is the complexity of a dam project.”

We are currently actively planning for another major water security campaign this spring, once we are assured—it goes a little bit to your question, Shane—that our approval processes are through and we are ready to start. We do not want to do it and then find that we are not going to start until February or March and people start forgetting. We have got to have that lined up. So it will be a very important campaign to us.

MR RATTENBURY: Okay, thank you.

MR COE: I am going to continue this line of discussion. You said you did a lot of research. I see in your submission that you have listed some of the research that you have done, so you would have known that water security was a very important issue and continues to be one. In actual fact, one of the media companies in Canberra puts out a report, and what keeps us up at night are drought and water issues—the number one issue, at 45 per cent. This is for this year. So water security is obviously a very important issue. But a fair assumption can be made that such an important issue is also a political issue in an election year. With that in mind, with the research that you were doing before, what sort of research was done about the timeliness of that campaign and what sort of information did you get from your research that suggested that it was critical that it was done there and then?

Mr Sullivan: The driver was an environmental impact statement. We did not ask people, “Do you think with consulting that we did it at the right time right now?” Put it this way: I agree that water is a major issue in Canberra. It has been for a number of years and will be a very high profile issue. I think in suggesting that it is a high profile issue you said there was political contention about it.

Actew, as an organisation, did some very overt political things during the campaign. I paid to go to a Liberal fundraising dinner for several people of Actew so that we could understand whether there was contention about water projects. There was no contention about water projects. I paid to go to a Greens dinner to understand whether the Cotter Dam was threatened by the Green platform. I discovered there was not contention around the Cotter Dam. They are things which a government agency, of course, cannot do. They should never pay to go to a political fundraiser. Actew does, because my board basically says, “You must stay in touch with what the political parties are doing and saying.” Certainly, out of that, what we learnt was that there was no contention around water security projects.

I think the view that Cotter was being built in the wrong spot and that we should have been building it in the Naas valley had gone away. I think there was general, if not reluctant, acceptance that Tennent was an environmental nightmare. Probably it would never fill up and would cost a whole lot more, and that Cotter was probably the answer. There was probably contention about a water purification scheme, probably

negative to a government proposing it, and we did not shirk from putting those ads on. We said, “We’re proceeding with water purification.” And there was no contention about Murrumbidgee to Googong.

So, yes, water was a big issue but it was very much on our radar that water security projects during the election campaign were never a point of major contention between the parties. Compare it to the major issues of the campaign and you will not find it. There is basically a general acceptance that the projects, as decided by the then government, were not threatened. I think that is, to a degree, what the people of Canberra wanted to know: was anyone threatening water security? With respect to the answers that were coming, as I said, we went to expense to find the answers because I needed to be able to talk to the leader of the Liberal Party and say: “What are you doing about the water security? What do you think about Cotter?” And there was not contention about it.

Alistair, if we were running a campaign in the face of a policy position by either of the other parties that said, “We are really against these projects,” I think there would have been grounds to say we were getting into grey political water. But we were not. We were running a campaign on a set of projects. I am not saying everyone was saying 100 per cent, “We love these things.” I know that Shane Rattenbury spoke quite openly around the fact that it seemed that on the supply side this was the answer but the Greens always professed, and did in the meetings I went to, a desire to see the demand side concentrated on. Certainly, I went to a very nice dinner and heard from the leader of the Liberal Party that, no, the water security projects would proceed.

So I do not think that argument that this was a politically sensitive issue holds much water. It is, however, a community issue.

MR COE: As I think Shane said, neither he nor I were privy to all that went on in the public accounts committee. I am keen to hear a bit more about why you did stop the advertising campaign during the caretaker period.

Mr Sullivan: It was prudent. It was a decision taken which actually said: “We will run the campaign at this time. We will end it. And by the way, it is about the same time as caretaker. Our timing fits nicely with any suggestion that we are running into caretaker.” It was prudence on behalf of the board and the management of Actew.

MR COE: So what is significant about the caretaker period as opposed to a week before or two weeks before?

Mr Sullivan: Well, the caretaker period has extraordinary significance in terms of the life of this city. I think it basically says that when the flag is down and the actual campaign is now formal, there are rules in respect of the government agencies. If you are out of that general arena people’s minds turn to other things, like elections, and we wanted people’s minds on water security. So there were all sorts of good, practical reasons not to have a campaign. Buying time costs more, because other people seem to buy up all the time on television. So buying time costs more in caretaker periods. And there is this element of prudence. And the board of Actew, I think, should be described as reasonably conservative on these matters.

THE CHAIR: I have a question on programming. You mentioned that an EIS process initiated a series of campaign advertising. Are there other cyclical or seasonal activities that you would include in forecasting of your activity 12 months or two years ahead?

Mr Sullivan: Our “Water for Life” ads basically follow seasonal points. At the moment, you do not see heavy advertising in respect of “Water for Life” because basically water usage is at a base level. Irrigation is not being heavily used by Canberrans because we get a few sprinkles and the temperatures are low. We are consistently now running under our target. In the heat of summer, clearly we step up and that is when we run the television ads around the shorter showers. “Don’t overwater your garden, watch your water.” So they are very seasonal. Water restrictions, as I say, are dependent upon decisions taken on water restrictions. Our gardening advice programs, clearly, are targeted towards spring, when people start getting into the garden. Again, there is not much point in saying, “Come and do a garden workshop,” when it is the middle of winter. People do not seem that interested.

So there are seasonal things that influence our campaigns. As I say, we are now planning another campaign for the water security projects, and particularly the enlarged Cotter Dam, on the conclusion of the approvals processes and the start of the construction work.

THE CHAIR: Thank you. Going to the matter of costs, in the bill there is a cost threshold of \$20,000 and that includes concept design, development, as well as the media product. We are trying to get a guesstimate of what is a reasonable threshold: \$20,000 may be too low. What would you say a reasonable threshold for local campaign advertising would be?

Mr Sullivan: Twenty thousand dollars covers almost anything we do. We pay more than \$20,000 a year to get our roadside signs approved. It is not a very significant campaign at all for \$20,000. Once you move on to television—and I suspect television is where the proponents of the bill are really focusing—for less than \$100,000 to \$150,000 you do not do any form of significant television advertising, and that is not that significant. You guys know that. If we sniffed about a campaign, we would have to seek a statutory officer’s approval.

THE CHAIR: Thank you. Mr Rattenbury?

MR RATTENBURY: Not at the moment.

THE CHAIR: Mr Coe?

MR COE: Yes. I go back to the water security advertising last year.

Mr Sullivan: We are talking about the bill, aren’t we?

MR COE: Going back to the water security advertising last year: the caretaker period, to the average punter, does not mean a great deal. I think the vast majority of people would not have a clue when the caretaker period started. They probably know when it stopped, but they would not know when it started. So with that in mind, I am curious

as to whether, if there was any perceived risk that the advertising could have been political—

Mr Sullivan: There was no such perceived risk. I have never said there was.

MR COE: Okay. I said “if”.

Mr Sullivan: There was no such perceived risk. I have invited—and I will invite you, Alistair, because I never got a response last time—someone to actually tell me what part of the content of the ad worried people in a political way.

MR COE: So if there was any risk that it was political then—

Mr Sullivan: But you are putting a hypothesis to me which I cannot accept. There was not any perceived risk.

MR COE: You mentioned the caretaker period. You mentioned that it was a good thing, it was convenient—

Mr Sullivan: Prudent.

MR COE: It was prudent that it did not go into the caretaker period. But I am at a loss as to why it would not have been prudent two, three, four weeks before, or eight weeks or 12 weeks before. I am not sure what makes that date special in the eyes of the average punter whom you are trying to reach with your advertising.

Mr Sullivan: It is not the eyes of the average punter that we are interested in in terms of when we want to run a campaign. We looked at availability of time. We looked at when we wanted to run the campaign and we decided on dates. We said: “Gee, those dates fall outside the caretaker period. That’s prudent too.” We did not then say: “Well, maybe we should be more prudent. What if we shift them?” If we had shifted them back further we would not have been ready and if we had run them late we would have run them across the caretaker period.

The timing of the campaign was basically dependent upon us knowing that we were lodging our EIS, that we had a set of documentation available to the community so they could understand the dam in a way they could never have understood the dam before, that they could understand the suite of water security projects, as I say, from the politically difficult, the water purification, through to the dam and via the Murrumbidgee transfer and Tantangara. We used a number of methods, including television ads and newspaper ads—foldouts in newspapers, drop-in sessions and web-based materials for schools.

We determined that the best time to run that campaign was when we ran it. That was our decision. So we were not going to then say: “Maybe we should run it when we’re not ready or maybe we should run it later. What would that interfere with?” That would have got us into issues around availability of airtime, how much we pay for airtime. Airtime rates went up. Caretaker for the ordinary citizen may not mean a whole lot, but it does for the TV companies; they seem to charge more. There seems to be demand.

MR COE: Again, it is nothing to do with caretaker. It is simply due to the fact that we are getting close to the election.

Mr Sullivan: If you are saying—

MR COE: The caretaker is irrelevant. It is closer to the election. That is the time frame.

Mr Sullivan: Why do we have a caretaker period then? You seem to be saying caretaker periods are irrelevant to our process. When I was in government, caretaker was a very relevant period.

MR COE: But you have just stressed that you are independent of government.

Mr Sullivan: I am. I said “when I was in government”.

MR COE: Right.

Mr Sullivan: I was in government for a long time. You know that.

MR COE: Yes.

Mr Sullivan: But I am just saying—

THE COE: The relevance of that—

Mr Sullivan: you seem to be making an argument that says caretaker is irrelevant.

MR COE: I think it is irrelevant to the average punter. If you are saying that Actew is separate from government and you are trying to make contact with people who do not care about the caretaker period, I am just surprised that suddenly caretaker even got mentioned.

Mr Sullivan: You are attempting to put into my words a view that the caretaker period was the determining factor of our advertising campaign. Then you asked me, “Well, why didn’t you do it four weeks before?” suggesting that maybe this was the determining factor, that we had to look at the election date and work out what to do. I have explained to you, I thought fairly carefully, that on the availability of the materials necessary to communicate to Canberrans what we were doing was we chose a period of time. We stuck to that period of time. We ran to the schedule recommended by the advertising campaign. It was not altered by anybody. It ran. It physically then occurred in that time.

MR COE: That is why I am just surprised that there was any mention of caretaker in your presentation. If it was totally irrelevant, as you are saying it was, then why was it mentioned?

Mr Sullivan: The last time your colleagues grilled me on this they seemed to think that the caretaker was extraordinarily relevant and so I discussed it. Look at the

transcript and you will see that they led me into a discussion about caretaker as a relevant thing.

THE CHAIR: I go back to the bill and, again, I understand your earlier statements around the relevance to you as a corporation. It calls on government advertising to top and tail, to have your statements of attribution of who is doing it before and at the end, and also to be informative but absent of advertising techniques. Given that you run successful advertising campaigns, I would not mind your comments on that.

Mr Sullivan: We run slogans. I notice the bill talks about slogans. We have slogans. “Water for life” is a slogan. Around our water security projects we have slogans. Slogans are a very effective way to get people to understand how important water is and how important preservation of water is. We know people know our slogans. To be told that we cannot use a slogan as part of our corporate work would make our campaigns very difficult.

I do not think there is ever a question of who runs our campaigns. Actew does. It is not something where you say: “Well, someone said something. You’d better say in advance and afterwards who you are talking on behalf of.” We get up and say, “Actew is doing this.” The campaign in question was full of, “Actew is doing this.” I would hope that we can use the precious seconds to convey information and not convey who is bringing you this ad, even if you say it so fast you cannot hear it anyway. I must say that when I see things that have to be top and tailed or topped or tailed with who is authorising it, you have to listen three times to actually hear who it is. Sometimes it is an organisation’s name. You have no idea who they are anyway and whether they are someone else’s organisation or not. I do not think anyone has ever suggested that it has not been very clearly apparent that Actew was running this campaign.

THE CHAIR: On the notion of having a campaign that successfully changes behaviour or gets that message across, if your brief to your advertising designers was no slogans and no jingles, how do you think they would react?

Mr Sullivan: It would be difficult. Jingles and slogans are not just silly things. Sometimes, as I say, they get across a very clear message. Saving water for life is a jingle, a slogan or a banner; it is a heading. It is a very important heading which is well understood in Canberra. If we looked at a set of words and said, “Is that a slogan?” and we were banned from using a slogan, it would make it very difficult.

THE CHAIR: Thank you. Mr Rattenbury?

MR RATTENBURY: No further questions.

THE CHAIR: Mr Coe?

MR COE: No, thank you.

THE CHAIR: There are no further questions from us. Do you have any final statements or comments you would like to make?

Mr Sullivan: No, I do not. I did not mean to be confronting, because I did not think

we would revisit the campaign. I thought we were talking about the bill. I must say that I have a level of frustration that on several occasions asking what was wrong with the campaign it basically gets down to the fact that it presented a general atmosphere of support for what the government was doing and this was political. As I say, we spent money openly on political processes to understand that this was not a politically contentious issue. There did not appear to us to be contention on the issue. We ran the campaign when we wanted to run it. We had clear objectives. We met those objectives from the campaign. We want and need to be able to inform Canberrans about the work we do, be it statutory-based work or be it in terms of our most important infrastructure projects.

I must reiterate that if it is the intention of the bill to cover Actew Corporation, it does not. It would need, I think, major modification, which probably would not be suitable for government agencies. We are a corporation. There is no responsible minister. We do not run government campaigns. We do not use public funds. We are audited by the Auditor-General. If there was a decision that this bill was to encompass Actew, the bill would require a lot of work. I think in the end the only way you would do that—and this is my piece of practical advice—would be to specifically state, “Here is a set of rules for Actew.” It would have to be a very different set of rules. You would have to be very careful in terms of the interaction of the legislation with the Corporations Act and who has responsibilities for certain things in Actew. Otherwise, you are getting very close to a problem between a corporation and instruments of government. That is my practical advice.

THE CHAIR: Thank you, Mr Sullivan, for coming to the committee this afternoon. A copy of the transcript will be provided and if, through the deliberative stage, we have any further questions we may come back to you.

Mr Sullivan: That is no problem. Please do.

THE CHAIR: We appreciate that. Thank you.

The committee adjourned at 4.40 pm.