



Report - Supplementary Guidance on Government Advertising

Date:	29 March 2023		
To:	Hon Andrew Little, Minister for the Public Service		
Action Sought:	Note that the Guidelines for Government Advertising (the Guidelines) were approved by Cabinet and issued in 1989, were re-issued in 2017, and continue to apply.	Due Date	31 March 2023
	Note that the Public Service Commissioner will issue the attached Supplementary Guidance for the Public Service on the Interpretation and Application of the Guidelines under s 19 of the Public Service Act 2020 next week. The Supplementary Guidance will only apply to public service agencies, not Ministers.	Due Date	31 March 2023
	Agree that Te Kawa Mataaho release this briefing in full once it has been considered by you and once the Supplementary Guidance has been published.	Due Date	31 March 2023
Report No:	2023-0096		
Contact:	Hugo Vitalis, Deputy Commissioner – Integrity, Ethics and Standards, 9(2)(a) privacy		
Encl:	Yes – two attachments: <ol style="list-style-type: none"> 1. Guidelines for Government Advertising 2. Supplementary Guidance for the Public Service on the Interpretation and Application of the Guidelines for Government Advertising 	Priority:	Low
Security Level:	IN CONFIDENCE		

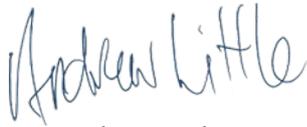
Executive Summary

1. This briefing attaches the Public Service Commissioner’s Supplementary Guidance for Public Service Agencies on Interpreting and Applying the [Guidelines for Government Advertising](#), for noting.
2. The Public Service Commissioner will issue the Supplementary Guidance next week under section 19 of the Public Service Act 2020.

3. The Guidelines for Government Advertising apply to Ministers and government departments. The Supplementary Guidance will only apply to public service agencies, although it may be helpful for Ministers to be made aware of it.

Recommended Action

4. We recommend that you:
- a. **Note** that the Guidelines for Government Advertising (the Guidelines) were approved by Cabinet and issued in 1989, were re-issued in 2017, and continue to apply.
 Noted / *not noted*
 - b. **Note** that the Public Service Commissioner will issue the attached Supplementary Guidance for the Public Service on the Interpretation and Application of the Guidelines under s 19 of the Public Service Act 2020 next week. The Supplementary Guidance will only apply to public service agencies, not Ministers.
 Noted / *not noted*
 - c. **Agree** that Te Kawa Mataaho release this briefing in full once it has been considered by you and once the Supplementary Guidance has been published.
 Agree / *disagree*



Hon Andrew Little

Minister for the Public Service

30/3/23

Report - Supplementary Guidance on Government Advertising

Context

5. The Guidelines for Government Advertising (the Guidelines) were approved by Cabinet and issued in 1989, were re-issued in 2017, and continue to apply. The Guidelines provide guidance for Ministers and government departments on the expenditure of public funds on government advertising and publicity. They explain that they are also a useful reference point for other organisations which spend public funds on advertising and publicity. This includes Crown entities.
6. The Guidelines recognise that the government may legitimately use public funds to communicate about its work and how it might impact the public. However, they also recognise the public concern that government advertising should not be conducted in a manner that results in public funds being used to finance publicity for party political purposes.
7. As recognised in the Cabinet Manual, Te Kawa Mataaho | Public Service Commission (the Commission) has a central role to play in providing advice to the Public Service on the application of the Guidelines, particularly on matters of integrity and conduct. The Commission also provides advice to support Public Service chief executives and Crown Agent board chairs who have a statutory duty under the section 12 of the Public Service Act 2020 to uphold the political neutrality of their agencies.
8. In recent years the Commission has experienced an increase in requests from public service agencies for advice about how to interpret and apply the Guidelines for Government Advertising. While the key elements of the Guidelines remain sound, the Public Service Commissioner has decided that more detailed supplementary guidance is required for the Public Service about how the Guidelines apply in practice given the significant changes to technology, the advertising industry, and New Zealand's system of government since they were first issued.
9. The Commission has drawn from our recent experience of providing advice in specific cases, to develop the attached Supplementary Guidance and has consulted with the Cabinet Office and a cross-agency group of communications specialists on its content. The Supplementary Guidance consists of a set of questions for officials to work through and associated scenarios that will assist in determining whether planned government advertising is consistent with the Guidelines.
10. The Public Service Commissioner will issue the Supplementary Guidance under section 19 of the Public Service Act 2020 to public service agencies, including Crown entities, next week. The Supplementary Guidance will only apply to public service agencies and not to Ministers, although it may be helpful for Ministers to be made aware of it.

Guidelines for Government Advertising

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

Introduction

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

Purpose

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

Scope

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

Presentation

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

Format and production

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

Distribution

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

Justification and accountability

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

Implementation

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

References

- 13 These guidelines have been formulated with reference to the following documents:
- a. The United Kingdom Cabinet Office Note on Central Government Conventions on Publicity and Advertising of 25 April 1985.
 - b. The Suggested Guidelines for a Convention on Publicly-Funded Government Advertising and Publicity, tabled in the House of Representatives by the Controller and Auditor-General on 2 May 1989.

Supplementary Guidance for Public Service Agencies

Interpreting and Applying the Guidelines for Government Advertising

The [Guidelines for Government Advertising](#) (the Guidelines) provide guidance for Ministers and government departments on ‘the preparation of and expenditure of public funds on government advertising and publicity.’¹ The Guidelines were approved by Cabinet and issued in 1989, were re-issued in 2017, and continue to apply.

Te Kawa Mataaho Public Service Commission (the Commission) provides advice to the Public Service on the Guidelines, particularly on matters of integrity and conduct.² The Commission also provides advice to support Public Service chief executives and Crown agent board chairs who have a statutory duty under the Public Service Act 2020 to uphold the principle of political neutrality in their agencies.³

The Commission has seen an increase in requests for advice about government advertising in recent years. Technology developments have made it easier than ever before for public service agencies to communicate with the public, in near to real time.⁴ In turn, the public increasingly expects to be aware of, and involved in, the workings of government. While the key elements of the Guidelines remain sound, more detailed guidance is required given the significant changes to technology, the advertising industry, and New Zealand’s system of government since they were first issued.

The Commission has developed this supplementary guidance drawing from its experience providing advice to public service agencies⁵ about interpreting and applying the Guidelines. The Public Service Commissioner has issued this guidance under section 19 of the Public Service Act 2020. While the Guidelines apply equally to both Ministers and government departments, this supplementary guidance does not apply to Ministers. This supplementary guidance only applies to public service agencies, including Crown entities. This guidance is complementary to existing legislative requirements, policies, and guidance. For example, the usual rules about government spending and procurement apply.

This supplementary guidance is designed to be read alongside the Guidelines. It consists of a set of questions for officials to work through and scenarios that will assist in determining whether planned government advertising is consistent with the Guidelines.

Purpose of the advertising

The Guidelines state that ‘government advertising should deal with matters in which the government has direct responsibility.’⁶ For public service agencies, this means all government

¹ Guidelines for Government Advertising, para [1]

² [Para 2.108 of the Cabinet Manual](#) sets out the Commission’s role and advises that the Office of the Auditor-General is also available to assist agencies, particularly in relation to probity and financial management.

³ [Section 12 of the Public Service Act 2020](#)

⁴ [The Commission’s social media guidance](#) applies to all content public service agencies post on social media platforms. If public funds are spent on social media content, then the Guidelines and this supplementary guidance also apply.

⁵ The Guidelines state that they apply to “government departments” and note that they “may also be a useful reference point for other organisations which spend public funds on advertising and publicity.” As this supplementary guidance is issued under [section 19 of the Public Service Act 2020](#), for the purpose of this document ‘public service agencies’ includes Crown entities.

⁶ Guidelines for Government Advertising, para [4]

advertising must relate to the agency's functions. These are usually set out in statute and can be useful to refer back to when considering government advertising.

As well as having sound business purpose, public service agencies must only undertake government advertising 'where there is an identifiable and justifiable information need by the intended recipients.'⁷ This means public service agencies must ensure that government advertising is focused on what the public needs to know.

The Guidelines outline four broad categories of justifiable information needs for government advertising. Generally, public service agencies can use public funds to communicate with the public to:

1. inform them about government policies;
2. inform them about government services;
3. advise them about their entitlements or responsibilities; and
4. encourage them to adopt certain kinds of social behaviour generally regarded as being in the public interest.⁸

The agency's business purpose and the justifiable information need of the public are often aligned, but this is not always the case. It is important public service agencies pause to reflect on the public's perspective throughout the planning process to ensure the needs of the public determine both what and when information is communicated in government advertising.

Further, simply being able to identify a public need for the information is not sufficient to ensure advertising is consistent with the Guidelines. The remainder of this guidance focuses on factors which must be considered alongside the public's information need.

It is relevant to note that Ministers and public service agencies have distinct roles when communicating with the public about policies. The [Cabinet Manual 2017](#) sets out that Ministers **defend, promote, and justify** policy and it is the role of public service agencies to **advise, inform, and explain**.⁹ This division of work, between advocacy and informing, helps to provide the public with reassurance that New Zealand's politically neutral Public Service can equally and impartially serve both current and future governments.

Government advertising is 'any process for which payment is made from public funds for the purpose of publicising any policy, product, service or activity provided at public expense by the government.'¹⁰ The Guidelines recognise that the government may legitimately use public funds to communicate about its work and how it might impact the public. However, the Guidelines also 'recognise the public concern that government advertising should not be conducted in a manner that results in public funds being used to finance publicity for party political purposes'¹¹.

Making sure there is a public information need and that the expense is justified before progressing any government advertising helps to ensure that the incumbent government does not have, or appear to have, an unfair advantage through public funds being spent for no other discernible reason than to promote its policies. For this reason, while building an agency's brand or trying to

⁷ Guidelines for Government Advertising, para [11]

⁸ Guidelines for Government Advertising, para [4]

⁹ [Cabinet Manual](#) at paragraphs 3.7 and 3.10

¹⁰ Guidelines for Government Advertising, para [2]

¹¹ Guidelines for Government Advertising, para [2]

build ‘social license’ for a policy or service may be a by-product of government advertising, it should never be the objective. In relation to advertising that falls into the fourth category of justifiable information need, it should be noted that the behaviour change already has to be ‘**generally regarded**’ as being in the public interest¹² (emphasis added).

Ask yourself:

- Does the advertising clearly relate to the agency’s functions?
- Does the advertising fall into one of the four broad categories of justifiable information needs set out in the Guidelines?
- Does the public *need* to know this?
- Is the spending of public funds justified in this case?

Scenario: Advertising by a public sector agency of new products and services

An agency launches an advertising campaign to raise awareness of grants and loans available for purchasing electric bikes, vehicles and mobility scooters. The campaign forms part of New Zealand’s environmental strategy.

Generally, advertising of this nature will be appropriate where it is addressing an identified and justifiable need for information by the target audience at this time, and the content meets the standards expected of Government advertising. In this scenario, the public needs to be informed of the available grants and loans, so that they can take action to access them.

Practical guidance

The timing of an advertising campaign is an important factor for agencies to consider. For example, during a pre-election period, there is a heightened risk of a perception that public funds are being used to finance publicity for party political purposes. It may be prudent to run advertising outside this pre-election period, either by delaying or bringing forward the advertising, unless there is a clear identified and justifiable need for the information during this period.

Timing

It is important that public service agencies pause to consider the context when deciding when to publish government advertising as this can impact how the public may perceive it.

For example, successive governments have chosen to exercise voluntary restraint in relation to some government advertising in the pre-election period. During the pre-election period, public service agencies must be alert to the heightened sensitivity around government advertising and any perception that government funds are being used to pay for publicity for party political purposes, such as candidate promotion. The Commission releases additional guidance each election year to help with decision making in this context.

Care is also needed around the form and style of advertising during the pre-election period, to avoid any confusion with party political advertising. For example, an advertising campaign that uses colours and images that closely resemble those used by political parties should be avoided.

Regardless of proximity to an election, it is also important to consider whether the planned communication relates to a contested political issue or matter of current public debate. If so,

¹² Guidelines for Government Advertising, para [4]

extra care should be taken to ensure the government advertising is presented in an impartial and politically neutral manner.

Ask yourself:

- Does the public need to know this *now*?
- How could the current context impact public perception of this advertising?

Scenario: Publicity of future services and benefits

An agency is responsible for a new programme which, if the current government is re-elected, will come into effect in April of the year following a general election. The agency wants to start early with publicity so that all those who would be entitled to the new services and benefits under the programme are aware of it. The advertising will commence in October, which is one month before the general election.

Practical guidance

In this situation, it may be prudent to delay the campaign until after the general election, particularly as the implementation of the programme may be dependent on the election outcome. That will reduce any risk that the campaign is seen as not being politically neutral. However, if the affected people need all the time between October to April to prepare for the possible change then this could be a good reason to proceed.

Similarly, existing services may need to be advertised periodically so people can access them. Agencies still need to consider contextual factors that may be relevant to the timing of this advertising.

Public understanding

It must be clear to the public that there is a need to spend public money to communicate with them on the topic. This should be assessed with reference to each piece of campaign collateral to ensure it can stand alone in case the public only sees one part.

The public must be able to easily understand both what they are expected to take away from the advertising and why they are being told. This means there are a range of advertising techniques that may not be appropriate when creating government advertising. For example, advertising that relies on implied messages may not be appropriate as the Guidelines require the message to be clear to the public. Similarly, spending public funds to communicate with the public just to build a following for future campaigns is also not aligned with the Guidelines. This is because if public funds are spent, there must be something the public needs to know now.

All government advertising must also be clearly attributed to government.¹³ This can be done in a number of ways including attribution to the relevant agency or by using the [New Zealand Government Identity](#).

Ask yourself:

- Will the public be able to understand what they need to know and why they are being told now when they view the advertising? And will this remain true if the public only sees one piece of campaign collateral?
- Will it be clear to the public that the advertising is from government?

Scenario: Public sector agency advertising upcoming legislative reform

A public service agency hires an external consultancy firm to create an advertising campaign about upcoming legislative reform on a politically contested topic. The consultancy firm proposes a series of short

¹³ Guidelines for Government Advertising, para [11]

advertisements with the first focussed on the message that there is a problem, and the reforms will solve it. They suggest follow up advertisements can then provide more specific information.

Framing a campaign on a contentious topic around a problem being solved could be seen as advocating for a policy, which is the role of the Minister, not the Public Service. It would be more appropriate for each element of the campaign to be clearly focussed on the information the public needs to understand about the upcoming changes.

Practical guidance

Public service agencies can inform the public about the work of government but must be careful not to advocate for particular policies or be drawn into political debate. Government advertising must be focussed on what the public needs to know and each element of a campaign must be able to stand alone.

Who is involved

The Public Service Commissioner expects chief executives of public service agencies to be across all significant decisions relating to government advertising in their agency. This is because Public Service chief executives are responsible to the Public Service Commissioner for upholding the principle of political neutrality in their agency.¹⁴ Boards of Crown agents must also uphold this principle and the responsibility is owed to the responsible Minister.

Not only are many teams within an agency usually involved in creating government advertising, but there may also be input from a range of stakeholders, which can include other agencies and the relevant Ministers' offices. Ultimately though, government advertising decisions sit with the chief executives of the relevant public service agencies. The decisions of individual agencies have a bearing on the public's trust and confidence in the Public Service as a whole. As public trust and confidence is difficult to gain but easy to lose, it is important agencies ensure the right people with appropriate experience and seniority are involved right from the start when making decisions about government advertising.

Further, advertising is often created in collaboration with other parties in both the public and private sectors. If any public funds are contributed by a public service agency then the advertising is government advertising and the Guidelines, this supplementary guidance, and the principle of political neutrality all apply. Similarly, public service agencies must ensure consultants and contractors are aware of the Guidelines and the political neutrality obligations from the start of any government advertising project.

Ask yourself:

- Will my chief executive be comfortable with the proposed approach and are they across this?
- Are all the relevant people aware of and involved in the advertising at the appropriate time?
- Is everyone involved aware of how the Guidelines, this supplementary guidance, and the principle of political neutrality apply to the advertising?

Scenario: Social media campaign to publicise community services

¹⁴ [Section 12 Public Service Act 2020](#)

Following an earthquake, a number of different government agencies, private sector agencies, citizen groups and non-government organisations (NGOs) want to advise the community of new and existing services available. A new website is setup and a campaign launched using Facebook and YouTube.

Practical guidance

When material is co-produced, the government agencies involved need to make sure their part of the content is politically neutral and follows the Guidelines. If the government agencies involved have any concerns about the overall look of the material these should be talked through with the other organisations involved in the publicity. The government agency may need to reconsider their involvement if there is a perception that the agency is contributing to political material.

Presentation

It is important to remember that the principle of political neutrality exists independently of the Guidelines and applies to public service agencies at all times. All government communications should be considered in light of this principle, as it applies whether or not public funds are spent.

The Guidelines outline that government advertising should always be presented in a manner which is:

- accurate, factual, and truthful;
- fair, honest, and impartial; and
- lawful and proper.¹⁵

It is important that all government advertising aligns with these presentation criteria. This is critical to maintaining the public's trust and confidence in the Public Service and is a way public service agencies can give effect to the Public Service principles and values.¹⁶

For example, advertising in a manner that lacks detail (ie, is too generic or lacks a clear 'ask') or uses emotive language or rhetoric is unlikely to meet the standard of fair, accurate, and impartial advertising. This is because it can confuse the public as to the purpose of the advertising. Particular care is needed around advertising that presents a vision for New Zealand's future, where this could be seen as publicity for party political purposes. For example, emotive slogans such as "rebuilding New Zealand", "Keep New Zealand working", or "the kind of country we are" are unlikely to be appropriate government advertising messages.

Ask yourself:

- Is the advertising politically neutral?
- Does the advertising align with the presentation criteria set out in the Guidelines?

Scenario: Public sector agency advertising a future vision for New Zealand

A public sector agency runs an advertising campaign to promote business opportunities in New Zealand and is aimed at small business owners. The campaign uses the slogan "Making NZ prosperous" and does not identify any related services, entitlements, responsibilities, or actions for the public to take.

The use of emotive slogans to advertise a vision for New Zealand's future is unlikely to be appropriate, particularly during the pre-election period. A more appropriate slogan would be "Connecting business owners with investment opportunities and advice".

¹⁵ Guidelines for Government Advertising, para [5]

¹⁶ Sections [12](#) and [16](#) of the Public Service Act 2020

Practical guidance

Government advertising that presents a vision for New Zealand's future is not a matter for the Public Service to determine or to advertise. Government advertising should always have a clear 'line of sight' to the business of government. For example, advertising should inform the public about government services or set out the public's entitlements and responsibilities. It is acceptable for an agency to inform the public about government policy. However, advocating for that policy is the Minister's role, particularly where the policy is a matter of current public debate.

Summary

The questions set out in this supplementary guidance are designed to help with planning government advertising. Checking in regularly and assessing material against the Guidelines and this supplementary guidance helps to identify any potential issues before they arise.

Ask yourself all of the following questions:

1. Does the advertising clearly relate to the agency's functions?
2. Does the advertising fall into one of the four broad categories of justifiable information needs set out in the Guidelines?
3. Does the public *need* to know this?
4. Is the spending of public funds justified in this case?
5. Does the public need to know this *now*?
6. How could the current context impact public perception of this advertising?
7. Will the public be able to understand what they need to know and why they are being told now when they view the advertising? And will this remain true if the public only sees one piece of campaign collateral?
8. Will it be clear to the public that the advertising is from government?
9. Will my chief executive be comfortable with the proposed approach and are they across this?
10. Are all the relevant people aware of and involved in the advertising at the appropriate time?
11. Is everyone involved aware of how the Guidelines, this supplementary guidance, and the principle of political neutrality apply to the advertising?
12. Is the advertising politically neutral?
13. Does the advertising align with the presentation criteria set out in the Guidelines?

If you still have outstanding questions or concerns after conducting this assessment, the Commission is available to help you work through the matter.

Other relevant guidance from the Commission:

- [General election guidance - Te Kawa Mataaho Public Service Commission](#)
- [Guidance for public servants' official use of social media - Te Kawa Mataaho Public Service Commission](#)
- [Standards of Integrity and Conduct - Te Kawa Mataaho Public Service Commission](#)