

1 August 2013

Senator Nick Xenophon
Senator for South Australia
Parliament House
CANBERRA ACT 2600

Dear Senator Xenophon

Government advertising—the *By boat, no visa* advertising campaign

I am writing in response to your letter of 22 July 2013 regarding the *By boat, no visa* advertising campaign administered by the Department of Immigration and Citizenship (DIAC) and related communications activities administered by the Australian Customs and Border Protection Service (Customs).

Background

Successive Australian National Audit Office (ANAO) reports have observed that government advertising is a legitimate and accepted element of government communication and information strategies. That said, there have been concerns expressed that governments may use, or may be perceived to use, taxpayer funds to gain political advantage through the partisan promotion of their views or themselves, rather than to meet the genuine information needs of citizens (see for example the Senate Finance and Public Administration References Committee's 2005 inquiry on *Government advertising and accountability*, p. xiii).

One of our earlier audit reports observed that there is recognition in some jurisdictions, that the effectiveness with which a government communicates its policies and presents information about them carries political benefits. Nonetheless, as long as the communication of policy is conducted in accordance with existing guidelines, such benefits are accepted there as part of the inherent advantages that can accrue to the government party or parties (see ANAO Audit Report No.12 1998-99 *Taxation Reform: Community Education and Information Programme*).

As you will recall, the Government introduced an enhanced framework for the administration of advertising campaigns in 2008 in response to issues highlighted by Parliamentary inquiries

and ANAO reports. While a subsequent review of the framework led to some softening of the arrangements, the revised framework and Guidelines (see the *Guidelines on Information and Advertising Campaigns by Australian Government Departments and Agencies*, Department of Finance and Deregulation) introduced in 2010 maintained the core elements of the earlier arrangements for campaigns, namely: the certification of campaigns over \$250 000 by agency chief executives against written guidelines; third party review of campaigns against those guidelines; and the need for campaigns to be justified and undertaken in an efficient, effective and relevant manner. The revised Guidelines also continued to make provision for exemptions from the requirements of the campaign advertising framework in some circumstances, with the main practical effect of an exemption being the absence of third party review by the Independent Communications Committee (ICC).

Under the revised approach, the Auditor-General was requested to consider undertaking performance audits of the administration of government advertising against the revised Guidelines; and the ANAO has continued to schedule periodic performance audits of government advertising in our performance audit program. The ANAO's first performance audit report of the revised arrangements (see ANAO Audit Report No.24 2011–12 *Administration of Government Advertising Arrangements: March 2010 to August 2011*) concluded that where it applied, the revised certification process for agencies had been generally effective in promoting compliance with the revised Guidelines. The practice of agency chief executives certifying campaign compliance has continued to provide an important discipline on agencies to document compliance with the Guidelines. In contrast, where a campaign exemption had been granted under the Guidelines yet the responsible agency was still expected to comply with the 'intent' of the Guidelines, as in the case of two exempt campaigns examined in the audit, there was not the same level of discipline evident in the processes of the responsible agencies to demonstrate compliance with those elements of the Guidelines which had not been exempted. The ANAO recommended that in future, agencies granted an exemption should adopt a process of internal 'certification' to provide assurance to the agency chief executive of compliance with the Guidelines to the extent that they continue to apply.

The ANAO's second performance audit report of the revised arrangements (see Audit Report No. 54 2012–13 *Administration of Government Advertising Arrangements: August 2011 to March 2013*), tabled on 26 June 2013, continued our periodic review of government advertising arrangements. The audit again found that where it applied, the ICC's campaign review process generated significant discussion between the committee and the relevant agency, and together with the certification of campaigns by chief executives, led to the strengthening of campaigns' compliance with the Guidelines. However, the audit also concluded that a feature of the campaigns examined was a tendency to push the boundaries of the Guidelines in some areas, with insufficient weight being given to the underlying principles governing the use of public funds for government advertising campaigns (specifically underlying principles (a) and (b) of the 2010 Guidelines). The audit drew attention to an emerging risk of campaign advertising not clearly meeting the enhanced expectations and arrangements established by the Government from 2008, with the specific purpose of ensuring that government advertising and information campaigns 'provide objective, factual and explanatory information, free from partisan promotion of government policy and political argument' (see Senator the Hon John Faulkner and the Hon Lindsay Tanner MP, Joint Media Release, *New Advertising Guidelines*, 2 July 2008, p. 1).

The audit also observed that staff in the office of the relevant Minister and the Prime Minister were significantly involved in the development of one campaign, contributing actively to the drafting and editing of a government newspaper advertisement developed in three days and in the context of active public debate over Commonwealth funding to a state government. The involvement of ministerial staff led to the removal of contextual information from the advertisement and clouded responsibility for the campaign's development, which nonetheless remained formally with the department. The audit observed in respect of that particular campaign (which was exempt from ICC review as it was valued at less than \$250 000) that one of the four statements in the advertisement was not presented in an objective manner. As a result, the audit also observed that there is benefit in third party scrutiny and advice for campaigns which are viewed as being more sensitive, regardless of their value. The close involvement of ministerial staff, combined with a highly compressed campaign development timeframe, can invite criticism that political considerations have been given undue weight in decisions on whether to run an advertising campaign and the nature of the campaign, particularly where advertisements appear in the context of an active public debate.

The audit concluded that the Government deserves credit for lifting the bar on the standards expected when it introduced the new arrangements. However, the arrangements need to be supported by Ministers so that Australian Government advertising campaigns are directed to meeting the genuine information needs of citizens. Agencies also have a direct responsibility under the framework to meet the principles of the Guidelines, which were introduced to strengthen confidence in the integrity and value of government communication and information activities. As with any framework, a decline in standards is likely in the absence of ongoing reinforcement of its central features and their continued application.

The Department of Finance and Deregulation (Finance), which administers the Guidelines, advised the ANAO that it would consider a number of issues relating to the clarity and interpretation of the Guidelines, identified in the audit, when the Government's campaign framework is next subject to review. That review has recently been delayed beyond the original date of September 2013.

The current DIAC and Customs campaigns

Following receipt of your letter, my office has made enquiries of: Finance, which has responsibility for the overall administration of the campaign advertising framework; DIAC, which is responsible for domestic immigration communication activities, including the *By boat, no visa* advertising campaign; and Customs, which is responsible for offshore immigration communication activities. While responding to the matters you have raised through this correspondence allows for a more timely response, which I consider appropriate given the particular circumstances and the upcoming federal election, it is important to understand that our response does not provide the same level of assurance that an audit would, particularly in terms of evidence gathered.

Finance and DIAC have confirmed that the advertisements referred to in your letter are part of a domestic advertising campaign *By boat, no visa*, which commenced on 20 July 2013 and currently has a notional budget of up to \$30 million. As the campaign is valued at over \$250 000, it would normally need to comply with the requirements of the Guidelines, including the review of campaign materials by the ICC. However, paragraph 5 of the Guidelines provides for the Special Minister of State (SMOS) to exempt a campaign from compliance with the guidelines on the basis of a national emergency, extreme urgency or

other compelling reason. Where an exemption is approved, the ICC is to be informed of the exemption, and the decision is to be formally recorded and reported to the Parliament.

An exemption for this campaign was sought by the Minister for Immigration, Multicultural Affairs and Citizenship through correspondence dated 19 July 2013, on the basis of extreme urgency. The Minister advised the SMOS that the Prime Minister was announcing a change to Australia's asylum seeker policy, and that the 'changed settings must be communicated to diaspora and other communities most affected in Australia as soon as possible so that asylum seekers considering coming to Australia are made aware of the changes'. The Minister further advised the SMOS that advertising was to commence the following day. The SMOS granted the exemption on the same day (19 July 2013), on the basis of extreme urgency. In his correspondence granting the exemption, the SMOS stipulated a number of conditions, key among which was that he expected DIAC to 'comply with the underlying principles of the Guidelines'. Further, the SMOS expected that DIAC place all advertising through the Central Advertising System, select suppliers from the Communications Multi-Use List, and follow sound procurement and administrative processes. These conditions were consistent with the approach adopted by the then SMOS in May 2010 when granting an exemption under the Guidelines for the Treasury's Tax Reform Campaign. That campaign was examined in Audit report No. 24 2011–12 *Administration of Government Advertising Arrangements: March 2010 to August 2011*. Finance advised my office that the chair of the ICC, Dr. Allan Hawke AC, was advised of the exemption for the *By boat, no visa* campaign on the afternoon of 19 July 2013, and the SMOS released a written statement intended to advise the Parliament of the exemption, on 24 July 2013.

As a consequence of the exemption, the campaign did not need to be reviewed by the ICC, or be certified against the Guidelines by DIAC's Secretary. However, as indicated above, in Audit Report No. 24 2011–12 my office has recommended that in future, agencies granted an exemption from the Guidelines should adopt a process of internal 'certification' to provide assurance to the agency chief executive of compliance with the Guidelines to the extent that they continue to apply. In this regard, DIAC has prepared an internal Statement of Compliance dated 19 July 2013 (a key document normally provided to the ICC as part of its review of campaigns), and its Secretary has certified that the campaign is compliant with the Guidelines. A copy of the Secretary's certification of the campaign, completed on 19 July 2013, is available on the department's website: http://www.immi.gov.au/about/_doc/certification-by-boat-no-visa.pdf. The internal statement of compliance has not been made public.

DIAC has advised my office that it commenced the development of the *By boat, no visa* campaign following written advice from the Minister's office received late in the day on 18 July 2013. The department was informed that the advice had been 'canvassed and locked in' with the Prime Minister's Office. The Minister's office requested that full page ads were to be run in all metropolitan 'tabloids' the day after the Government's policy announcement (the policy changes were announced on 19 July). Further, the office listed the other media to be employed (Culturally and Linguistically Diverse newspapers, a social media strategy and radio), campaign length (an 'intensive blitz' for five days with the campaign to extend for 3 weeks), and a notional media budget of up to \$30 million. The office also indicated that the 'key statement' for the campaign was to be:

*'As of now the rules have changed
if you come here by boat without a Visa
you will not be settled in Australia.'*

The department's communication plan for the campaign indicates that due to the tight timeframes, there was no time to undertake formal developmental or concept testing market research. The creative concept was therefore developed and based on February 2013 research reports from a previous campaign, titled *Don't be sorry*. The communications plan also highlights that the previous concept testing indicated that there would be benefit in a 'harder hitting' approach, with more direct language, more striking use of visuals, and fewer words. The department informed the ANAO that the creative concept for the campaign, reflected in the 'key statement' provided by the Minister's office, was consistent with both the lessons of past campaigns and the revised policy announced by the Government on 19 July 2013.

Further, DIAC's communication plan for the *By boat, no visa* campaign states that the objective of the campaign is to 'inform diaspora communities and the Australian public of the change to Australia's asylum seeker policy'. The plan indicates that target audiences will include Afghani, Pakistani, Iranian, Iraqi, Sri Lankan and Vietnamese communities in Australia. The communications plan identifies that those specific diaspora communities were identified because they represent the highest proportion of Irregular Maritime Arrivals. The secondary target audience for the campaign is the Australian public as friends and influences of the primary target audiences. The department further advised the ANAO that the targeting of the campaign has been informed by third-party evaluation research for prior asylum seeker-related information activities, which was provided to DIAC on 26 June 2013.

In summary, DIAC has advised that its paid media advertising strategy comprises the following elements: national/metropolitan and community newspapers; metropolitan television; metropolitan radio; Culturally and Linguistically Diverse press and radio; and digital. There has also appeared on the Internet, a YouTube video containing statements by the Prime Minister, which is not paid media and is therefore not normally considered part of a campaign (see paragraph nine of the Guidelines). The department advised that it had committed approximately \$2.7 million (GST included) for paid media activities for the period from 20 to 27 July 2013. This funding had been previously approved for communications activities relating to the Report of the Expert Panel on Asylum Seekers, which was released on 13 August 2012. DIAC further advised that the delay in advertisements appearing in the domestic Culturally and Linguistically Diverse press reflected the weekly publication pattern of community newspapers; and the change in the domestic print advertisement which occurred on 24 July 2013 reflected a departmental strategy, rather than a response to external criticism of the original advertisement.

It is incumbent on agencies to actively consider and monitor the cost-effectiveness of their campaigns. In particular, agencies should satisfy themselves that the proposed media mix is a cost-effective way to achieve the objectives of the campaign before authorising any media spend. Further, while the campaign budget agreed by government provides policy authority and a financial ceiling for agencies' expenditure on campaigns against appropriations, it does not require agencies to spend to the limit of that authority. If the *By boat, no visa* campaign spend were to be in the order of \$30 million (noting that the department has advised the ANAO that this is an indicative figure), the campaign cost would be at the higher end of the spectrum. The ANAO's recent audit on government advertising stated that between 2008–09 and 2011–12, over 90 per cent of campaigns expended less than \$20 million in any one financial year (see footnote 57 of Audit Report No. 54 2012–13). Furthermore, previous audit reports on government advertising have highlighted a tendency for campaign media

expenditure to increase in the lead-up to federal elections (see Figure 6.2 of Audit Report No. 54 2012–13).

Customs also provided my office with information about its offshore communications activities, which it advised are intended to complement DIAC's communications. Customs advised that following the most recent government policy changes, it had commenced a three-phase campaign aimed at targeting asylum seeker groups in source and transit countries with the same message as DIAC's campaign. The first two phases of the campaign, valued at up to \$2 million, involve the dissemination of information about the policy to relevant overseas posts and communication liaison officers. Customs advised that these phases would draw upon funding already available for communications activities relating to the Report of the Expert Panel on Asylum Seekers. Customs further advised that it was seeking additional funding of up to \$5 million for a third phase, involving a strategic media campaign in target countries relating to the revised policy, lasting up to six months. Finance and Customs also confirmed that offshore communications activities are not subject to the Guidelines and the associated ICC review processes, as the Guidelines relate to information and advertising campaigns 'undertaken in Australia' (see paragraph 2 of the Guidelines).

Concluding comments

My office's June 2013 performance audit on the administration of government advertising highlighted that government advertising is an area of public administration that continues to be sensitive because of concerns, at times, that political considerations have been given undue weight in decisions on whether to run an advertising campaign and the nature of the campaign. History also shows that it has been challenging for governments to exercise restraint in spending on advertising campaigns in the lead up to elections.

The current policy framework allows the Special Minister of State to exempt campaigns from the Guidelines that usually apply, in defined circumstances. The Minister has exempted the *By boat, no visa* campaign from the Guidelines on the basis of extreme urgency while indicating that he expects DIAC to comply with the underlying principles of the Guidelines. A notional budget of up to \$30 million has been established for the campaign, which to date has included a high volume of full-page newspaper advertisements. Market research generally informs the need for a campaign, and the reach and volume of campaign activities. In the case of the *By boat, no visa* campaign, the compressed timeframe has meant that there has been no time for formal and specific research to be conducted to directly inform the design, scale and targeting of this campaign. There will always be scope for debate around the cost-effectiveness of particular campaign approaches, an issue my office has raised previously. However, the adoption of an approach involving intensive media coverage over a short period of time, and the absence of third party scrutiny of communications activity in a contested policy space, especially in a pre-election period, will inevitably raise reasonable questions as to the targeting, scale and cost-effectiveness of this campaign.

In my report tabled in the Parliament on 26 June 2013, I gave the Government credit for lifting the bar on the standards expected when it first introduced the new arrangements for government advertising in 2008. The Guidelines nevertheless are determined by government decision and, as shown by the changes in 2010, can be varied by government decision. As well, the key decisions bearing on the *By boat, no visa* campaign, particularly those relating to the exemption from the Guidelines and the upper limit of the notional budget, are matters within the province of government to make. Against this background, the Government has

considerable latitude in determining the parameters for the campaign. In my most recent report to the Parliament, referred to above, I highlighted the importance of focusing on the underlying principles governing the use of public funds for government advertising campaigns (which are set out in the Guidelines), and of Ministers supporting the campaign advertising framework. At the end of the day, a policy-based framework requires discipline on the part of government to work effectively and maintain public confidence, particularly with the passage of time.

I trust this information is of assistance.

Yours sincerely