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(Hansard)**

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**Journal  
des débats  
(Hansard)**

P-14

**Standing Committee on  
Public Accounts**

2018 Annual Report,  
Auditor General:

Treasury Board Secretariat

**Comité permanent des  
comptes publics**

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Wednesday 15 May 2019

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Mercredi 15 mai 2019

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Chair: Catherine Fife  
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

## STANDING COMMITTEE ON PUBLIC ACCOUNTS

## COMITÉ PERMANENT DES COMPTES PUBLICS

Wednesday 15 May 2019

Mercredi 15 mai 2019

*The committee met at 1230 in room 151, following a closed session.*

### 2018 ANNUAL REPORT, AUDITOR GENERAL

#### TREASURY BOARD SECRETARIAT

Consideration of chapter 4, review of government advertising.

**The Chair (Ms. Catherine Fife):** Good afternoon, everyone. My name is Catherine Fife. I'm Chair of the public accounts committee, and I'm going to call the Standing Committee on Public Accounts to order.

We are here to begin consideration of the Review of Government Advertising, chapter 4, 2018 Annual Report of the Office of the Auditor General.

Joining us today are officials from the Treasury Board Secretariat and the communications division of the Cabinet Office. Thank you for being here today to answer the committee's questions.

I would invite you each to introduce yourself for Hansard before you begin speaking. The delegation at the front of the room will have 20 minutes collectively for an opening presentation to the committee. We will then move into the question-and-answer portion of the meeting, where we will rotate back and forth between the government and the official opposition caucuses in 20-minute intervals. Just so that everyone knows, this week the official opposition will begin the question rotation. Please begin.

**Ms. Karen Hughes:** Good afternoon. I'd like to thank the committee for the opportunity to be here today. My name is Karen Hughes, and I am the interim deputy minister for the Treasury Board Secretariat.

Joining me today is Didem Proulx, who is the chief administrative officer and assistant deputy minister of corporate services division. Didem can provide further information on the Bulk Media Buy fund.

Also joining me is Len Hatzis. He's the director of the legal services branch for Treasury Board Secretariat. Len can provide details on the Government Advertising Act itself.

Also joining us is Lynn Betzner, just behind me. Lynn is the deputy minister of communications from Cabinet Office. She can speak to the role Cabinet Office plays in government advertising.

With Lynn is Jennifer van der Valk. She's the managing director of marketing and digital strategy for Cabinet

Office communications. She can provide further details on the process to deliver government advertising.

Finally, Sofie DiMuzio, director of communications at Treasury Board Secretariat, is also here with us today.

I'd like to take a moment, as I start, to speak specifically about the role of ministry officials who appear before you today. As public servants, we're not in a position to comment on political decision-making, nor are we in a position to speculate on the rationale of the government of the day. We are here before the committee to provide factual information related to chapter 4 of the Auditor General's 2018 annual report, and we look forward to providing the committee with information to help members draft their report.

Now turning to government advertising and our role at Treasury Board Secretariat in that process: TBS—the short form for Treasury Board Secretariat—has policy responsibility related to government advertising. There is legislation, a regulation and a rigorous procurement policy governing advertising activities.

The Ministry of Government and Consumer Services also has a role in the governance of government advertising. They are responsible for administering the Management Board of Cabinet procurement directive on advertising, public and media relations and creative communication services. The Ministry of Government and Consumer Services is also responsible for a provincial agency that has duties under that directive, the Advertising Review Board.

I want to spend some time outlining what government advertising is and the process by which it is reviewed, approved and delivered to the public.

The Government Advertising Act lays out the rights and responsibilities of the government when choosing to advertise to the public. The Government Advertising Act applies to a government office, which the act defines as a ministry, Cabinet Office and the Office of the Premier. All ministries must meet the requirements of the legislation.

Through advertising, the government pays to publish, display or broadcast an advertisement or distribute printed matter to Ontario households. For example, the government may use advertising to inform the public about a new or existing program, plans, services or policies and their rationale; inform the public about their rights and responsibilities under law; encourage behaviour that is in the public's interest; promote Ontario and any economic activity within Ontario; and promote Ontario's interests in relation to other Canadian jurisdictions.

However, there are also several restrictions placed on government ads under the Government Advertising Act. Most notably, government advertising may not be partisan. Under the legislation, an ad is partisan if:

- (1) it includes the name, voice or image of a member of the executive council or the Legislative Assembly, unless the primary audience is outside of Ontario;
- (2) it includes the name or logo of a recognized party;
- (3) it directly identifies and criticizes a recognized party or a member of the assembly; or
- (4) it includes, to a significant degree, a colour associated with the governing party, unless the item depicted in the ad commonly appears in that colour.

Once ministries identify a need for advertising, the request goes through a rigorous approval process. Throughout this process, staff at Treasury Board Secretariat provide our best advice.

Cabinet Office is responsible for the overall coordination of advertising under the Bulk Media Buy fund, planning against the allocated budget. This process begins in alignment with the fiscal planning process. Line ministries contribute to the development of a central marketing plan by providing an advertising proposal outlining the timing, content and recommended budget for their proposed advertising campaigns for the year. Cabinet Office coordinates the overarching marketing calendar for the year, taking individual ministry needs into account. They work with TBS to ensure that funding is available from the Bulk Media Buy fund to support these planned campaigns.

Centralized coordination prevents oversaturation of the media landscape with too many competing government ads in the market at any given time. It also helps to identify similar priorities between ministries, avoiding duplication, which provides important savings to the government. A strategic marketing calendar for the fiscal year is then developed, and funds from the Bulk Media Buy account are allocated across ministries' advertising needs. Any new or urgent marketing campaigns proposed in a particular year are evaluated on a case-by-case basis.

If the proposal is approved and external support from a creative agency is needed, the responsible ministry will engage the Advertising Review Board. As I mentioned, the Advertising Review Board is a regulatory agency of the Ministry of Government and Consumer Services. The Advertising Review Board, or the ARB, would then help the responsible ministry to acquire a vendor through a competitive procurement process to develop and produce the campaign. The Advertising Review Board establishes corporate vendors of record, or pools of advertising and communication services companies, through open and competitive processes.

The Advertising Review Board was established in 1985 to promote openness, fairness and transparency in the procurement of Ontario government advertising and communication services. All advertising and communication services suppliers are thoroughly evaluated by the Advertising Review Board to ensure they are capable and meet government requirements.

When government ministries need to communicate important information to the public, they can do so in a

cost-effective manner through the use of the vendor-of-record companies. Vendor-of-record pool contracts are for three-year terms, with two one-year extension options. The Vendor of Record Program provides the government of Ontario with the opportunity to combine spending on common goods and services and to generate costs savings across the public sector.

A vendor-of-record arrangement is established by conducting an open, competitive procurement using an electronic tendering service; in our case, the Ontario Tenders Portal. Bidders whose proposals successfully meet the evaluation criteria set out in the requests for bids are awarded master agreements.

As outlined in the Government Advertising Act, if campaigns contain certain media such as TV, cinema or unaddressed householders, the ministry would need to submit materials to the Auditor General in advance for a preliminary review. This is an important step to ensure compliance with the act, in addition to a final review. As was highlighted in chapter 4, the Office of the Auditor General performs a valuable role in reviewing government advertisements.

To highlight the importance of the role played by the Office of the Auditor General, during the required preliminary review, her team found two proposed ads where the content did not meet the standards of the Government Advertising Act because they lacked a "Paid for by the government of Ontario" statement. In both cases, ministries resubmitted the ads with the statement, and received approval. We thank the Auditor General and her team for noting these errors.

If the ministry receives approval from the Office of the Auditor General, the next step is for them to execute the campaign. Paid media space for any government advertising campaign is purchased through the provincial media buying agency of record, which is currently PHD Media. Typically, once the campaign is complete, the responsible ministry prepares a request for funding from the Bulk Media Buy fund, if needed. The bulk media fund is a centrally held fund that supports the coordinated purchase of media time, creative research and production costs to pay for government advertising, while ensuring value for money and achieving efficiencies.

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While the program supports most expenditures for government advertising, it does not represent funding for all government advertising. A limited number of revenue-generating advertising programs are funded outside the bulk media fund. Some examples of program-specific or agency-driven advertising that do not go through the bulk media fund include advertising related to Ontario Parks; advertising related to provincial tourist attractions and events; and advertising of provincial agencies such as the LCBO, Metrolinx, and Ontario Lottery and Gaming, which oversee, conduct, procure and pay for advertising related to their respective business lines.

TBS reviews all financial documentation from the requesting ministry, including invoices and other required materials, conducts due diligence on it and then makes a

recommendation on the transaction. Due diligence is a process of carefully examining the request in accordance with the pertinent legislative policy directives and guideline framework for the financial administration of public monies. In particular, TBS requires the ministry to demonstrate that its current appropriation is insufficient and confirm that monies recovered from the fund are for marketing spending and will not be reallocated within the ministry. The documentation is submitted to the Office of the Treasury Board for consideration by Treasury Board/Management Board of Cabinet. If approved, transfers from the fund are made by a Treasury Board order.

Essentially, TBS plays a coordination role and administers the bulk media fund. Centralized management of marketing dollars like this is not unusual and aligns with best practice marketing process in complex, multi-product and program organizations to ensure alignment of organizational priorities, efficient use of marketing budget and allows for coordination and flexibility to reallocate or find cost savings.

To clarify Treasury Board Secretariat's corporate role, we hold the overall policy responsibility for government advertising and administration of the Government Advertising Act. We also administer the bulk media fund and process transactions in accordance with the Financial Administration Act. We are not responsible for individual line ministry advertising campaigns, nor do we determine how much funding is allocated to any particular campaign.

Before I conclude, I'd like to discuss the Auditor General's recommendation in chapter 4. As members of the committee will be aware, in 2015, the government of the day passed several legislative amendments to the Government Advertising Act as part of the 2015 Ontario budget. These amendments included a new definition of partisan advertising, a requirement for the government to submit a preliminary version of certain advertisements to the Auditor General for review, new rules around government advertising during general elections, and new powers for the Auditor General to review additional media, including digital ads, transit ads and movie theatre ads. In chapter 4, the auditor recommended that the government reinstate the previous version of the Government Advertising Act, 2004, as it appeared on June 3, 2015, while leaving in the amendments that included digital advertisements to be included as a reviewable medium.

As was stated in the response provided to the committee, the government will endeavour to explore options for the review of government advertising. Our responsibility as non-partisan public servants is to follow and implement the Government Advertising Act as written and, should further amendments to the legislation be passed, we would support the government by continuing to provide our best advice, and implement these changes. However, we are not in a position to speculate on potential changes to the act or to provide opinions on whether the act should or should not be amended. We leave those decisions to the government and the Legislature.

In conclusion, I trust I've provided you with some clarity on the government advertising process for members

of the committee. There is legislation, a regulation and a rigorous procurement policy to direct the government's efforts. Treasury Board Secretariat puts the rules in place, but other ministries are responsible for keeping their programs on track and in compliance with legislation and corporate policies.

I want to thank the Auditor General and her staff for their assistance throughout the year in reviewing and ensuring that government advertisements complied with the Government Advertising Act. I also want to thank her for her recommendations in chapter 4.

Once again, I would like to thank members of the committee for their time today and for inviting us to present on chapter 4. At this point, we're happy to answer any questions you may have.

**The Chair (Ms. Catherine Fife):** Thank you very much, Ms. Hughes. The first set of questions goes to the opposition side. MPP Morrison.

**Ms. Suze Morrison:** Thank you so much. I'd like to start by talking about digital advertising specifically, which I understand doesn't fall under the purview, under the current rules, of the Auditor General's review.

Does cabinet coordinate the ad buys and campaigns for digital advertising centrally through cabinet, the same way it does for all other advertising, even though it's not technically part of the same review? Or does it fall down to the ministries individually to do their own social media and SEO buys?

**The Chair (Ms. Catherine Fife):** I think we should probably invite Lynn Betzner up from cabinet to perhaps—

**Ms. Suze Morrison:** Answer that?

**The Chair (Ms. Catherine Fife):** Yes. If you want to come up, Lynn. And just for the Hansard, would you mind officially introducing yourself with your title?

**Ms. Lynn Betzner:** Hi, I'm Lynn Betzner, deputy minister of communications and Cabinet Office communications.

**The Chair (Ms. Catherine Fife):** Thank you.

**Mr. Len Hatzis:** I'll turn it over to you. I think the question is about the role of Cabinet Office with respect to digital.

**Ms. Lynn Betzner:** In terms of digital advertising, there are parts—and I'll refer to Jennifer van der Valk in my office for more details, but there is digital advertising that's overviewed by the Government Advertising Act, and there is social media. Digital media is essentially video, text or images that are displayed on websites, and social media is Facebook, Twitter or LinkedIn. Each ministry is responsible, working with, as you indicated, PHD, the media-buying services—when that ministry is going ahead with their advertising, they're the ones responsible for that social media buy.

**Mr. Len Hatzis:** Just to clarify, with respect to digital—

**The Chair (Ms. Catherine Fife):** Can you just introduce yourself for Hansard?

**Mr. Len Hatzis:** Sorry. Len Hatzis, director, TBS legal services.

With respect to digital, regulation 143/15, associated with the Government Advertising Act, describes digital advertising as “an advertisement consisting of video, text, images or any combination of these that a government office proposes to pay to have displayed on a website, other than a social media website such as Facebook or Twitter.” Advertisements “that would be displayed on a website solely as a result of the use by the government office of a search marketing service, such as Google AdWords” are also excluded.

So there are some exclusions with respect to digital, but there are also some things that are captured that have broadened the scope of what’s a reviewable item for the Auditor General.

**Ms. Suze Morrison:** Okay. How does cabinet treat video advertising on YouTube? Do you consider that social media or do you consider that a website?

**Ms. Lynn Betzner:** If I could just ask Jennifer van der Valk from my office to come and answer that technical question.

**Ms. Suze Morrison:** Okay.

**The Chair (Ms. Catherine Fife):** Once again, Jennifer, just introduce yourself for Hansard, please.

**Ms. Jennifer van der Valk:** Jennifer van der Valk. I’m the managing director of marketing and digital strategy with Cabinet Office communications.

**The Chair (Ms. Catherine Fife):** Thank you.

**Ms. Jennifer van der Valk:** I’m sorry. Could you just repeat the question one more time?

**Ms. Suze Morrison:** Yes. With respect to video advertisements placed on YouTube—which would be more similar to a TV advertisement, for example—does cabinet treat YouTube ads as a website or as social media?

**Ms. Jennifer van der Valk:** YouTube ads are treated as online video. They are reviewable by the auditor. They’re often referred to as online video or pre-roll video, and those would typically be part of a broader campaign.

**Ms. Suze Morrison:** Okay, perfect. My next question is, considering the growing nature of the media landscape, and that social media and SEO advertising is a growing part of the government’s advertising strategy, do you think that these advertising spaces should be included within the purview of the Auditor General, in terms of being in the best interest of the public?

**Mr. Len Hatzis:** I can only speak for the purposes of what the act and the regulations say. To be clear, social media websites are excluded from the purview of reviewable items, as well as—an example would be Google AdWords, which are search marketing services that the government may use. So those two exceptions are noted very clearly in the regulation.

I’ll turn it over to Lynn to speak to anything else apart from that.

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**Ms. Lynn Betzner:** We can’t comment upon the intent of the government in terms of their legislation and their intention when they developed that legislation.

**Ms. Suze Morrison:** Okay. So considering, in follow-up to that, that the government’s ad spending in that sector

continues to grow—I mean, we noted in the report that in 2017-18, the government spent \$7.6 million on digital ads that were not subject to the purview of the Auditor General, which represented a 60% increase from the previous year.

I’m not looking for a specific number in terms of how much would have been spent in this most recent fiscal year on digital advertising, but if you could comment on if that trend is continuing to increase.

**Ms. Lynn Betzner:** Perhaps Jennifer could comment upon social media.

**Ms. Jennifer van der Valk:** I would certainly agree that digital advertising is something that we are doing more of, as has been reflected in the Auditor General’s report. However, I would also say that, based on the report, the majority of the digital advertising that we do would still be advertising that is covered by the act and is submitted for reviews, such as the online video that she suggested.

In the cases of social media and search marketing, typically, those are part of the broader campaign, and those ads would reflect the content of the broader campaign, which would have been submitted to the auditor for review.

**Ms. Suze Morrison:** Okay. And are there instances where there would be advertising campaigns on social media or through SEO that are not attached to an existing campaign that would have been reviewed through the Auditor General? Does that happen often?

**Ms. Jennifer van der Valk:** Not typically.

**Ms. Suze Morrison:** But it does happen? Can you think of how many examples you might—

**Ms. Jennifer van der Valk:** I can’t think of a specific example that would relate to chapter 4. Typically, social and search would be part of a broader campaign.

**Ms. Suze Morrison:** Okay.

**The Chair (Ms. Catherine Fife):** MPP Sattler.

**Ms. Peggy Sattler:** Thank you very much. I’m sure the Auditor General appreciated your kind words about her work in this report, but she does express quite a bit of frustration about the limited role that she has to play. In fact, the bulk of this chapter is about ad campaigns that would not have passed review if they had been considered under the previous rules versus the current rules.

Do you feel that it is important that the auditor continue to perform this work, given this limited role? She caught two cases where the ad did not say, “Paid for by the taxpayers of Ontario,” but that seems like a pretty basic thing, that a low-level bureaucrat should be able to find that before the ad goes forward. Do you think it is important to keep the Auditor General involved, given that her authority has been so limited by the changes?

**Ms. Karen Hughes:** Thanks for the question. I really can’t comment on—I mean, the legislation is the legislation and we are responsible for administering the act, which does require the Auditor General to review against the particular criteria as spelled out in the act. It’s hard for me to comment on the role or the extent that the Auditor General’s role fits there.



**Ms. Peggy Sattler:** Okay. I noted in the report that the auditor, when she reviews ads that are submitted in advance, provides an opinion under both the current rules but also under the previous rules. There's an example in the report where the auditor advised the ministry—this is on page 714 of the report, in the second column. The auditor advised the ministry that they believe that a primary objective of this campaign is to provide a “positive impression of the governing party,” and the auditor indicated that the campaign would not have passed review under the previous act.

What do ministries do with that feedback, when the auditor has reviewed an ad, has expressed concerns, has advised the ministry that it would not have passed muster under the previous rules? Do the ministries do anything in response to that feedback from the auditor?

**Ms. Karen Hughes:** A good question. I'm actually not aware. Treasury Board Secretariat itself, as a line ministry: I don't think we do any advertising, so I've never, in my capacity, actually received that kind of advice from the Auditor General to us.

**Ms. Bonnie Lysyk:** If I can comment: We look at the issuance of bonds through the Ministry of Finance, which is kind of related to finance.

I guess the one thing I'd clarify in terms of what we do is that the legislation is the legislation, so we do comment on compliance with the legislation. The reason we've continued the practice of commenting on the old rules is because the history of involving the Auditor General in the process was one where the public, by involving us, would be assured that we would consider the issue of partisan and have discretion over that. That's the way it had functioned for many years. The change that took place, that changed the act, took the discretion away from the office, taking away our independence, pretty much, from this process and requiring us to pretty much be a rubber stamp on four basic aspects under the advertising act.

We continue to comment on it because we wear two hats here. We wear one that requires, under the advertising act, to state compliance with a law, which would typically be the job of a ministry. The other hat we wear is still of the Auditor General's Office, where we still must give our independent opinion on whether or not an advertisement would be considered partisan and whether we're being put in a difficult position by having to say it isn't under compliance but, in our own view, under the old act it would be viewed as partisan.

So just to clarify that point as to why we continue to comment. We continue to write this chapter because the law still requires us to report on advertising in the annual report.

**Ms. Peggy Sattler:** So the government's current ad on climate change—was that reviewed by the auditor? And did the government, I guess through Treasury Board, get an opinion from the auditor that it would not have passed review under the previous act?

**Ms. Karen Hughes:** Treasury Board actually isn't involved in that part of the process. The ministries reach directly out to the Auditor General, to my understanding, in terms of the review of ads.

**Ms. Peggy Sattler:** Okay. So nobody can answer that question as to whether that—

**Ms. Karen Hughes:** It's a ministry, so that particular ad, I believe, was a Ministry of the Environment, Conservation and Parks ad, so they would have had any kind of back-and-forth with the auditor with respect to her review of that particular ad.

**The Chair (Ms. Catherine Fife):** Just to clarify: But it would have gone through cabinet. Do all communications go through cabinet, Ms. Betzner? Are you able to answer that question?

**Ms. Lynn Betzner:** Cabinet Office doesn't approve ads. The ministry is responsible for the content and the factual content in the advertisement, and taking the ad and routing it through for submitting for the approval of the Auditor General.

**The Chair (Ms. Catherine Fife):** And the auditor would like to comment.

**Ms. Bonnie Lysyk:** The process that happens is that we receive the ad—which, our understanding is, there is centre coordination on this—and we do provide them an opinion as to whether it was compliant or non-compliant with the current act and whether it varied from the previous act, and that information has always gone back to the ministry. So they are well aware of our views, but they've continued, obviously, to issue the ads in compliance with the current legislation and are using that as the basis of publishing it. So because we can't, like we did before, say whether an ad should or should not go forward, the ads go forward, even if we question them.

**Ms. Peggy Sattler:** In the case of that ad, did you advise the ministry that it would not have been compliant under the rules?

**Ms. Bonnie Lysyk:** Yes, we did.

**Ms. Peggy Sattler:** Okay. I note, in the status update on the recommendation from the Auditor General, that Treasury Board Secretariat is involved in ensuring that ads are “delivered in the most efficient and effective manner” and that they deliver “value for taxpayer dollars.”

Can you tell us what criteria Treasury Board uses to determine whether taxpayers are getting good value for their dollars?

**Ms. Karen Hughes:** Treasury Board looks at the ads in total, so we actually look more at the global piece to try and ensure that the advertising purchasing is done in an effective and efficient manner going forward. It's not necessarily particular criteria. We rely on others within the process to look at that, including the work that the Advertising Review Board does in terms of developing the campaign and ensuring those kinds of pieces go forward.

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We also rely on Cabinet Office to look at the coordination of that to ensure that any money spent is getting its best possible value in terms of not duplicating or having multiple ads that might compete with each other in-market at the same time. Treasury Board looks more at the global amount of the spent in that sense.

I don't know if anyone wants to add anything to that.

**Ms. Peggy Sattler:** So it's more on the procurement processes and also the timing of when the ads are in the public domain.

Then, in terms of the most efficient, effective manner and value for taxpayer dollars, there's no criteria that you use to measure—other than that the procurement processes are followed and that they're not competing with each other at the same time.

**Ms. Karen Hughes:** That's correct.

**Ms. Peggy Sattler:** So no consideration is given to content or what is being advertised? Okay.

In the special report of the auditor, which was delivered back in May 2015, related to government advertising, the auditor had said, "If the government decides not to make substantive changes to the proposed amendments, I respectfully ask that it bring forth another amendment to relieve my office of its advertising review responsibilities and to assign the task of reviewing ads for partisanship to a government ministry or agency."

To your knowledge, has that been considered at all? Is that something that the government might be looking to do?

**Ms. Karen Hughes:** I actually don't have knowledge of that. At that time, I was not related to the file on that.

In terms of looking at options going forward—it's early days in terms of a review of options going forward. I'm sure, as we would do with advice from the Auditor General, we would identify that as a consideration.

**Ms. Peggy Sattler:** Len from Cabinet Office, did you have any insights on—

**Mr. Len Hatzis:** From Treasury Board.

**Ms. Peggy Sattler:** Oh, sorry.

**Mr. Len Hatzis:** I don't have any specific information, and some of it, frankly, may be solicitor-client privilege. But I don't have any specific information about pursuing that option in terms of instructions to implement. So I can't provide any further information on that.

**Ms. Peggy Sattler:** Okay. But I guess those would be two options that could be under consideration, either return to—I guess there are three options: There's status quo, in which we currently have the auditor basically rubber-stamping partisan ads, or there is the return to the pre-2015, or there is just taking the Auditor General out of the whole process altogether. Would there be other approaches that could be considered?

**Mr. Len Hatzis:** Yes, those are fair options. Obviously if there are instructions to implement some new legislation, then there would have to be a review of what would be in that new legislation. It may not be a carbon copy of what was in the old act. It may be. But I'm just saying to you that those are three options, but there could be others.

**Ms. Peggy Sattler:** Okay. How much time do we have left?

**The Chair (Ms. Catherine Fife):** You have a minute and a half.

**Ms. Peggy Sattler:** Okay. I just want to quickly return to the questions my colleague asked about digital ads, specifically the ones that are excluded from the review of

the Auditor General. To your knowledge, would those ads generally meet the standard for approval if they were submitted for review, or do those ads violate even the very limited restrictions that are required to be met for approval by the AG?

**Ms. Lynn Betzner:** I can let Jen expand further, but my understanding is that most of the social media campaigns that are done are part of the campaigns that have been approved by the Auditor General. They might be amended to slightly fit the form of a social media campaign. Jen might want to expand on that.

**Ms. Jennifer van der Valk:** Yes. To build on Lynn's comment, as she stated, that typically social media or search engine marketing advertising would be an extension of a broader campaign, which would be submitted to the auditor for review.

Typically, those social media ads would be reformatted to meet the specifications of the specific platform for social media. Those specific creative assets would be resized or reformatted to meet the expectations of Twitter or Facebook or Instagram or whatever that social media platform would be. But the content of the ad would typically reflect the content that was reviewed by and approved by the auditor.

**The Chair (Ms. Catherine Fife):** Thanks. We're going to move now to the government side for 20 minutes. MPP Cho.

**Mr. Stan Cho:** Thank you to the Treasury Board for joining us today. I've had the privilege of seeing first-hand how hard the staff there work and what a valuable role they're going to play in restoring our fiscal accountability here in the province.

Given that our debt is over a third of a trillion dollars and our government did inherit a structural deficit of \$15 billion, it's more crucial now than ever to ensure value for money when it comes to government advertising.

Deputy, so that we can maybe better understand how this process works, I'm wondering if you could describe for the committee members—maybe you can just walk us through, start to finish, how an ad might get approved.

**Ms. Karen Hughes:** How an ad might get approved?

**Mr. Stan Cho:** Yes.

**Ms. Karen Hughes:** Well, just to think a little bit about it, with respect to government advertising, TBS's role is really to help ensure that there is delivery of good government and that public services are happening in the most efficient and effective way possible, particularly, as you mentioned, in our current fiscal situation.

TBS's role is to administer the bulk media fund. We look at the size of the bulk media fund each year. That's where the process starts out, in terms of reviewing that. We're not responsible for the individual ministry marketing campaigns that make that up, but we do look at how much funding is allocated through the year to it and ensure that it's spent in accordance with the appropriate rules.

We set a process to guide ministries in how to account for and determine their spending. Again, the actual expenditures are the responsibility of the ministries.

The bulk media fund is really the central fund that supports the coordinated purchase of media time, the

creative development, research and production costs to pay for government advertising. All of that is administered in accordance with the Financial Administration Act.

Typically, once a campaign is complete, then we would look at it. Maybe I'll turn it over to Lynn or Jen to talk about, once a campaign is first approved to go ahead, how you decide on that piece of the puzzle.

**Ms. Lynn Betzner:** Right. Perhaps it's helpful if we talk a bit about Cabinet Office Communications and our role and function.

In terms of Cabinet Office Communications, we have a central agency role, a coordinating role about government communications. When the government determines what their priorities are, related to policy and programs, then it's the ministry responsible that identifies how they're communicating that and whether they want to advertise associated with that.

In terms of our role and function, we'll work with the ministry on the timing of that ad, when that ad would go out, making sure that they've got the requisite approvals associated with that. We also would recommend and provide advice about meeting the standards of the act that they're required to. We would work with them, if they didn't have funding for that ad, to see whether they had an interest in accessing the bulk media fund, as the deputy referred to.

Also, another part of the process is just ensuring, as you've indicated in your opening remarks, that they ensure that they have an advertising agency through a competitive process at the Advertising Review Board.

So there is that process. If they don't have the funding for it and they're looking for funding for the bulk media buy, then we will work with them. There is a business case associated with that that they put together that identifies the breadth and scope of the media buy and the approach. The ministry then executes the ad, and then that ad goes through the Treasury Board process and the due diligence associated with that once it's—

**Ms. Karen Hughes:** Once it's completed.

**Mr. Stan Cho:** Thank you. When we're measuring value for money, is there any assessment after a campaign is completed, looking at metrics and measuring if it was successful or not successful?

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**Ms. Jennifer van der Valk:** Yes, I can speak to that. Thank you for the question. One of our coordinating roles in working with ministries would be at the point of establishing the need for a marketing campaign and having the ministry provide a proposal for what that campaign would be about in terms of their policy and programs. We would then work with the ministry to help them identify the measures of success for what that campaign would be measured upon and to help them develop the KPIs based on their objectives against their ministry programs and policies.

We would typically work with the ministry to establish those KPIs under three core pillars, the first of which would be the primary business or policy or program objective: What are the reasons to advertise in terms of the

policy or programs? An example might be the flu shot campaign. It would be to drive uptake of the flu shot with Ontarians.

Then we would also help to identify the marketing objectives: What are those KPIs that we would measure? In terms of the flu shot, again, it would be to specifically increase awareness of the flu shot and the need for the flu shot with, for example, seniors and maybe parents of children under five, who are a more vulnerable audience—more vulnerable to ending up in hospitals during the flu season because of the flu. We would look at metrics to measure the awareness of those particular vulnerable audiences.

The third set of metrics would be often developed with the ministry in coordination with PHD, our media-buying agency of record. That would be more based on advertising metrics, media metrics such as click-through rate, time that a video has been watched online, the number of clicks through to a website, the time on the website, impressions, and reach and frequency. Those would typically be the kinds of media objectives, or KPIs, that PHD would help us to report upon.

**Mr. Stan Cho:** Thank you very much. Just to follow up on that, what criteria would a ministry typically include in their case for why advertising is necessary at all?

**Ms. Jennifer van der Valk:** Most campaigns would be based on a core objective or mandate of the ministry, so it would depend entirely on what the program or policy area is that they are hoping to advertise and move the needle on. The ministry would often come forward with criteria of some sort of benchmark at the beginning of the campaign that hopefully they would be looking to have marketing serve to support movement on that benchmark. Again, if I look at the flu shot as an example, maybe the number of flu shots that were administered the year prior or in years before—that might serve as a benchmark for years going forward.

**Mr. Stan Cho:** Thank you. That helps greatly. I'm wondering, too, if any of the members here could elaborate on how our process, our legislation, might compare to other Canadian jurisdictions or to the federal government.

**Mr. Len Hatzis:** Yes, I can speak to that. We were the first jurisdiction to ban government-paid partisan advertising. That legislation started officially in 2003. The bill, the Government Advertising Act, first passed into the law and received royal assent on December 9, 2004, and was proclaimed into force in two stages: on November 21, 2005, and on January 30, 2006.

We understand that the Office of the Auditor General first started to exercise its review responsibilities on or around November 21, 2005. So Ontario was the first jurisdiction to ban government-paid partisan advertising.

**Mr. Stan Cho:** Thank you very much. It has been quite a while now. I'm wondering if you could comment on the evolution of the process as we've seen it since then, when it was introduced.

**Mr. Len Hatzis:** Sure. I can tell you that there were some key changes made to the legislation in June 2015. Those included the following: The first was that digital

advertising was added to the Auditor General's scope of review. Over the last number of years, obviously, the media landscape has undergone significant changes, especially with the rise of digital advertising, so amendments to the legislation sought to reflect those changes.

Current and former Ontario Auditors General have been requesting the ability to review digital advertising since 2011, and the amendments made in 2015 broadened the Auditor General's mandate to include digital advertising. Consequently, digital advertising is now subject to review by the Auditor General.

Specifically, section 2(1)(c) of the legislation now provides that the legislation "applies with respect to any advertisement that a government office proposes to pay to have ... displayed digitally in a prescribed form or manner." This means that a regulation prescribing the form and manner of digital advertising is required in order for this amendment to be operational. That regulation was passed, 143/15, which defined digital advertising and also spoke to a couple of the out-of-scope items of digital advertising, which have been discussed earlier with respect to social media and the government's use of search marketing services.

The second main change to the act was to define what "partisan" means in relation to government advertising. According to the legislation, an advertisement is defined as partisan if "(a) it includes the name, voice or image of a member of the executive council or the Legislative Assembly, unless the ... primary audience is ... outside of Ontario."

Secondly, it's partisan if it "includes the name or logo of a recognized party," if it "directly identifies and criticizes a recognized party or a member of the assembly," and if it "includes, to a significant degree, a colour associated with the governing party," unless the item depicted in the ad commonly appears in that colour. This is a clear, objective test of what is considered partisan.

The third change to the act included adding a broad statement that the act does not prevent or limit government advertising that meets the standards or is not subject to review under the act, followed by examples of reasons why government offices might appropriately choose to advertise. Such reasons include:

"(a) informing the public about existing, new or proposed government programs, plans, services or policies, including fiscal policies such as policies respecting pensions or taxes;

"(b) informing the public about changes or proposed changes to existing government programs, plans, services or policies;...

"(d) informing the public of their rights and responsibilities under the law;

"(e) encouraging or discouraging specific social behaviour, in the public interest;

"(f) promoting Ontario or any part of Ontario as a good place to live, work, invest, study or visit;

"(g) promoting any economic activity or sector of Ontario's economy or the government's plans to support that economic activity or sector; and

"(h) informing the public about Ontario's relationships with other Canadian governments, including promoting Ontario's interests in relation to those governments."

The fourth change involved requiring the government to submit a preliminary version of the ad to the Auditor General for review in addition to the final review process. This requirement put into legislation the prior practice of seeking preliminary approval of advertisements which have significant production costs, such as television ads. The new regulation exempts all advertisements from preliminary review except ads produced for TV or cinema and householders. Ads that are exempted from preliminary review are still subject to final review before being broadcast or published.

Further, the amendments to the legislation require the Office of the Auditor General to conduct preliminary reviews within nine business days and a final review within five business days. The legislation still requires that items be submitted to the Auditor General for final review in section 4.1.

The fifth key change was to clarify rules around government advertising during general elections, and while the Government Advertising Act requires that government advertising be non-partisan, there is a desire to further limit government advertising during a general election campaign. In this vein, the legislation restricts government advertising during the writ period of a general election campaign, with limited exceptions. Those exceptions are only advertisements related to revenue-generating activities or time-sensitive matters which continue to be used during the restricted period.

Finally, in 2016, the Government Advertising Act was further amended as part of the Election Finances Statute Law Amendment Act to extend the restrictions I've just described. The restricted period is now extended to 60 days prior to the writ period for a scheduled general election. This means that in 2018, the restricted period started on March 10 and ended on June 7.

In addition to the prohibition on advertising during election periods, section 8 of the legislation continues to prohibit publication of an item that has not been reviewed by the Auditor General or that the Auditor General has provided notice that the item does not meet the standards in the legislation.

In conclusion, those are the five key changes that were made to the legislation in 2015 and 2016.

**Mr. Stan Cho:** Thank you, Mr. Hatzis. You've described for us when the bill became passed into law. I'm wondering if you can comment on when the Office of the Auditor General first started to exercise its review responsibilities.

**Mr. Len Hatzis:** Yes. I understand the Office of the Auditor General began reviewing government advertising on or around November 21, 2005.

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**Mr. Stan Cho:** Great. And under the GAA, the Government Advertising Act, does the Auditor General have to review all of the items submitted for review?

**Mr. Len Hatzis:** Yes. The Auditor General is required to review all items submitted to the Office of the Auditor

General to determine whether they meet the standards set out in the act.

**Mr. Stan Cho:** Okay. When does the Auditor General have to respond to items that have been submitted for review?

**Mr. Len Hatzis:** The Auditor General is required to respond to items submitted for preliminary review within nine business days—

**Mr. Stan Cho:** Sorry. You did comment on that, yes.

**Mr. Len Hatzis:** —and to respond to items submitted for final review within five business days. A business day means Monday to Friday, excluding holidays. These are the timelines set out in Ontario regulation 143/15.

**Mr. Stan Cho:** Apologies; you did mention that earlier. Now, if notice of the results of the final review is not given within the period of specified time, what happens with the government advertising that was submitted to the Auditor General?

**Mr. Len Hatzis:** If notice of the results of the final review is not given by the Auditor General within the specified time, the advertisement is deemed to have been approved and it can be used.

**Mr. Stan Cho:** Great. Thank you.

We've heard a little bit about this, but I'm wondering if you can clarify for the committee members here what types of government advertising are subject to review.

**Mr. Len Hatzis:** Sure. The following types of government advertising are subject to review: any advertisement that a government office proposes to pay to have published in a newspaper or magazine, displayed on a billboard or other public transit advertisement, displayed digitally in that prescribed manner or form I spoke to, or broadcast on radio or television or in a cinema; the second main type is printed matter that a government office proposes to pay to have distributed to households in Ontario, either by bulk mail or by another method of bulk delivery.

**Mr. Stan Cho:** Okay. Thank you. In an agreement with the government, the Auditor General reviews the first click of any URL that appears in ads. I'm hoping you can elaborate on what this means in terms of reviewing practices or protocol.

**Mr. Len Hatzis:** Yes. Under an agreement reached between the government and the Office of the Auditor General, when the act came into force, there was the agreement that the Auditor General reviews the first page or first click of a website URL cited in a reviewable item. If the first click is just a gateway page or otherwise lacks substantive content, then the Auditor General will review the next page or click. This is done to examine the relevant page for any content that may not meet the standards of the act.

**Mr. Stan Cho:** Thank you. Can you describe for me some of the criteria that have been developed to determine if an advertisement is subject to review under the current GAA if a ministry partners with an organization to run an ad?

**Mr. Len Hatzis:** If a ministry partners with an external organization to run an advertisement, the following three criteria must be met in order to oblige the ministry to

submit the advertisement to the Auditor General for review: first, the ministry provided the partner organization with funds intended to pay part or all of the cost of publishing, displaying, broadcasting or distributing the item; second, the ministry approved the content of the item; and third, the ministry granted the partner organization permission to use the Ontario logo or another official provincial visual identifier in the item.

**Mr. Stan Cho:** Okay, thank you. Is there a pre-review process for government ministries that wish to have the Auditor General review a version of an ad? If so, what does that pre-review entail?

**Mr. Len Hatzis:** Right. Prior to 2015, there was an informal pre-review process whereby a ministry could ask the Auditor General to review an early version of an advertisement. Since the act was amended in 2015, as I mentioned, ministries have been required now to submit a preliminary version of advertisements to the Auditor General for review in addition to that final review process. However, under Ontario regulation 143/15 made under the act, some items are exempt from preliminary review, and only advertisements to be broadcast on television or in cinema—

**The Chair (Ms. Catherine Fife):** Last minute.

**Mr. Len Hatzis:** —need to be submitted for preliminary review, as well as printed matter. This preliminary review process allows the ministry to verify with the Auditor General that its TV or cinema ads meet the standards of the act before full production costs are incurred.

**Mr. Stan Cho:** Thank you, Mr. Hatzis. I know the deputy commented on ensuring the efficiency, the value, of the global ad spend. In the 30 seconds we have left, that's really tough to do. But how do we ensure that? We might not even get it in with the 25 seconds.

**Ms. Karen Hughes:** Well, I think we look at it as a bulk each year and see how effective it has been. We work with our partners in Cabinet Office to ensure, in terms of what's anticipated for a coming year, as part of our multi-year planning process that we do each year, to review the spending of all of the ministries and various departments going forward. I think one of the things was to try to bring more of the advertising together into the bulk media fund so that we would have that line of sight into it, working with our partners to be able to ensure that.

**Mr. Stan Cho:** Thank you, Deputy.

**The Chair (Ms. Catherine Fife):** Thank you. The auditor just had a comment with regard to the agreement that you cited.

**Ms. Bonnie Lysyk:** Or just overall on the comment.

I just want to clarify the impression that that might be leaving: that we actually perform a useful function. The act creates the optics that we are performing a useful function to save taxpayer dollars being spent on partisan advertising, but we are not doing that function under the current act.

In the chapter that you have before you today, though, we are doing that function under the Auditor General Act, where we say that for the past year, the year that ended on March 31, 2018, approximately \$16.5 million was spent

on partisan advertising that would not achieve value for money for the taxpayer.

The process around the paper and the preliminary reviews: From my office's perspective, that is just a paper-pushing exercise that has created additional work, versus a value-add for the taxpayer.

So I guess I would just leave it at that; that from a value-for-money perspective, which was the impetus for the creation of this act back when it was created, in the early 2000s—the impetus for it was to save taxpayers' money for partisan advertising.

Again, with my Auditor General hat on, about \$16.5 million, from our perspective, was spent that would not achieve value for money for taxpayers.

**The Chair (Ms. Catherine Fife):** Okay. Thank you. Now we're going to move to the official opposition for 20 minutes. MPP Sattler.

**Ms. Peggy Sattler:** I wanted to direct my question to Mr. Hatzis. You provided some background as to the amendments that were implemented in 2015 and talked about how this auditor and other auditors, I believe, were all wanting to have broader oversight over digital advertising, which led to one of the amendments that was introduced in 2015.

In terms of the much-restricted definition of "partisanship," where was the impetus for that? Was that something that auditors were lobbying for, or was that something that people were advocating, that partisanship should be very limited in terms of its definition?

**Mr. Len Hatzis:** I can't speak to the rationale behind the governments of the day in terms of their decision to make the amendments to the act. I can just tell you that, as a result of the changes, we have a new definition of what is partisan. I think you can see in chapter 4 of the Auditor General's report what her view is of that, and in prior reports what her view is of that.

But in terms of where we're at, the legislation is what the legislation is, and there was a direction to implement that type of clear, objective test that I mentioned earlier that would define the term "partisan," and that was implemented.

**Ms. Peggy Sattler:** Okay. I wondered, from the Cabinet Office perspective, in terms of the processes that were in place for that decade between 2005 and 2015, were there any concerns about the interaction between ministries and the Premier's office and Cabinet Office and the auditor's office in the processes that were required to get the approval from the auditor?

**Ms. Lynn Betzner:** I know that all the ministries worked really well with the Auditor General's office to deliver ads that would meet the expectations of that act at that time and meet the standards of the act. They also do so right now with the new act and meeting those standards.

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**Ms. Peggy Sattler:** Okay. One of the changes that was made to the definition of partisanship that I think is of particular concern in the current context is around the identification and critique of a recognized party or a member of the assembly. The language that had been in

the previous bill prohibited ads that indirectly identified or criticized a recognized party or member of the assembly. The new definition says that ads are partisan if they directly, rather than indirectly, identify or criticize. Do you have any comments on that change in language from "indirectly" to "directly," and what that allowed under the new amended legislation, post-2015?

**Mr. Len Hatzis:** I don't have any comments in terms of explaining the change. I agree that the word now is "directly" identifies, as you mentioned. That's the instruction we had, that's what we implemented, and that would be the term that would be used to determine, as part of the overall partisan test, whether something is, in effect, partisan under the clear-objective test that I've mentioned.

**Ms. Peggy Sattler:** Okay. I'm going to turn it to my colleague now.

**Ms. Suze Morrison:** Yes, so I have a few questions about target audiences for advertising. You don't just procure advertising for the general public; you select what TV stations, you look at the demographics that watch those stations. You're targeting often by gender, age, location and income brackets, based on the folks who consume the media that you're advertising on.

I'm wondering if you can walk me through the process, whether that's at Cabinet Office or wherever it happens, that the government decides how it will target a specific advertisement and how that criteria for that audience is selected.

**Ms. Lynn Betzner:** I think a lot of that is the work that the ministry does with the media buying agency, PHD, but I'll refer to Jennifer for any specifics on that.

**Ms. Jennifer van der Valk:** As part of the ministry's identification of the campaigns that they wish to deliver, part of that, as discussed in the response to the question about metrics, would include identification of the target audience, what they're trying to achieve and who they need to speak to in order to achieve that. Then the ministry would work with—typically, if it's a larger campaign, the creative agency would also bring strategic thought and advice to the table in terms of how best to creatively and through advertising media buying reach that audience.

PHD is also a very collaborative partner in that process. They would look at the audience that we're trying to reach, whether it's youth, seniors, parents, a broader demographic, as you said, or a specific geography, and they would provide advice on the best media channels to achieve those objectives.

**Ms. Suze Morrison:** Does Cabinet Office utilize any equity considerations in ensuring that certain populations aren't specifically excluded from receiving important government information through advertising?

**Ms. Jennifer van der Valk:** Certainly the ministry would consider that. Much of our advertising would be ensuring that it's covering the broad geography that it would be required to, as well as multicultural considerations. Translation can be a very important but costly part of most advertising campaigns, if not all of them. And then, of course, we also need to ensure that our campaigns are in compliance with French-language requirements, so

all of our campaigns are translated into French as well. We also would ensure AODA compliance, and that might use things like transcriptions or closed captioning for advertising.

All of those considerations are very important for all of our communications, including advertising, and that would often be part of the process that a ministry uses when they're first briefing an agency to work on a campaign. PHD is well aware of those considerations, as well.

**Ms. Suze Morrison:** When those considerations are under way and, again, the process for identifying the target audience is happening, what rationale has cabinet used for different campaigns specifically related to geographic location? What rationale would be used to explain why an ad might be run in downtown Toronto and downtown Ottawa but maybe not in London or Hamilton, for example, even though they might be similar-sized cities or considered urban centres with similar populations?

**Ms. Lynn Betzner:** The ministry is responsible for the advertisement and the approach and the content—

**The Chair (Ms. Catherine Fife):** Ms. Betzner, could you just maybe move your mike closer, and also Mr. Hatzis as well, because we want to hear what you're saying? Thanks.

**Ms. Lynn Betzner:** The ministry is responsible for putting together the plan and how they want to approach the ad. In terms of the specifics, Jennifer can get into more of the specifics in terms of geotargeting. I'm not sure that's used that extensively. In ministries, a lot of the time the television ads are broadcast across the province etc., and certainly with online the same thing. But there are some cases where the ministries will identify a specific geographic area that they might want to identify. They work with, as you've indicated, the creative agency and media buying to fulfill that. But I'll defer to Jen for any specifics.

**Ms. Jennifer van der Valk:** Yes, I have to refresh my memory a little bit on a few examples where there would be geographic targeting as it relates to chapter 4 of the auditor's report. A great example would be our Bear Wise campaign. That's a campaign that would help to educate the population around the danger of human-bear encounters over the spring and summer seasons, when bears first come out of hibernation. That would have a highly targeted geographic demographic that we would try and reach, and in fact that would be a good example of a campaign where there was targeting to more of a southern Ontario audience with messages to help those who would be tourists to the north—people travelling up to go camping or cottaging who may not be aware of some of the basic safety precautions required to avoid bears—and then a different one for the north.

**Ms. Suze Morrison:** I'm not trying to get at necessarily where the program itself is geographically relevant. Obviously, we don't need bear education in downtown Toronto. More what I'm trying to get at is: What protections exist within the public service to ensure that specific ministries are not targeting advertisements based on electoral districts and where they need to be gaining more popularity going into the next election? What protections

exist currently so that the government of the day can't come in and say, "We have this really great feel-good ad," that meets the letter of the law of the advertisement and would be passed through the Auditor General's purview under the current laws but is specifically targeted to geographic locations based on electoral strategy? Do any of those protections currently exist?

**Ms. Lynn Betzner:** I think the ministry will put together a business case that will identify the focus and the emphasis of the advertising. It's not the intention of the ministry to indicate what you just identified. The ministry will identify, for example, for bears, etc., where those areas are that might be impacted from a programmatic perspective and a policy perspective. They're responsible for ensuring that they're implementing the policy and the program of the government, and they are responsible for providing that to the Auditor General. So that ministry would work to ensure that, programmatically, the needs of the advertisement would meet the program needs.

**Ms. Suze Morrison:** But where an ad isn't necessarily attached to a program—and an example that I think of would be a commercial that was aired under the former Liberal government that talked broadly about the future of Ontario. It had a number of students giving graduation speeches, for example. If that ad, which maybe wasn't very clearly attached to the outcomes of a specific program and was really more of a feel-good, fuzzy moment for the government of the day and was really intended to increase the public's perception of the government of the day, and technically meets the letter of the law and would, under the current legislation, pass through the purview of the Auditor General's office, what checks and balances are in place to ensure that that advertisement is not being geographically targeted based on electoral districts and electoral strategy?

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**Ms. Lynn Betzner:** Jennifer can get into the specifics, but I understand that that ad that you're referring to in terms of education—the ministry would have more information—was broadly on television and cinema across the province.

**Ms. Jennifer van der Valk:** Just further on the education campaign, the ministry would have details on all of the specific objectives, but from my recollection and from my notes, that was on television and cinema, so it was a fairly widely broadcast advertising campaign.

**Ms. Suze Morrison:** Okay. But again, if we were to use a different example, though, what I'm hearing is that there is no check and balance in place to prevent geographic targeting of government advertising based on electoral strategies. The ad itself may not be partisan, but where the government is choosing to air it may have electoral implications, and there is nothing to prevent that from happening.

**Ms. Lynn Betzner:** The media buying service does not buy related to electoral districts at all. They buy in terms of: If it is a television campaign, there's a number of television broadcasters. They buy advertising on the television. Same thing with digital that goes across the province.

In terms of the ministry, if it is a programmatic piece that is related to a specific area, then the ministry will identify that and they'll have a rationale associated with that. That information will go through in their business plan, and that information will then go through to Treasury Board for their review and approval to obtain the funding.

**Ms. Karen Hughes:** Maybe just to comment: That would be part of their business case if there was some reason that they would have needed to target a particular ad in a particular way. All ministries are required, through their certificate of assurance, to sign off that they're in fact in compliance with all legislation, directives and policies as part of the work we do with the Auditor General on the public accounts. So that would be the piece where compliance with all of that would get picked up.

**Ms. Suze Morrison:** Okay. Thank you.

I have one last question directly for Mr. Hatzis. It was just a clarification of an answer that was given in the last round of questions. I made a note of it. Apologies: I don't actually remember the question that it was asked in, but in the answer you indicated that there was something that was potentially covered by solicitor-client privilege within the confines of cabinet. I was just a bit confused by that answer. Again, I made a note, but I don't quite recall the context of the question. Can you perhaps explain to me what context, within the conversation that we're currently having around advertising—what government advertising conversations would ever fall within the purview of solicitor-client privilege with cabinet?

**Mr. Len Hatzis:** If I recall correctly, I think there was a question around the rationale around the changes in the act back in 2015-16. The main takeaway, I think, in terms of what I was trying to say was that I can't speak to the rationale or the decision-making of government. As the legal director, I was asked to implement instructions, so that's what I did. As a member of the public service, obviously I'm non-partisan and follow the instructions that are given to me. That was the thrust of the answer. I apologize if there was any confusion around that.

**Ms. Suze Morrison:** Okay. Thank you.

*Interjection.*

**The Chair (Ms. Catherine Fife):** There's still two and a half minutes.

**Ms. Peggy Sattler:** Okay, can I go?

**The Chair (Ms. Catherine Fife):** Yes, please.

**Ms. Peggy Sattler:** One of the concerns that the auditor has expressed—and also the people in the general public—is around factual accuracy. Previously, the auditor had a role in determining whether facts were presented accurately, using unbiased and objective language, and that the information that was presented was objective.

For example, with the current climate change ad, there are concerns that the information that is presented in those ads only provides half the story and also brings in—there's a reference to a litter strategy that really has nothing to do with climate change. It sort of misrepresents the solutions that the government is offering and it also only provides half the story about the carbon tax but not the offset from the federal government.

What processes exist within the bureaucracy to ensure that ads that are targeted to the people of this province present information accurately and objectively?

**Ms. Karen Hughes:** It would be up to that particular ministry to ensure that whatever advertising they're putting out there is factually accurate and correct, as we do with any particular product that might get put out, like the budget or something of that nature, where you have to go through it and review very carefully all the factual pieces that are a part of that.

**Ms. Peggy Sattler:** So once the auditor's responsibility for looking at factual accuracy was taken away, there was no replacement mechanism established to provide that level of oversight; it's just up to the ministry themselves to determine whether they believe that the ad is accurate.

**The Chair (Ms. Catherine Fife):** Last minute.

**Mr. Len Hatzis:** Well, as I think has been discussed here, the ministry needs to submit the proposed ad to the Auditor General and see if it will get approval. Once it is approved, then obviously there is a green light to continue along the process.

In terms of what you're speaking about, I can just tell you that under the current legislation, the two main requirements are that there needs to be a statement that it was paid for by the government of Ontario and, secondly, that the advertisement cannot be partisan. Within the act, there is a four-pronged test for what is defined as partisan. Those are the requirements that are clearly laid out in the legislation, and that's what's required to be complied with, in terms of what the law of the land is.

**Ms. Peggy Sattler:** Nothing to do with factual accuracy, then?

**Mr. Len Hatzis:** Those words aren't in the current legislation.

**The Chair (Ms. Catherine Fife):** Thank you. The auditor has a clarification on that.

**Ms. Bonnie Lysyk:** I did want to confirm that, but I think it's been answered. There is nothing in the legislation that requires us—we have to approve an ad even if it's factually inaccurate under the law.

**The Chair (Ms. Catherine Fife):** Okay, thank you. Now we'll move to the government side, continuing on with MPP Cho.

**Mr. Stan Cho:** Thank you, Chair. I'm going to pick up from where we left off, talking about efficiencies and value for money on the global ad spend.

I'm just curious where your thoughts on with digital advertising, if you think it provides better value for money than traditional forms of advertising, given that the world is changing pretty quick and advertising has changed along with it. I think my phone is out of date in the time we've been sitting in this committee. I'm wondering if you can comment on if you think there is better value for money in the digital realm.

**Ms. Lynn Betzner:** You're right: The whole environment of advertising has changed over the years. Is digital an area where more jurisdictions and more companies are advertising because that's where individuals are? Yes, absolutely. If that is something where the intention is to



enhance the audience and for people to understand the advertisement, then digital is a component of that.

There still is room for television and cinema, depending on the opportunity and the medium. There are cost efficiencies associated with digital. If there's an opportunity to do it in a digital medium, it's not as expensive as doing a television advertising campaign. The production costs associated with that might be less, and the cost for that type of media buy would be larger on television.

I don't know, Jennifer, if you had any other commentary about specifics on that.

**Ms. Jennifer van der Valk:** Just further to Lynn's comment, I would agree that certainly there is value in digital advertising being an important part of our media mix. I would say that it's a consideration. It's certainly not a situation where we are forgoing more traditional channels. There are certainly, depending on the objectives set forth by the ministry, places where television and a broader-reach channel do make sense. Television and radio are still something that play an important part of our marketing and our advertising mix, and are still continually referred to and recommended by PHD, our media-buying vendor of record, who would certainly have their finger on the pulse of what is still an important way to reach the people of Ontario.

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**Mr. Stan Cho:** Thank you for that. That segues nicely into the next topic I want to chat about. I am going to turn it over to my colleagues who have a few questions after this, but I'd like to touch on the Vendor Of Record Program. Maybe the deputy or Mr. Hatzis can chat about what that process looks like for your vendors of record at this point—just maybe for the committee members, how—

**Ms. Karen Hughes:** For the advertising, or vendors of record in general?

**Mr. Stan Cho:** Well, since we're here talking about government advertising, maybe how it relates to the government advertising.

**Ms. Karen Hughes:** I think in terms of the government advertising—this is a process done, actually, by the Advertising Review Board, who would come forward to Treasury Board to ask for approval of a particular vendor of record to be able to go out. Through a competitive process, they're able to define the requirements that they think they require, and then vendors are able to see if they can meet those criteria and put forward proposals to become a part of the Vendor Of Record Program that the Advertising Review Board administers on behalf of the government. Ministries are then able, when they're going in to do a campaign, to get the advice of both the vendors of record—they would help them run a competition amongst the, say, three to five vendors off their particular vendor of record, depending on what the particular advertising piece is about.

Ministries also, then, benefit from the advice that's provided by the members of the Advertising Review Board in terms of helping them to get advice in terms of some of the campaign pieces targeting other aspects of that that happen. I think the Vendor Of Record Program ensures that we're getting better prices and pieces of that,

going forward, and more consistency within what's being provided.

**Mr. Stan Cho:** Thank you. Are there any safeguards or measures Treasury Board takes to ensure transparency and fairness in the process?

**Ms. Karen Hughes:** Absolutely. Treasury Board would review the proposal that the Advertising Review Board is coming forward with in terms of looking at the size, the amount of purchasing that's expected to go through a particular vendor of record, the limits on any of that kind of spending that might be considered, the reach that they're going to propose to do in terms of how they're sourcing people to get onto the vendor of record, those kinds of things.

**Mr. Stan Cho:** Thank you, Deputy. I know my colleagues, Mr. Downey here and Mr. Parsa, have questions.

**The Chair (Ms. Catherine Fife):** MPP Downey.

**Mr. Doug Downey:** I'm just trying to wrap my head around some of the life cycle of an ad. I'm sitting in my office and I have a bright idea that I want to communicate, so I go to—well, in this case, the deputy minister. The act says that the deputy minister is actually the head of the ministry, for the purposes of this. So I go to the deputy minister and I convince you it's a good idea. What happens next, in terms of process? This is a process question.

**Ms. Lynn Betzner:** Why don't I start on that? There are a couple of different ways an advertisement can come about. The government identifies their priorities, their policies and their programs, and there's a process for that to go through the committee process of government. Associated with that there would be a communications plan, and the ministry might identify that advertising can be a component of that. That would be identified. It would go through the approval process. The government would determine their approach and then they would communicate that new policy or program area or any kind of tweaks to that.

If part of that was advertising, then the ministry, as we've indicated before, would identify that they're going to proceed with the advertising. They would determine whether they had enough funding within or not, and they'd contact Cabinet Office and say, "We've had approval for this advertising through the cabinet process and so we're looking to access the bulk media fund." They would put together a business case and that would be reviewed, and so then the ministry would start to work on the advertising campaign. They'd identify for the ARB, the Advertising Review Board, the need to have an advertising agency brought on board.

As you had just indicated, there is a process associated with that. They have a vendor-of-record list, and so the Advertising Review Board will look at the advertising that they want to do. They will pull together some of those advertising agencies. Those advertising agencies will pitch on the work, and then there will be a determination through the board of who will receive that work. Then they will work with the ministry associated with that. So then, once that's completed—and depending upon what the medium is, that could take a number of weeks associated

with that. That can then come out to be an ad that goes on air after the deputy minister routes that submission through to the Auditor General for her review.

Other times, if a program area is indicating that as part of their budget—so that kind of bottom-up type of piece that you’ve identified. If it’s Lyme disease and the Ministry of Health is indicating that there’s a Lyme disease problem and that there is a greater number of ticks that are happening and there is a need for the ministry to identify to the public that there is a concern, then that would be brought forward. If they have money already in their budget to be identifying this concern, they will identify it to their communications branch and say, “We’re suggesting that we do an advertisement associated with that.” Then they’ll go through the process of whether they need the bulk media fund, an advertising agency, and then the ministry will be responsible for the process of approval with the Auditor General, and then it gets released in whatever form it has been approved for.

**Mr. Doug Downey:** Okay. I come from a private business background, so when I think about ad buys, I’m thinking what I need to do before I’m thinking about my budget. Sometimes you scope a budget and you have a million bucks. But where is that professional input? Because about halfway through that, it sounds like we get input from ad agencies. How does that decision-making happen on scale and scope? At what point in the process is that conversation? Because I have to convince cabinet that this is a good idea. So how does that happen?

**Ms. Karen Hughes:** Well, it tends to vary. If it’s a new program or something like that, then it might be all part of the initial approval of a program, because it’s a new program and you’re thinking that you have to communicate it in a different way than if it’s something like Lyme disease or impacts of that. So that is something that might come partway through the year that you think, “Oh, the government needs to respond to that in a little bit of a different way,” and you would then come in and try to access the funding from the bulk media buy to be able to get that piece.

So it can happen in a couple of different ways, depending on how that works. I don’t know if, Lynn, you want to add—

**Ms. Lynn Betzner:** Yes. As part of the government’s budget, which they’ve just gone through, they would have a process. The ministries would know what the priorities are, coming into the budget—

**Ms. Karen Hughes:** Yes. So that would be part of the broader program piece that they would have brought forward. Depending on what the program is or the approval piece of it is, they might talk about the program, the criteria that requires their communication strategy, their stakeholder impact, and what are the metrics and measures that they’re going to use to evaluate the efficient effectiveness of not just the media campaign but the program overall and whether it’s reaching its intended or targeted impact.

That would be part of the plan that would come through a ministry’s multi-year planning process and get approved

and assessed at that point in time. Then that would roll through into the budget process, whether they get an allocation to be able to do that particular program or not. They may get an initial approval and have to come back to Treasury Board with more details, which may include something more around their advertising or their media pieces that they want to do going forward or not, depending on the scope and scale of the program.

**Mr. Doug Downey:** So the decision to go traditional media, I’ll call it, or digital, which is fairly traditional, or social media: That’s very much a strategic decision before you go forward for your approvals?

**Ms. Karen Hughes:** I would say that I think that happens a little bit later in the process, because when we’re talking about some of those initial approvals, it’s really at a high level in terms of the overall scope and budget of a program, of which advertising might be one component. They then work with both Cabinet Office and the Advertising Review Board to actually think about how they’re going to best be able to meet their objectives going forward. They have to be in compliance with the Advertising Review Board’s directive as well. The Treasury Board/Management Board directive is part of the pieces.

Through those various sources, ministries that may or may not run a lot of advertising pieces—I would say that you probably have more involvement with a ministry like health that might have more public health kinds of campaigns and other kinds of things than a ministry who might do a particular one-off piece because they have a new program or something like that. So the sophistication of that varies.

1400

**Mr. Doug Downey:** So the institutional knowledge is accessed upstream a little bit further down? Okay.

Obviously, if the ministry is going to do it—you talked about the RFP process, your competing vendors and that kind of thing, so I don’t want to talk too much about that.

The bulk buy, though—to get prequalified, how often—you said it’s three years plus two one-year renewals.

**Ms. Karen Hughes:** The bulk media buy is actually reviewed every year through the multi-year planning process. That’s where the allocation that’s going into the bulk media buy gets reviewed each year. Like every ministry program, it has a five-year outlook, but each year it’s reviewed. Cabinet Office, I think, plays a role each year in assessing whether the particular campaigns that might be a priority in that particular year would be able to line up against that broader bulk media fund.

**Mr. Doug Downey:** But the participants or the people who execute out of the bulk media fund—are there vendors in the bulk media fund?

**Ms. Karen Hughes:** No, it’s just a pool of dollars.

**Mr. Doug Downey:** Okay. I was misunderstanding that.

**Ms. Karen Hughes:** It’s in the estimates. If you look at the estimates of the Treasury Board Secretariat, there’s a vote item or a line that talks about the bulk media buy. That’s a number that’s there. After an ad has been developed, created and looked at, then a ministry can come forward to Treasury Board if they don’t have the money

and access that bulk media fund with—they need all of their receipts and pieces of it going forward. Treasury Board would then pay for it, essentially.

**Mr. Doug Downey:** Okay. So, PHD, then, is our agent to go to the field and actually secure the purchase. The fact that it says “bulk media” doesn’t mean that we’re getting a better price just because it’s bulk. That’s an internal piece, or—

**Ms. Lynn Betzner:** That’s a historical piece, because when it—

**Ms. Karen Hughes:** Yes, historically, when the bulk media buy was first set up, there was a better opportunity to do media purchasing in a coordinated fashion across the government to be able to get better times and better prices, rather than having each and every ministry go out and do their own buying pieces, and then Cabinet Office actually took a much bigger role at some point in being able to administer how that works, with their expertise in communications.

**Mr. Doug Downey:** Okay. So PHD does a traditional RFP process when they go out, or how does that work?

**Ms. Lynn Betzner:** Maybe Jen knows the specifics of that more. But just to clarify one piece in terms of that bulk media buy: It was primarily set up originally for television buy.

**Ms. Karen Hughes:** Yes, it was actually for television buy. It was television and some newspaper ads—a kind of traditional buy, because it was set up back in 2003 or 2004—somewhere at that point in time—so a much different time than where we are today.

**Mr. Doug Downey:** So then the follow-up is, in terms of PHD buying and going to the field, do they do a competitive process, or are they estimating and buying bulk and then working backwards to fill those time slots with different programs? How does that work?

**Ms. Lynn Betzner:** I think it’s an auction, right?

**Ms. Jennifer van der Valk:** It depends on the media channel that we’re buying. Most digital media is purchased through an auction-type process. With Google AdWords, for example, you’d be bidding against those AdWords, depending on what people are searching for.

Television tends to go by more of a rate card type of approach, similar to out-of-home. For example, a billboard in a very busy location would cost more than a billboard in a farmer’s field. So they would balance all of the objectives of the campaign in order to put forward the appropriate media mix within an appropriate budget. Depending on the ministry and depending on how the overall budget of a campaign might work out, PHD may sometimes offer one or two or three different potential media mixes, and then the ministry would look and evaluate to say that that balance seems the most appropriate based on the recommendation of the vendor.

**Mr. Doug Downey:** Who is PHD? Is it a separate agency? Is it a third party?

**Ms. Jennifer van der Valk:** PHD is the vendor of record for media buying for the government. The Advertising Review Board, which is an agency under the Ministry of Government and Consumer Services—I avoid

acronyms. They are the agency of record for the government, so they do the media buying for all advertising for ministries.

**Mr. Doug Downey:** And how often do we RFP for our buying agent?

**Ms. Lynn Betzner:** I believe it’s a three-year contract, with an opportunity for two one-year extensions.

**Mr. Doug Downey:** Okay. So that’s the three and the one and one that I heard here. So, the one and one—the two extensions—that’s at whose option? Our option or their option?

**Ms. Lynn Betzner:** Our option, I believe. Government services would be able to explain—

**Ms. Karen Hughes:** Government services would have to exercise that, and they may or may not have to come back to Treasury Board to be able to do that.

**Mr. Doug Downey:** Okay. That’s interesting. I highlighted a few things as you were talking. So now that I understand PHD better, that’s very helpful.

You said some agency spending is separate, and you listed several: Ontario Parks, tourism and events, LCBO, Metrolinx, OLG. Are they required to meet the standard? Do they have to get preliminary review and post-review? It may be more of a question for the AG.

**The Chair (Ms. Catherine Fife):** We can go to the AG. That’s a good question.

**Mr. Doug Downey:** Is that okay?

**Ms. Bonnie Lysyk:** No, they don’t. If the government transfers money to a third party and the third party continues to put “Paid for by Ontario” on it, then yes, it would be covered. If the government chose not to have the wording “Paid by the government of Ontario,” then it wouldn’t be under our purview to review it. But typically, agencies would not be under our purview; just ministries, Cabinet Office and the Premier’s office.

I just wanted to put on record, just because there was a question by MPP Morrison—

**The Chair (Ms. Catherine Fife):** I do want to say that there’s one minute left in this.

**Ms. Bonnie Lysyk:** Sorry.

**The Chair (Ms. Catherine Fife):** So why don’t we finish and then we can go.

**Ms. Bonnie Lysyk:** And then we’ll go? Okay.

**Mr. Doug Downey:** I’m happy to let the Auditor General—

**The Chair (Ms. Catherine Fife):** Thank you very much, MPP Downey. Auditor?

**Ms. Bonnie Lysyk:** Yes, I was just going to put on record—it was to a response to MPP Morrison’s question regarding the targeting of advertising, because I remembered something. In our 2017 report, we did provide an example there. There was about \$330,000 spent on a radio campaign by the previous government to promote its budget. It had feel-good terms like, “We’re building a stronger, healthier Ontario. It’s a balanced budget for all of us,” and that ad was referred to four Ontario communities that were all in opposition ridings. It was just a little bit prior to the election, so the ads gave the impression that these communities were specifically targeted for

government-friendly advertising. Under the previous act, we would have rejected those ads, but because, again, we couldn't look at those aspects of it, the ad was found to be in compliance with the amended act and we had to approve it. That was a radio advertisement in 2017.

**The Chair (Ms. Catherine Fife):** Okay. That's a good clarification.

Now we have two sessions left: 17 minutes to the official opposition and 17 minutes to the government side. We will go to MPP Sattler.

**Ms. Peggy Sattler:** I understand that the Government Advertising Act specifically exempts from the Auditor General's review any advertisement that is required by law. The gas pump stickers that the budget measures act is requiring at gas stations across the province are required by law, so they are exempted from the AG's review. However, given that these stickers do seem to meet the test of partisanship—which is one of the factors that the AG has to consider—in terms of the colour associated with the governing party, do you have any examples of other kinds of advertising similar to gas pump stickers that would have been considered partisan even under the very, very limited definition of partisanship that the Auditor General is currently required to adhere to? Do you have any similar examples to these gas pump stickers that were required by law and therefore were allowed to escape the Auditor General's oversight?

**Mr. Len Hatzis:** I don't think we have any other examples. I don't have any examples. With respect to the gas pump stickers, I think another issue is that I don't think they amount to a paid display, in the sense that—

**Ms. Peggy Sattler:** Sorry?

**Mr. Len Hatzis:** I don't think that the gas pump stickers example is solely about what you mentioned. I think there's also an issue about whether they amount to a paid display, and that's another reason why they would be outside the purview of the act. In terms of paying retailers to display the stickers, that would be something that doesn't happen in the example you mentioned, so it might be outside of the purview of the act in that respect.

1410

**Ms. Peggy Sattler:** Oh. So they may be exempt even if they weren't in the law, because they—

**Mr. Len Hatzis:** Yes, because what the Government Advertising Act speaks to at a high level is that there needs to be a government-paid advertisement at play. In this context, the gas pump stickers you mentioned—there's a real issue about whether there's even a paid display occurring there because all that has happened, as I understand it, is that there's legislation that obliges the retailers to display the stickers. There's not an element of government paying for an advertisement.

**Ms. Peggy Sattler:** Although the government is paying to produce the stickers.

**Mr. Len Hatzis:** That's a different issue. I'm just saying to you that if you ask me about whether it would fall within the four corners of the act legally, I think I would say to you that it arguably doesn't. It certainly doesn't in my view, but I just wanted to put that forward as another

reason why that may not be something that's reviewable under the act.

**Ms. Peggy Sattler:** Okay. But to your knowledge, this is sort of a new direction in publicly funded partisan advertising, these gas pump stickers?

**Mr. Len Hatzis:** I can't comment on other examples.

**Ms. Peggy Sattler:** Right.

**Mr. Len Hatzis:** You'd have to speak to a ministry if you have a specific example. I don't know of any.

**Ms. Peggy Sattler:** Okay. I just wanted to quickly return to the auditor's recommendation. I understand the caveats that were given in the introductory comments when you spoke to the recommendation, but the little summary report we have does indicate that the recommendation is in progress. I just wondered if you could give us some specifics about the steps that you have taken to this point to address that recommendation. Where are you at in the progress of responding to the recommendation?

**Ms. Karen Hughes:** I would say that in terms of where we're at, we're at early days. We've had some initial discussions about it, but we're still quite early on in terms of developing options and other ideas to bring forward to respond.

**Ms. Peggy Sattler:** And what will the process look like? Treasury Board will develop options for the government to consider in order to respond to this recommendation, and typically what kind of timeline would we be looking at?

**Ms. Karen Hughes:** The last time the act was amended, I'm not sure how long it took to go forward through the process. It typically takes quite a while, actually, to get through the policy process in terms of getting a decision and getting into a legislative vehicle, to be able to make a change going forward and to have that determined by the government going forward. That can actually take quite a bit of time in terms of review and opportunities for that. So we don't have a specific timeline spelled out at this point.

**Mr. Len Hatzis:** Yes, and there's an element of speculation about the timeline, so I would be wary to give you the timeline that you're asking for. Each example would be case-specific. I specifically can't, and I don't think our deputy can speak to a specific timeline.

**Ms. Peggy Sattler:** Okay. But is it at the stage where it's only ministry staff who are looking at this, without the involvement of political staff? You said you're in early—

**Ms. Karen Hughes:** Early days of initial discussions. That's where we're at.

**Ms. Peggy Sattler:** But just within the ministry, or are you engaging with political staff on that as well?

**Ms. Karen Hughes:** We're still very early in terms of working within Treasury Board Secretariat itself.

**Ms. Peggy Sattler:** Okay. But there is some openness to considering this recommendation and reinstating the previous versions of the Government Advertising Act?

**Ms. Karen Hughes:** We take all of the recommendations at Treasury Board Secretariat. We work with the Auditor General on a number of issues, and we always

take the auditor general's advice going forward as an important piece of the work that we're trying to do. I think we've been trying to do with the Auditor General on a number of files to improve and to make sure we're working with her and her team.

**Ms. Peggy Sattler:** And I gather that this has been a recommendation—the auditor says in the report, actually, that this is the same recommendation that she has brought forward for a number of years. So even under the previous government, was there openness to considering that recommendation? Were people looking at reinstating the 2015 rules?

**Ms. Karen Hughes:** I actually wasn't involved in my current role under the previous government, and government advertising wasn't in my area of responsibility. I don't know if Len knows more about that.

**Mr. Len Hatzis:** All I can say is, I wasn't privy to and I wasn't aware of what their decision-making was around this. I have not been given instructions after the 2016 amendments that I talked about earlier. I was not given instructions after those to implement some changes to the legislation, so we are where we are with the legislation.

**Ms. Peggy Sattler:** Okay. I think I'll turn it to my colleague MPP Morrison.

**The Chair (Ms. Catherine Fife):** MPP Morrison.

**Ms. Suze Morrison:** Yes, absolutely. We had a chance to look through and talk about some current examples of, perhaps, problematic advertising that the current government of the day has been implementing that would have failed to be approved under the previous legislation and would either pass now or be exempt for different reasons. Whether that's the Ontario News Now network, which, as we all know, is the government caucus communications tool funded by the government that brands itself as news content but is very clearly government advertising, or the attack ads—

**Mr. Doug Downey:** Point of order.

**The Chair (Ms. Catherine Fife):** Yes, MPP Downey.

**Mr. Doug Downey:** Thanks, Madam Chair. We did have this discussion earlier, although in camera, and it was made clear—

**The Chair (Ms. Catherine Fife):** I'm sorry, I just want them to turn your mike on so that we can all—

**Mr. Doug Downey:** Sorry. We did have this discussion earlier, although in camera, and I believe the Auditor General may have an opinion on whether it is, in fact, advertising.

**The Chair (Ms. Catherine Fife):** Should we seek a—do you want clarification?

**Ms. Suze Morrison:** Yes.

**Ms. Bonnie Lysyk:** When that came out, obviously we looked at this. For the content to be considered advertising in the act, the government must pay a third party to publish, broadcast, display or distribute the content. So in terms of Ontario News Now, we don't believe it falls under the advertising act.

**The Chair (Ms. Catherine Fife):** I just want to say: Technically, that wasn't a point of order, but you were seeking information, right? Thank you.

Please go ahead.

**Ms. Suze Morrison:** Where I was going with this is that when we look at Ontario News Now, I think that this is something that falls into a bit of grey zone in terms of—it's something that I don't think we've ever necessarily seen in our Legislature and from our government in terms of a government hiring through its caucus budget, allocating funds for government advertising purposes that are really, in some ways, misleading the public in terms of how it brands itself as a “news” program.

While it doesn't fall under the act per se, I would flag that this is something that falls into a grey zone in the same way that in the early days of social media, when the government was first able to acquire paid advertising on social media for the first time, I'm sure it, too, fell into a grey zone that wasn't necessarily directly covered by legislation. A lot of the time, when we have new and emerging media tools and advertising tools that fall into these grey zones, there's the letter of the legislation, the letter of the law, and then there's the intent of the legislation.

From a public service perspective, do you have any concerns about any grey area advertising tools or emerging media that are not currently covered under the act that we, as legislators, perhaps should be looking at? Should we be looking at and having a conversation as legislators about the emerging growth of social media as advertising or about the identification of advertising branded as “news,” as has been used in this example, in terms of flagging that as a concern or a conversation that we should be having as legislators?

1420

**Mr. Len Hatzis:** I think we can all say that, as members of the public service, we're non-partisan, we are asked to implement instructions and we are obliged to follow what the legislation currently says.

I agree with the Auditor General, obviously, that the way the act is worded, Ontario News Now would not fall within the purview of review, and it wouldn't apply to the act.

Your other comments, I think, are best left answered by other people who aren't in the public service, to be frank.

**Ms. Suze Morrison:** Okay.

**The Chair (Ms. Catherine Fife):** Okay. Are those all of the questions that you have?

**Ms. Suze Morrison:** Yes.

**The Chair (Ms. Catherine Fife):** Okay. Thank you very much.

We'll lead into the final question set, for 17 minutes, beginning with MPP Calandra.

**Mr. Paul Calandra:** Sorry, just to—

**The Chair (Ms. Catherine Fife):** Could you please move closer to your mike, Paul? Thank you.

**Mr. Paul Calandra:** Yes, sure. Just to be clear and just to follow up a little bit on MPP Morrison: Being in the public service, you obviously have no role to play in how the Legislative Assembly provides funding to the parties that are recognized. Am I correct?

**Mr. Len Hatzis:** Correct.

**Mr. Paul Calandra:** So you no more look at how our PC caucus services deal with the funds that have been

attributed to our service—I assume you don't walk into or comment on NDP caucus services and the photo booth or the videos that they might take and share with the public. I know the Liberals are no longer a party, so that doesn't matter. But I'm correct in assuming that?

**Ms. Karen Hughes:** That's correct. From a fiscal perspective, these things, I think, fall within the Board of Internal Economy, which is outside of our role in terms of what we look at from fiscal planning, which is focused on ministries and government programs.

**Mr. Paul Calandra:** To the Auditor General: Can I ask you a question? Were you asked to audit the NDP's caucus services and photos and videos that they might be doing and sharing with the public?

**Ms. Bonnie Lysyk:** To clarify what we do: We audit the Legislative Assembly's expenses to determine whether there are invoices to support expenditures. But in terms of all caucuses, we do not look at the detailed spending because, at this point in time, there are no rules around the detailed spending, so we have nothing to compare against. So we just look that the transactions flow properly through the Legislative Assembly's financial statements.

**Mr. Paul Calandra:** Back to the public service: To the best of your knowledge, video cameras are not new? They've been around for a while?

**Mr. Len Hatzis:** Agreed.

**Mr. Paul Calandra:** Agreed? Okay. Just making sure—cameras, as well, that take pictures?

**Mr. Len Hatzis:** Agreed.

**Mr. Paul Calandra:** To the best of your knowledge, politicians have always been in videos?

**Mr. Len Hatzis:** Yes, I think we can confirm that.

**Mr. Paul Calandra:** And we might have even actually taken a headshot or two? To the best of your knowledge, that's not something new and not something created? As much as I would like to take credit, as the PC caucus, for inventing the video camera and photography, I take it that we did not.

Thank you very much. I'm going to pass it on to—

**The Chair (Ms. Catherine Fife):** There are some VHS and Beta tapes out there too, Paul.

**Mr. Paul Calandra:** Yes, yes.

**The Chair (Ms. Catherine Fife):** Okay. We're now moving on to MPP Downey.

**Mr. Doug Downey:** A couple of pieces: In terms of preliminary review, how early is "preliminary"? Is it prescribed, or is it just a point in the process?

**Ms. Lynn Betzner:** It's prescribed in the legislation for specific types of advertising, so I'll refer that to Len.

**Mr. Len Hatzis:** Yes. Preliminary review applies to advertisements to be broadcast on television or in cinema. Those need to be submitted for the preliminary review. Also, printed matter—the householders that go out—would need to be submitted for preliminary review as well.

Once they're submitted, there is a timeline under the regulation that indicates that there are nine business days for the Auditor General to respond with respect to whether she feels the ad that has been submitted for preliminary review passes the standards in the act.

**Mr. Doug Downey:** I have a question. Just to give you some lead time, it's on KPIs. In the act—I'm just reading parts of it here—1.1(2) talks about the reasons why a government may choose to communicate. There is a whole series of reasons. The first one is very specific, and oddly so, given that it gave rise to a commercial that caused comment by the Auditor General: "informing the public about existing, new or proposed government programs, plans, services or policies, including fiscal policies such as policies respecting pensions or taxes." Obviously, you would know the rest, but it even has as broad as "encouraging or discouraging specific social behaviour, in the public interest."

These are very broad reasons why you might advertise. Do you have any comment on that as it relates to trying to develop KPIs? Or are the KPIs really just measurements—you mentioned click-throughs. Are the KPIs related to the whys—why you would advertise—or are they just in the execution of the advertisement?

**Ms. Jennifer van der Valk:** I'm sorry, could you just clarify the question?

**Mr. Doug Downey:** Yes. Do the indicators relate to why you would advertise? So I want to advertise because Lyme disease has become an issue. That's a social benefit. Do you pass any judgment on that part of it, or is it strictly on how we advertise that you're measuring?

**Ms. Jennifer van der Valk:** Depending on the business case of the ministry, the reason that they're choosing in that particular instance to advertise, the KPIs would be based on the metrics. So in the case of Lyme disease, they may be looking to try and decrease the number of cases of Lyme disease as compared to previous years, or to get ahead of what is being predicted to be a season where there are going to be a lot of ticks that are out and about doing their tick thing, and to try and get ahead of some of those metrics. Those would be some of the business metrics.

The KPIs in terms of the advertising may be something along the lines of how many people have been searching for information. That would be a campaign that would serve it very well—KPIs around search. So you would have parents that would be searching things like, "I'm sending my kids to camp. How do I protect them from ticks?" Or people who are travelling up north: "What are the signs and symptoms of Lyme disease? How do I identify a tick bite?" KPIs might represent, for example, the number of people that clicked through on our ads to visit the website and to get the relevant information.

**Mr. Doug Downey:** Okay.

**The Chair (Ms. Catherine Fife):** Okay. We're moving on: MPP Ghamari and then MPP Khanjin.

**Ms. Goldie Ghamari:** I just have one question, really, and it's more of, I guess, a summary of everything that has been discussed, because it has all been piecemeal. I want to thank you all for taking the time to be here today. It's been really informative.

There has been a lot of talk about requirements under advertisements and also talking about non-application clauses. I think what I really want to know is: When you're looking at the GAA, could you provide us with just a

concise summary of the current requirements for a final review under the GAA as it stands today?

**Mr. Len Hatzis:** I think I can speak to that. With respect with the current requirements—I think you mentioned final review. I can just tell you that with respect to final review, then, the head of the government office, defined as a ministry, Cabinet Office and the Office of the Premier, is required to “give a copy of any item that the government office proposes to publish, display, broadcast, distribute or convey to the Office of the Auditor General for final review.” If, after their preliminary review, the Office of the AG gives notice to the head of the office that the item meets the standards, gives notice that there was insufficient information to determine whether the item meets the standards, or does not give notice within the time specified by regulation, the Auditor General can indicate that an item approved at preliminary review does not have to be submitted for a final review. Any item exempted from preliminary review must be submitted for final review. So that is the final review process that is detailed in the act.

**Ms. Goldie Ghamari:** Thank you. Those were all my questions.

**The Chair (Ms. Catherine Fife):** MPP Khanjin.

**Ms. Andrea Khanjin:** I just had a question. You were talking about value for money and you were mentioning how you mainly look at the global amount of spend. What year would you say that you noticed a big increase in that global amount of spend? Approximately what year was that?

**Ms. Karen Hughes:** I’m trying to think back. Didem might know better—Didem Proulx, who is the chief administrative officer—in terms of the specifics. I think part of it was more of a desire to actually bring some of that spending together into the bulk media fund, as opposed to having it disbursed in various ministries’ budgets. Didem, I don’t know if you want to speak to that?

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**Ms. Didem Proulx:** I’d be happy to. Hello. Didem Proulx. I am the chief administrative officer and the ADM for corporate services in Treasury Board Secretariat.

**The Chair (Ms. Catherine Fife):** Thank you.

**Ms. Didem Proulx:** Originally when the Bulk Media Buy fund was created, it had pooled some of the money, but certain ministries continued to have their own advertising budgets and continued to carry out media and ad campaigns. In 2015-16, that was about \$25 million, with some spending happening outside.

In 2016-17, in addition to that base spend of \$25 million that was already in the Bulk Media Buy fund, an additional \$25.5 million was consolidated. It was realigned from 20-some ministries into the fund. In that year it actually looks like the bulk media buy spend kind of doubled, but that actually isn’t a doubling of the activity; it just is a consolidation of the funding to provide greater oversight and coordination. It was because of that increase that we actually have a greater sense of the overall spending that’s happening in this area and are having these discussions.

**Ms. Andrea Khanjin:** In your opinion, when you’re looking at the global amount of spend, and in terms of getting value for money, would you say that it is efficient and effective to go outside of using the tax dollar global amount to pay for advertising, and use other services or other avenues to promote and to inform about government policy?

**Ms. Lynn Betzner:** Traditional media is an important part of any kind of communications of government, so that is something that all governments use extensively.

With the bulk media fund, there’s an opportunity to pull together in one area that’s overseen by Treasury Board and that can have those requirements for effectiveness and efficiency that they bring to the table so that that can be transparent and effectively managed. That dovetails with your traditional types of communications and the opportunity to maximize those areas.

**Ms. Andrea Khanjin:** Thank you.

**The Chair (Ms. Catherine Fife):** Thank you. Moving now to MPP Parsa.

**Mr. Michael Parsa:** Thank you for being here today. I think this question is going to go to Mr. Hatzis, but I could be wrong, so I’ll ask it.

I believe you said earlier that the AG started reviewing government advertising back in 2005, roughly. That’s when it started?

**Mr. Len Hatzis:** Correct.

**Mr. Michael Parsa:** Okay. Under the current Government Advertising Act, who has the final decision on government advertising, whether it has met the standards of review?

**Mr. Len Hatzis:** The Office of the Auditor General has the final say with respect to reviewable items, the items that are captured for review under the GAA.

**Mr. Michael Parsa:** You talked about the process of how it started, how it’s within the ministry and then it goes to the ministry for approval, so that she has the final—can you just confirm that?

**Mr. Len Hatzis:** Yes. Well, I think there are a couple of pieces. One is the narrative we talked earlier about, the ministry deciding on a proposed ad and then sending it into the Auditor General for preliminary review. Once that is done, as I said, under the regulation, the time starts clicking and there is a nine-business-day requirement in terms of the Auditor General’s answer to that ad and whether it meets the standards of the act.

Once that’s done, there still is a secondary final review process that I mentioned earlier that the ministry is obliged to deal with under the act as well.

**Mr. Michael Parsa:** Thank you very much. Under the current Government Advertising Act, when can the Auditor General examine the records of the government office?

**Mr. Len Hatzis:** The Auditor General has that power in terms of examining the records of ministry offices. In terms of when that is, if you give me one second I will double-check the act. The answer is that she “may examine the records of a government office at any time for the purpose of determining whether” the act “has been

contravened.” A government office must give the Auditor General or his designate access to such records the auditor or designate considers necessary for that purpose.

That’s pursuant to the obligation under the act.

**Mr. Michael Parsa:** Okay. I just want to ask about the vendor of record. This was discussed earlier and I just want to understand it, if you don’t mind. The vendor of record—PHD is in charge of finding, on behalf of the government, on behalf of the ministry—is that the way I understood it? Explain that again, if you don’t mind, please.

**Ms. Karen Hughes:** They do the ad buy, the media buying. There might be other players involved in creative and in developing some of the other aspects of it, which would come off the vendor of record that is managed by the Advertising Review Board.

**Ms. Lynn Betzner:** There are a couple of vendors of record that the Advertising Review Board manages. One is advertising agencies, and the other is the vendor of record for the media buy, which is separate.

**Mr. Michael Parsa:** Okay.

**The Chair (Ms. Catherine Fife):** Okay. There are two minutes left. MPP Downey.

**Mr. Doug Downey:** Okay. Just a question on location: We can’t use names of individuals or other proscribed pieces in certain advertisements, unless it’s out of jurisdiction. If we were doing a tourism ad for Nova Scotia or the Atlantic, and we were to use the Premier to help promote tourism, how do we manage, in this day and age—when I’m flipping channels, it’s CTV Halifax or CTV Toronto. How do we manage that?

**Ms. Bonnie Lysyk:** Is that a question to me?

**Mr. Doug Downey:** Well—

**Ms. Bonnie Lysyk:** Sorry. I didn’t hear the question.

**The Chair (Ms. Catherine Fife):** I thought you were asking the question—

**Mr. Doug Downey:** I was sort of asking over here. How do we package it for review for the Auditor General when media is so transitory?

**Ms. Lynn Betzner:** The specifics of the ad, in terms of allowing the name, face or voice—

**Ms. Karen Hughes:** With respect to tourism.

**Ms. Lynn Betzner:** Does it align to tourism or not? We haven’t had this case recently, so I didn’t know if the act said something specific. I thought it was about economic—

**Mr. Len Hatzis:** Yes, the act does speak to the issue of—

**The Chair (Ms. Catherine Fife):** Last minute.

**Mr. Len Hatzis:** Within the definition of “partisan,” the act mentions that something would be partisan if it includes the name, voice or image of a member of the executive council or Legislative Assembly, unless the primary audience is outside of Ontario.

**Mr. Doug Downey:** Right.

**Mr. Len Hatzis:** Given that, presumably an ad can refer to a name, voice or image if the audience, as you said, is Nova Scotia or some other province. I think, from an act perspective, that is permitted, and it wouldn’t be seen as partisan, given that the primary audience is outside of Ontario.

With respect to any specific examples, I’d have to turn it over to Lynn, if she knows anything further.

**Ms. Lynn Betzner:** If your question is about how—I mean, there would be a request that the media buy would be in that jurisdiction—and how they can ensure that it’s not going to be seen in Ontario. That would be something we would be asking the media-buying agency.

**The Chair (Ms. Catherine Fife):** Okay. Thank you very much.

The auditor just had a point of clarification, I think, to the point made by MPP Downey.

**Ms. Bonnie Lysyk:** Yes. I just want to be very clear, and I wouldn’t want us to be misleading the public as to what the Office of the Auditor General does or doesn’t do. I want to be very clear that we are performing a perfunctory role in approving ads that we might not think are factually accurate and we might think are partisan. At the end of the day, this legislation forces the Office of the Auditor General to approve ads, with no discretion. We have to approve ads even if they’re factually inaccurate, and we have to approve ads even if we believe they are partisan under standards we used, for 10 years, to evaluate partisanship against. I think that’s really important.

**The Chair (Ms. Catherine Fife):** With that, I want to thank everyone for spending so much time with us. I want to thank the committee members for their good questions.

We will now be going into closed session so that the committee may commence report writing. I would ask all members of the public to leave the room at this time. Thank you very much.

*The committee continued in closed session at 1440.*









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### **Clerk / Greffier**

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