

Serial 16
Public Authorities Advertising Bill 2008
Mr Mills

A Bill for an Act for advertising by public authorities

NORTHERN TERRITORY OF AUSTRALIA

PUBLIC AUTHORITIES ADVERTISING BILL 2008

Act No. [] of 2008

TABLE OF PROVISIONS

Part 1	Preliminary matters	
1	Short title	1
2	Definitions.....	1
3	Public authority	2
Part 2	Public Authorities Advertising Committee	
4	Committee	3
5	Membership of committee	3
6	Committee's functions to monitor and enforce compliance.....	3
7	Committee's power of direction	3
8	Power of Local Court to make orders	4
9	Reports by committee.....	4
10	Operation of committee	5
11	Delegation	5
Part 3	Code of Practice for Public Authorities Advertising	
12	Code.....	5
13	Compliance with Code.....	6



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2008

An Act for advertising by public authorities

[Assented to [] 2008]
[Second reading [] 2008]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Public Authorities Advertising Act 2008*.

2 Definitions

In this Act:

advertising campaign means a publicity operation that is:

- (a) conducted through any means of communication; and
- (b) funded by money of the Territory.

Assembly means the Legislative Assembly.

assembly member means a member of the Assembly.

Code, see section 12.

committee means the Public Authorities Advertising Committee established by section 4.

public authority, see section 3.

Speaker means the Speaker of the Assembly.

3 Public authority

(1) An assembly member in his or her capacity as any of the following is a public authority:

- (a) an assembly member;
- (b) the holder or occupier of any of the following offices:
 - (i) a minister;
 - (ii) the Speaker;
 - (iii) the Leader of the Opposition;
 - (iv) any other office in the Assembly.

(2) The following are public authorities:

- (a) a person holding or occupying an office for a law of the Territory;
- (b) a person appointed to or engaged by a public authority;
- (c) a body (whether incorporate or not) established for a law of the Territory or for a public authority;
- (d) a body corporate to which 1 or both of the following apply:
 - (i) the capital of the body corporate is owned by 1 or more public authorities;
 - (ii) 1 or more public authorities have a total of more than one-half of the voting power at a general meeting of the body corporate;
- (e) a body corporate that is a subsidiary of a public authority (whether or not through any interposed entity).

(3) However, the following are not public authorities:

- (a) the holder or occupier of a judicial office or office of a member of a tribunal;
- (b) the Power and Water Corporation;
- (c) the Territory Insurance Office;

- (d) a person or body prescribed by regulation.

Part 2 Public Authorities Advertising Committee

4 Committee

The Public Authorities Advertising Committee is established.

5 Membership of committee

- (1) The committee consists of the following members:
 - (a) the Auditor-General;
 - (b) the Ombudsman;
 - (c) a person with knowledge and experience in advertising who is appointed by the Auditor-General.
- (2) A person appointed under subsection (1)(c) must be appointed:
 - (a) on a part-time basis; and
 - (b) on terms and conditions specified in the appointment.

6 Committee's functions to monitor and enforce compliance

The committee has the functions of monitoring and enforcing compliance by public authorities with the Code in accordance with this Act.

7 Committee's power of direction

- (1) This section applies if:
 - (a) an advertising campaign is being conducted, or is proposed to be conducted, by or for a public authority; and
 - (b) on its own initiative or after receiving information from anyone, the committee considers the campaign contravenes, or would contravene, the Code.
- (2) The committee may give a direction to the authority specifying 1 or more of the following:
 - (a) that the authority must not conduct, or must cease conducting, the campaign;
 - (b) that the campaign must be modified as specified in the direction;

- (c) that the expenditure on the campaign must be limited as specified in the direction.

8 Power of Local Court to make orders

- (1) If the authority does not comply with the direction, the committee may apply to the Local Court for 1 or more of the following orders:
 - (a) an order requiring the authority to comply with the direction mentioned in section 7(2);
 - (b) an order requiring the authority to do 1 or more things mentioned in section 7(2)(a) to (c);
 - (c) any other order relating to a matter mentioned in paragraph (a) or (b).
- (2) The Local Court may:
 - (a) approve the application by making 1 or more orders covered by subsection (1); or
 - (b) refuse the application.
- (3) If the Local Court considers it appropriate to do so, it may make an interim order pending a decision under subsection (2).
- (4) The Local Court may:
 - (a) make an order under this section whether or not anyone might suffer a loss as a result of the order; and
 - (b) make an order for compensating such a loss if the Court considers it appropriate to do so.

9 Reports by committee

- (1) The committee must, as soon as practicable after 30 June in each year, prepare and give to the Speaker a report on the operation of the committee for the 12 months ending on that 30 June.
- (2) In addition, the committee may prepare and give to the Speaker a report about a matter arising from an exercise of its powers or a performance of its functions.
- (3) Without limiting subsection (2), a report under that subsection may relate to 1 or more of the following:
 - (a) a particular advertising campaign;
 - (b) actions taken by the committee about the campaign;

- (c) a public authority's actions, or failure to take actions, following the committee's actions;
 - (d) any other matter related to a matter mentioned in paragraph (a), (b), or (c).
- (4) The Speaker must table a report mentioned in subsection (1) or (2) in the Assembly within 6 sitting days of receiving it.

10 Operation of committee

The committee may exercise powers and perform functions under this Act in any way it considers appropriate.

11 Delegation

- (1) A committee member mentioned in section 5(1)(a) or (b) may delegate his or her powers and functions under this Act (other than this power of delegation) to a person by writing.
- (2) The delegate may represent the member on the committee.

Part 3 Code of Practice for Public Authorities Advertising

12 Code

- (1) The provisions in this section constitute the Code of Practice for Public Authorities Advertising (the **Code**).
- (2) Information and any other material presented in an advertising campaign (the **presentation**) must be objective and based on facts.
- (3) Without limiting subsection (2), the presentation:
 - (a) must not include anything that purports to be a statement of facts:
 - (i) that is factually inaccurate; or
 - (ii) that cannot be substantiated by facts; and
 - (b) must not use language that is biased or prejudicial; and
 - (c) must not include any statement that is misleading; and
 - (d) must clearly state the basis of any statement of comparison included in the presentation; and

- (e) must clearly distinguish a factual statement included in the presentation from comment, opinion and analysis included in the presentation.
- (4) The campaign must not:
- (a) promote party-political interests; or
 - (b) give rise to a reasonable perception that it promotes party-political interests (whether or not it also has other purposes).
- (5) Without limiting subsection (4), the campaign:
- (a) must not include any party-political slogans or images; and
 - (b) must not attack the views, policies or actions of a political party.

13 Compliance with Code

A public authority must ensure that the Code is complied with in conducting an advertising campaign.