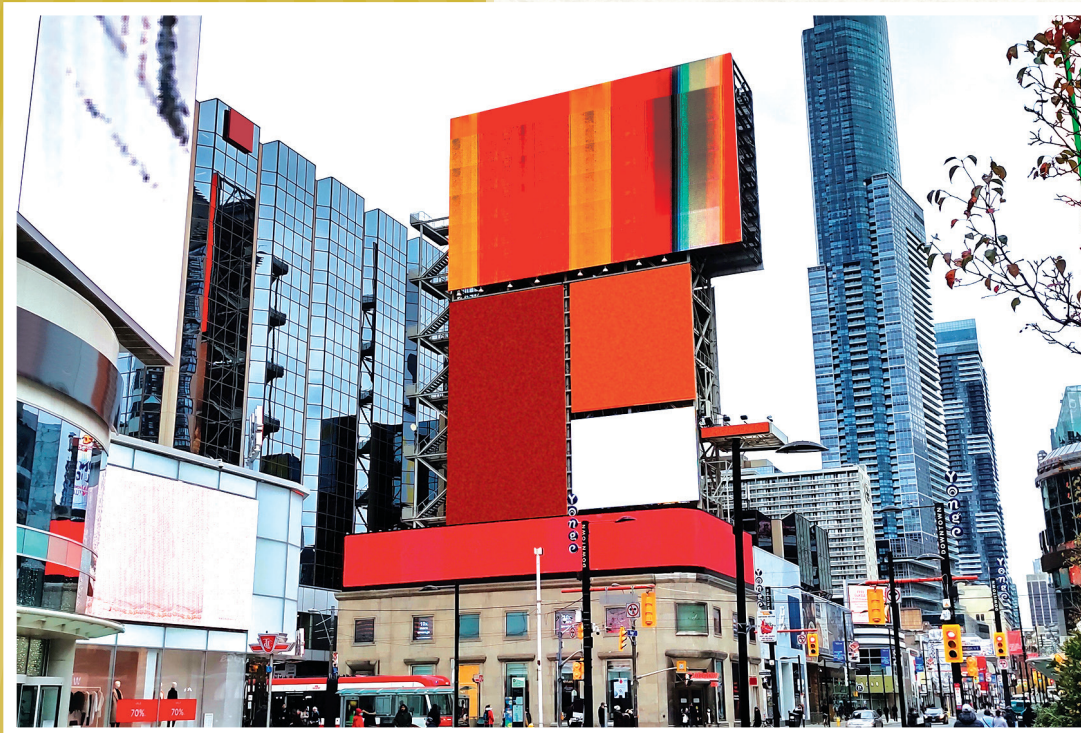




Office of the Auditor General of Ontario

Review of Government Advertising



December 2020

Review of Government Advertising

Government Advertising Spending Increases

The fiscal year that ended March 31, 2020 saw a doubling of spending by the government on advertising compared to the previous fiscal year. Through the course of 2019/20, our Office reviewed 645 advertisements in 84 submissions, with a value of \$27.3 million (including production costs). The government also spent \$8.2 million on digital advertising on social media and search-marketing services, which are exempt from our review. Another \$2.0 million was spent in March 2020 on urgent COVID-19 advertising. As **Figure 1** shows, the government spent a total of \$37.59 million on advertising for the 2019/20 fiscal year. See the **Appendix** for a breakdown of reviewable advertising costs by each government ministry.

This total is in contrast to the previous fiscal year, when the government spent \$16.39 million. This included advertising of \$12.55 million that we reviewed, and another \$3.84 million that was

spent on excluded digital advertising. See **Figure 2** for expenditure comparisons over the last 14 years, beginning from when the *Government Advertising Act, 2004* (Act) was proclaimed.

The Act, which took effect in late 2005, required the government to submit advertisements to the Auditor General for review to ensure, among other things, that they were not partisan. Only advertisements that passed this review could run.

This Act gave the Auditor General discretionary authority to determine what is partisan. Under this system, our Office took issue with a very small proportion of ads (less than 1%) and approved the overwhelming majority of the thousands of advertisements submitted to us. When significant amendments to the Act were introduced by the government in 2015, we cautioned that these would weaken the Act and open the door to publicly funded partisan and self-congratulatory government advertisements on television and radio, in print and online.

The amendments imposed a specific and narrow definition of “partisan” as the only measure

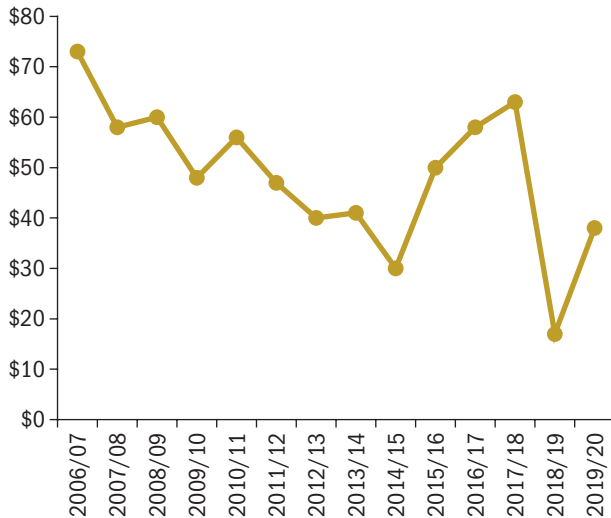
Figure 1: Breakdown of Total Advertising Expenditures

Prepared by the Office of the Auditor General of Ontario (OAGO)

Government Advertising for 2019/20	Expenditures (\$ million)
Reviewed by the OAGO as required by the <i>Government Advertising Act, 2004</i>	27.34
Not reviewed by our Office due to its urgent nature	2.05
Not reviewed by our Office due to Regulation 143/15 covering social media	6.16
Not reviewed by our Office due to Regulation 143/15 covering search-marketing services	2.04
Total	37.59

Figure 2: Advertising Expenditures Since Proclamation of the *Government Advertising Act, 2004*, 2006/07–2019/20* (\$ million)

Source of data: Ontario ministries and Advertising Review Board



Note: Yearly expenditures include all digital advertising costs, including those that are exempted from our review, such as social media and search-marketing services.

* 2019/20 includes costs for COVID-19 advertisements that were not reviewed by our Office due to their urgent nature.

we could use in our reviews. Essentially, as long as the government avoids using the name or image of an elected official or the logo of a political party in an advertisement, the Auditor General cannot find it partisan under the Act. Our approval is still required under the amended Act before an advertisement can run; however, this approval is almost always automatic. The only other condition that must be met is that the ad say it was paid for by the government of Ontario. Last fiscal year, there were no advertisements found in violation of the Act.

However, our Office continues to identify those advertisements that would not have passed our review under the former version of the Act. In the 2018/19 fiscal year, for the first time since the 2015 amendments came into effect, every advertisement we reviewed would have passed. In this last fiscal year, 125 ads would not have passed our review. This represents 19.7% of the ads submitted last fiscal year, with a value of \$9.47 million (or about 35% of the government's spending on reviewable advertising).

The top 10 advertising campaigns by expenditure for the 2019/20 fiscal year are listed in **Figure 3**. These campaigns accounted for about 85% of the total expenditure on advertisements that were submitted and reviewed by our Office. Some of these campaigns would not have passed our review under the former version of the Act.

Campaigns We Took Issue With in the 2019/20 Fiscal Year

We had concerns with 125 ads in four campaigns submitted to our Office in the last fiscal year. Under the previous version of the Act, these ads would not have passed our review. However, we had to find them in compliance with the current legislation. When we issued our compliance opinions, we noted our reservations to the submitting ministry.

- A campaign about the government's environment plan.** The Ministry of Environment, Conservation and Parks ran an almost \$4-million campaign named "One Little Nickel." This campaign, which included radio, digital and TV ads in 22 languages, was about Ontario's environmental plan. A campaign description, submitted with the advertisements, said that "Ontarians need to understand that the Ontario government has a plan that will protect the environment, but not at the cost of making life unaffordable in Ontario." The "nickel" references related to paying a nickel more per litre of fuel, along with higher costs for heating and food because, as the voice-over in the TV ad tells viewers, the "federal government is charging you a carbon tax."

We took the view that a primary objective of this campaign was to foster a negative impression of the federal government and its carbon pricing policy. We also believed that it aimed to foster a positive impression of the provincial governing party by saying that Ontario has a "better" plan for the environment.

Figure 3: Top 10 Campaigns for the 2019/20 Fiscal Year (\$ million)

Source of data: Ontario government ministries

Topic	Ministry	Expenditure
Education for Tomorrow	Education	6.09
Environment Plan	Environment, Conservation and Parks	3.97
Rowan's Law	Heritage, Sport, Tourism and Culture Industries	3.07
Cannabis ¹	Transportation, Health and Finance	2.42
Careers in the Skilled Trades	Colleges and Universities	2.32
COVID-19 Prevention ²	Health	2.26
Foodland Ontario	Agriculture, Food and Rural Affairs	2.24
Financial Literacy	Finance	1.56
Building Ontario Together—Infrastructure	Finance	0.78
Organ and Tissue Donation	Health	0.70
Total		25.41

1. Combines advertisements submitted by the ministries of Transportation, Health and Finance about cannabis.

2. \$2.04 million of total campaign advertising spending was for advertisements that our Office did not review.

- A campaign about Ontario's debt and how the government will address it.** The Ministry of Finance submitted a campaign, called "Financial Literacy Public Education Campaign," which consisted of digital ads and videos. At a cost of \$1.56 million, the campaign had the stated objective of educating Ontarians on Ontario's finances and debt, and how they affect Ontarians; as well as building understanding around the government's plan to protect critical public services. Our Office concluded that the campaign's primary objective was to portray the government in a positive light. The use of music in the digital video—downbeat and concerning when referencing the debt, and upbeat when referencing how the government is "protecting what matters most"—is an example of this portrayal. As well, the ads offered no detail about how the government would address the debt, and sent viewers to a website for more information. We found the website provided only a few examples of early actions taken, and then predictions of results, with no details about how they would be achieved.
- A campaign about infrastructure.** The Ministry of Finance made two submissions containing 29 online video and digital static ads in the areas of transit, health and job growth. This \$778,000 campaign, called "Building Ontario Together," fostered a positive impression of the government. Each ad stated that "Our plan to Build Ontario is working," yet offered no details about what the plan was, or any evidence of how it was working. The website referred to in the ads provided few additional details. We also found two of the online video ads, which referenced June 2018 as the reference point for job growth, to be partisan because that was the year and month the government was elected.
- Part of a campaign about Ontario's public education system.** The Ministry of Education submitted English and French radio advertisements as part of a campaign called "Education for Tomorrow." These ads, which portray government changes to education as "improving" children's educational journey to "better prepare" them to "succeed every step of the way," would not have passed our review under the former version of the Act. We found

these qualitative value judgments to be unsubstantiated, and they led us to conclude that a primary objective of the ads was to foster a positive impression of the governing party. We note that in a subsequent submission that included multi-ethnic radio ads, the Ministry made changes to address our comments, and we approved those ads without qualification. Other submissions in the campaign were approved without qualification.

Digital Advertising on the Rise

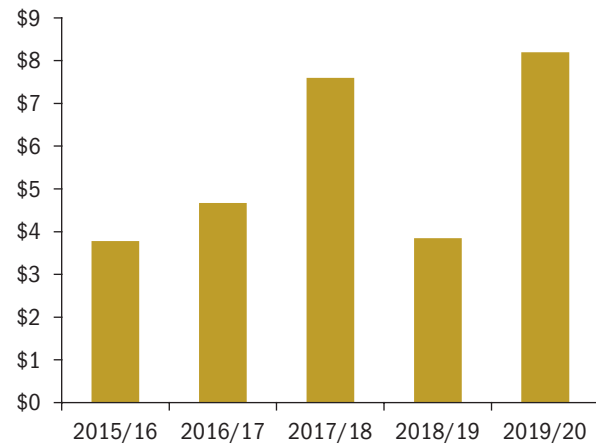
Our authority to review digital advertising came into effect with other changes made to the Act in June 2015. This type of advertising includes video, text, images and any combination of these that the government proposes to pay to have displayed on a website. However, at the same time, Regulation 143/15 came into force that limited which digital advertising we could review. Our Office can review only digital ads displayed on a website “other than a social media website such as Facebook or Twitter.” As well, ads displayed as a result of the government using a search-marketing service, such as Google AdWords, are not subject to our review.

In the 2019/20 fiscal year, the government spent a total of \$8.2 million on digital ads that were excluded from our review. This includes \$6.16 million on ads that ran on social media websites and \$2.04 million on search-marketing services. This is more than double what was spent last year (\$2.9 million on ads on social media websites and \$940,000 on search-marketing services). **Figure 4** shows the trend of the government’s spending on excluded digital advertising over the last five fiscal years.

Last fiscal year, the government’s use of and spending on all digital advertising was more than that of TV, radio, print and out-of-home advertising combined. See **Figure 5** for a breakdown. In our view, given this significant trend, our Office should be able to review all of the digital ads the government is paying for, without exception.

Figure 4: Government Spending on Digital Advertising Exempt from Auditor General Review (\$ million)*

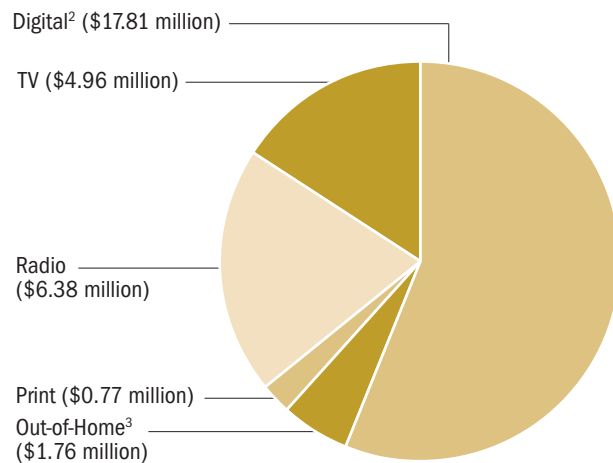
Source of data: Advertising Review Board



* Types of excluded digital advertising include those that appear on a social media website, such as Facebook or Twitter, and those are displayed on a website as a result of the government using a search-marketing service.

Figure 5: Advertising Expenditure by Medium, 2019/20¹

Source of data: Ontario ministries and Advertising Review Board



Note: Agency fees and production costs of \$5.91 million are not included in this figure.

1. All mediums include costs of COVID-19 advertising not reviewed by our Office.
2. Includes costs of all digital advertising and search-marketing services (including those types that are exempt from our review).
3. Includes such media as billboards, transit posters and digital screens.

Other Issues of Interest

COVID-19 Advertising

With a provincial emergency declared on March 17, 2020, the Ministry of Health notified our Office that it would invoke, on a temporary basis, the section of the *Government Advertising Act, 2004* that allows advertising to run without being submitted to our Office because it deals with “an urgent matter affecting health and safety.” From then until the end of the fiscal year on March 31, the Ministry spent \$2.05 million on 72 ads across various media about COVID-19.

Section 2(g) of the *Auditor General Act* requires the Auditor General to report annually on expenditures for reviewable advertising. Over the months following the March state-of-emergency declaration, as the COVID-19 campaign began to take on the features of a more typical, co-ordinated and longer-running one at the same time that it was saturating the market, our Office requested that this advertising be submitted to our Office. Acknowledging the time-sensitive nature of the advertising, we committed to expediting our approval process for any COVID-19 ads.

From April 1, 2020 to September 30, 2020, our Office received just under 100 advertising submissions comprising more than 900 ads. The overwhelming majority, submitted by the ministries of Health, Finance and Education, were about COVID-19. These ads covered health messaging about preventative measures, information about the economy re-opening, and information about school re-opening. The government spent an estimated \$50 million on these ads over this six-month period representing the first half of the current fiscal year.

Overview of Our Compliance Function

What Falls under the Act

The Act applies to advertisements that government offices—specifically, government ministries, Cabinet Office and the Office of the Premier—propose to pay to have published in a newspaper or magazine, displayed on a billboard, displayed digitally in a prescribed form or manner, or broadcast on radio or television, or in a cinema. It also applies to printed matter that a government office proposes to pay to have distributed to households in Ontario by unaddressed bulk mail or another method of bulk delivery. Advertisements meeting any of these definitions are known as “reviewable items” and must be submitted to our Office for review and approval before they can run.

The Act requires government offices to submit all reviewable items to our Office. They cannot publish, display, broadcast or distribute the item until the head of that office (usually the deputy minister) receives notice, or is deemed to have received notice, that the advertisement has been found in compliance with legislation.

If our Office does not render a decision within the five business days set out in regulation, then the government office is deemed to have received notice that the item is in compliance with the Act and may run it.

If our Office notifies the government office that the item is not in compliance with the Act, the item may not run. However, the government office may submit a revised version of the rejected item for another review. Compliance approvals are valid for the life of the proposed media campaign.

In addition, all proposed ads planned for broadcast on television and in a cinema, along with bulk-distributed printed materials (householders), must be submitted in early versions for a preliminary review in each language in which the government intends to run them. After receiving a preliminary

approval, the proposed advertisements must be resubmitted to our Office in their final form for approval. (Under the old Act, preliminary reviews were voluntary, and usually only ads in English were submitted for preliminary review. This was a more efficient process.)

The Act excludes from our review advertisements for specific government jobs (but not generic recruitment campaigns) and notices to the public required by law. Also exempt are advertisements on the provision of goods and services to a government office, and those regarding urgent matters affecting public health or safety.

The advertising done by government agencies is also exempt from the Act and thus our review. However, agencies' ads could be captured by the Act under a 2005 agreement with the government that gives us the authority to review third-party advertising if all three of the following criteria apply:

- A government office provided the third party with funds intended to pay part or all of the cost of publishing, displaying, broadcasting or distributing the item.
- The government office approved the content of the item.
- The government granted the third party permission to use the Ontario logo or another official provincial visual identifier in the item.

Revised Criteria for Proposed Advertisements

In conducting its review, the Auditor General's Office now determines only whether the proposed advertisement is in compliance with the amended Act. The following are the requirements with which the advertisement must be in compliance:

1. It must include a statement that it is paid for by the government of Ontario.
2. It must not be partisan. The revised Act says an item is "partisan" only if it:
 - includes the name, voice or image of a member of the Executive Council or of a member of the Assembly (unless the item's

primary target audience is located outside of Ontario);

- includes the name or logo of a recognized party;
- directly identifies and criticizes a recognized party or a member of the Assembly; and/or
- includes, to a significant degree, a colour associated with the governing party.

We have no authority to consider any other factors, such as factual accuracy, context or tone, to determine whether an item is partisan.

Other Review Protocols

Since assuming responsibility for the review of government advertising in 2005, our Office has worked with the government to clarify procedures to cover areas where the Act is silent. In April 2019, our Office posted updated Government Advertising Review Guidelines. These Guidelines are intended to help government staff comply with the Act. They detail the submission, review and approval process, and reflect legal requirements, practices and conventions. The Guidelines can be found at

www.auditor.on.ca/en/content/adreview/adreview.html.

What follows is a brief description of the significant areas that have been clarified over the years.

Websites Used in Advertisements

Although government websites were not specifically referred to in the original Act, we took the position that a website or similar destination whose link is used in an advertisement is an extension of the advertisement. Following discussions, our Office came to an agreement with the government soon after the legislation was passed that the first page, or "click," of a website cited in a reviewable item would be included in our review.

We continue to consider the content only of the first click, unless it is a gateway page or lacks meaningful content, in which case we review the

next page. We examine the page for any content that does not meet the standards of the amended Act. For example, the page must not include a minister's name or photo, or the name or logo of a recognized party.

Social Media Used in Advertisements

The government has significantly increased its presence on social-media platforms over the last decade. Our Office receives advertisements for approval that at times use icons leading the user to the government's presence on various social media, such as Facebook and Twitter.

Although the original Act was silent on the use of social media, we reached an agreement with the government in 2012 that we would perform an initial scan of any social-media page cited in an ad to ensure that the standards of the Act are being followed, in the same way that we examine web-sites referenced in ads. We recognize that content changes frequently and can be beyond the control of the government office, so our limited review focuses only on the content that the government office controls.

However, the government's social-media accounts and any content that its administrators post to it do not constitute reviewable advertising under the Act.

The Future of Our Office's Role in Government Advertising

Amendments to the Act in 2015 did away with our Office's discretionary authority to determine what constitutes partisan advertising. These amendments weakened the Act and paved the way for publicly paid partisan advertising by government. We will continue to identify those advertisements that would not have passed our review under the former version of the Act.

RECOMMENDATION 1

We recommend that the previous version of the *Government Advertising Act, 2004* that appeared on June 3, 2015 be reinstated, but also include the amendment that added digital advertising as a reviewable medium.

TREASURY BOARD RESPONSE

While the government continues to explore options for the review of government advertising, the government continues to ensure the Office of the Auditor General reviews and approves advertising under the guidelines as set out in the Act.

The government reviews all advertising paid for by the province to ensure it is delivered in the most efficient and cost-effective manner to maximize value for taxpayers.

RECOMMENDATION 2

We recommend that the government revoke Regulation 143/15 to enable the Office of the Auditor General of Ontario review all digital advertising paid for by the government, with no exceptions.

TREASURY BOARD RESPONSE

The government continues to explore options for the review of government advertising.

Under the Government Advertising Act, the Office of the Auditor General continues to review and approve all advertising as set out in the Act.

Paid social advertising usually form part of any government marketing campaign. Social assets created for the campaigns provide the same message and look and feel as those created for print, multicultural, video and digital banner ads, which are all renewable under the Act.

Appendix: Expenditures for Reviewable Advertisements under the *Government Advertising Act, 2004* April 1, 2019–March 31, 2020¹

Source of data: Ontario government ministries

Ministry ²	# of Submissions	# of Items	Agency Fees and Production Costs (\$)	Media Costs (\$)				Total (\$)
				TV and Cinema	Radio	Print	Digital	
Agriculture, Food and Rural Affairs	6	42	578,495	214,533	1,076,729	—	365,991	2,235,748
Colleges and Universities	6	17	723,198	549,239	395,150	—	1,152,659	2,874,258
Economic Development, Job Creation and Trade	1	1	4,271	—	—	1,318	369,375	374,964
Education	8	46	967,522	1,529,780	2,978,688	—	907,258	6,383,248
Environment, Conservation and Parks	8	78	758,208	1,201,951	1,072,206	—	936,008	3,968,373
Finance	6	48	587,398	—	—	—	1,754,922	2,390,545
Health	20	225	297,288	—	627,497	19,933	1,630,909	2,871,379
Heritage, Sport, Tourism and Culture Industries	19	104	906,337	1,311,624	97,007	107,058	718,795	3,931,621
Natural Resources and Forestry	4	35	—	—	57,574	46,607	—	104,181
Solicitor General	1	1	—	—	—	3,408	—	3,408
Transportation	5	48	971,031	—	—	—	791,248	2,200,605
Total	84	645	5,793,748	4,807,127	6,304,851	178,324	8,627,165	27,338,330

1. The *Auditor General Act* requires our Office to report annually on expenditures for advertising and printed matter reviewable under the *Government Advertising Act, 2004* (GAA). In order to verify completeness and accuracy, we may review selected payments and supporting documentation. We can also examine compliance relating to the sections of the GAA dealing with submission requirements and use of ads during the Auditor General's review.

2. Only government ministries that incurred advertising costs are included.

3. Includes such media as billboards, transit posters and digital screens.



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