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Government Advertising Expenditures: An Overview

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Summary

Government advertising can be controversial if it conflicts with citizens' views about the proper role of government. Yet some government advertising is accepted as a normal part of government information activities. According to an industry estimate, the federal government spends over \$1 billion a year on advertising. However, government advertising expenditures are difficult to estimate because (1) there is no government-wide definition of what constitutes advertising; and (2) there is no central authority to which agencies are required to report advertising expenses. Agencies' discretion to advertise is limited primarily by restrictions imposed by Congress in authorization and appropriations statutes and by the principles set forth in volume 1 of the Government Accountability Office's (GAO's) *Principles of Federal Appropriations Law*. Any oversight of government advertising expenditures rests with agencies' inspectors general, GAO, and Congress. In May and June 2004, S. 2416 and H.R. 4639 were introduced; both would prevent federal agencies from expending funds on advertisements that are false, deceptive, or contain political messages. This report will be updated as events warrant.

Background

Americans have long been of mixed mind about advertising. On the one hand, advertising is beneficial insofar as it provides information. On the other hand, advertising (be it private or governmental) often attempts to persuade individuals to alter their behavior. This can create, paradoxically, an image problem for advertising: "Advertising has always been the Peck's Bad Boy of American business ... urging us to buy things we probably don't need and often can't afford."¹ Unease with advertising can be magnified if the advertiser is the government, especially should an advertisement conflict with widely held beliefs about government. To take a few examples, many Americans believe that government was instituted to protect liberty and that the essence of liberty is the freedom to think and do as one pleases, provided one does not harm others; that the

¹ Andrew Hacker, "Poets of Packaging, Sculptors of Desire," *New York Times*, June 24, 1984, section 7, p.1.

government should not needlessly or wantonly spend taxpayer money; that citizens should be thrifty and self-reliant. In light of these beliefs, it is not surprising that controversies have arisen around government advertisements that attempt to dissuade individuals from using marijuana,² that are expensive (such as the U.S. Postal Service's sponsorship of Lance Armstrong's professional bicycling team),³ or that promote social service programs.⁴

However, not all government advertising is controversial. Few complain when the government advertises to announce job openings,⁵ to announce competitions for contracts,⁶ or to announce the disposal of surplus government property.⁷ These sorts of advertisements likely are viewed as part of government's duty to inform the public about its activities. As one of the Hoover Commission task forces wrote a half-century ago:

Apart from his responsibility as spokesman, the department head has another obligation in a democracy: to keep the public informed about the activities of his agency. How far to go and what media to use in this effort present touchy issues of personal and administrative integrity. But of the basic obligation [to inform the public] there can be little doubt.⁸

And not all advertisements that tell people what to do are ill regarded. Few have criticized government advertising campaigns that encourage citizens to buy war bonds or avoid inadvertently setting forest fires.

Estimates of Government Advertising Expenditures

U.S. government expenditures on advertising are difficult to ascertain. There are at least two reasons for this: (1) there is no government-wide definition of what constitutes

² Jacob Sullum, *Saying Yes: In Defense of Drug Use* (New York: Tarcher/Putnam, 2003). Beyond philosophical objections, there are questions of expense and efficacy. Between FY1999 and FY2003, nearly \$900 million was appropriated for the National Youth Anti-Drug Media Campaign (NYADMC). See CRS Report RS21490, *War on Drugs: The National Youth Anti-Drug Media Campaign*, by Mark Eddy.

³ John Fritze, "The National Cycling Team Gets Millions in Postal Funds," *Indianapolis Star*, July 7, 2002, p. A1.

⁴ Those who advocate self-reliance may take offense at advertisements that encourage individuals to more heavily utilize government support programs. For example, Tom Schatz, president of Citizens Against Government Waste, criticized the use of a blimp to advertise Medicare. "The notion of advertising an entitlement program is strange to begin with." Citizens Against Government Waste, "It's a Bird! It's a Plane! It's a Huge Boondoggle! Medicare Blimp Costs Taxpayers \$600,000," *PR Newswire*, Nov. 3, 2003.

⁵ See, for example, the U.S. federal government's job posting website, [<http://www.usajobs.com>].

⁶ E.g., 41 U.S.C. § 5.

⁷ 40 U.S.C. § 44.

⁸ The Commission on Organization of the Executive Branch of the Government, *Report of the Task Force on Departmental Management: Prepared for the Commission on Organization of the Executive Branch of the Government* (Washington: GPO, 1949), Appendix E, p. 57.

advertising;⁹ and (2) there is no central authority to which agencies are required to report advertising expenses.¹⁰ Nevertheless, an estimate of total government advertising expenditures exists.¹¹ In the past, the GAO and the Office of Management and Budget (OMB) have produced studies on total government advertising expenditures.¹² Now, however, the most recent figures are available each year from the periodical *Advertising Age*. *Advertising Age*'s figures are estimates generated by drawing on measures of advertisements run in major media (print advertisement, commercials, etc.) in the United States and self-reporting by firms that advertise. *Advertising Age* draws on these data to report three types of advertising expenditures:

- “measured” advertisement expenditures (which include advertisements run in major outlets);
- “unmeasured” advertisement expenditures (which include advertisements delivered by direct mail, special events, and other means); and
- “total” advertisement expenditures (which include both measured and unmeasured advertisement expenditures).

According to the most recent figures, the federal government had \$1.102 billion in total advertising expenditures in calendar year 2003. This is an increase from \$1.083 billion in expenditures in the year 2002 but down from \$1.262 billion in 2000.¹³ For perspective, in 2003 the federal government ranked 28th in expenditures among advertisers. General Motors Corporation ranked highest, spending more than three times as much as the federal government (\$3.43 billion). Of the \$1.102 billion in total 2003 federal advertisement expenditures, about \$642.8 million was attributed to “measured

⁹ Often it is difficult to discern the difference between advertising, public information, promotional activities, and public relations. To take just one example, should the costs of the production and distribution of a press release relating that Legal Services Corporation's *Equal Justice Magazine* won two awards be counted as advertising? (Press release, May 7, 2003, at [<http://www.lsc.gov/pressr/releases/050703pr.htm>], visited Feb. 10, 2004.)

¹⁰ It is the case that a large portion of government contractual expenditures are tracked by the Federal Procurement Data System (FPDS), which is administered by the Federal Procurement Data Center, a part of the General Services Administration. However, the FPDS has some obvious limitations: it does not include expenditures by the legislative or judicial branches or the U.S. Postal Service. Moreover, FPDS tracks primary contracts but not subcontracting, and only those of over \$25,000. Finally, without agreement among agencies over what constitutes advertising, any data drawn from FPDS must be viewed with considerable caution. On federal procurement tracking, see CRS Report 98-79C, *Federal Funds: Tracking Their Geographic Distribution*, by James R. Riehl.

¹¹ None of these studies include costs associated with government public service announcements (i.e., advertisements that media run at no charge to the government).

¹² U.S. General Accounting Office, *Government Expenditures for Advertising*, GAO Report LCD-77-434, July 12, 1977. On page 2, this report mentions an OMB study, which is no longer available. There have been, however, a number of examinations of individual government advertising programs and their efficacy. See, for example, U.S. General Accounting Office, *Military Recruiting: DOD Needs to Establish Objectives and Measures to Better Evaluate Advertising's Effectiveness*, GAO Report GAO-03-1005, Sept. 2003.

¹³ “100 Leading National Advertisers,” *Advertising Age*, June 28, 2004, p. S-2; June 23, 2003, p. S-2; and June 24, 2002, p. S-3.

advertisement spending” and \$459.5 million to “unmeasured advertisement spending.” *Advertising Age* also broke down these “measured” advertisement expenditures to provide estimates of government spending by media type (**Table 1**). In the past, *Advertising Age* reported the 10 or 11 government entities with the highest advertising expenditures (**Table 2**).

Table 1. U.S. Government Measured Advertising Expenditures, by Media Type, 2003
(in millions of dollars)

Medium	2003
Consumer magazines	\$134.7
Newspapers	\$49.6
Outdoor	\$6.2
Television	\$420.6
Radio	\$22.1
Internet	\$9.5
Yellow Pages	\$0.0

Source: *Advertising Age*, June 28, 2004, p. S-2.

Table 2. U.S. Government Total Advertising Expenditures, by Selected Entities, 2000
(in millions of dollars)

Agency	2000
Office of National Drug Control Policy	\$114.857
U.S. Census Bureau	\$100.508
U.S. Army	\$98.428
U.S. Postal Service	\$96.631
U.S. Air Force	\$48.909
U.S. Mint	\$44.766
U.S. Navy	\$30.055
Amtrak	\$28.427
U.S. Dept. of Housing and Urban Development	\$23.614
U.S. Marine Corps	\$23.320
FEMA- National Flood Insurance	\$18.319

Source: *Advertising Age*, Sept. 24, 2001, p. S-26.

It is unclear how accurate these figure are. For example, the U.S. Postal Service reported to Congress that it spent \$241 million on advertising in FY1999, \$158 million

in FY2000, and \$148 million in FY2001.¹⁴ It is difficult to square these numbers with *Advertising Age's* figure of \$96.631 million for calendar year 2000.

Restrictions on Government Advertising

Generally speaking, there are few government-wide restrictions on government advertising. Furthermore, no single agency is charged with tracking and overseeing the advertising expenditures of federal agencies.

An assortment of restrictions on agencies' advertising expenditures may be found in a number of places, such as annual appropriations acts, the *U.S. Code*, and the *Code of Federal Regulations*. For example, 10 U.S.C. 728 limits the use of appropriated funds "for payment of costs of advertising by any defense contractor"; and 7 C.F.R. § 12 contains guidelines for government advertisements promoting blueberries, honey, and mohair, among other agricultural products. For many decades, annual Treasury appropriations laws have contained prohibitions on the use of funds for the purpose of "publicity or propaganda purposes not authorized by the Congress."¹⁵

A fuller statement of the limitations on government advertising may be found in GAO's *Principles of Federal Appropriations Law, Volume I*.¹⁶ Though not an independent source of legal authority, *Principles* does provide some guidance as to what constitutes improper and/or illegal agency use of appropriated funds for advertising. *Principles* begins with the 1919 federal anti-lobbying law (18 U.S.C. 1913) that prohibits agencies from using government funds to pay for advertisements designed to sway Members of Congress. *Principles* describes the prohibitions against "publicity and propaganda" included in appropriations acts since 1949, the limitations on informational activities by agencies, and the prohibition of government use of "publicity experts." That said, *Principles* is silent on many matters, noting that:

[w]hether an agency's appropriations are available for advertising, like any other expenditure, depends on the agency's statutory authority. Whether to advertise and, if so, how far to go with it are determined by the precise terms of the agency's program authority in conjunction with the necessary expense doctrine and general restrictions on the use of public funds for the various anti-lobbying statutes.¹⁷

Under the "necessary expense doctrine," an agency may use a general appropriation to pay any expense that is (1) necessary or incidental to the achievement of the underlying objectives of the appropriation, (2) not prohibited by law, and (3) not otherwise provided

¹⁴ U.S. Congress, Senate Committee on Governmental Affairs, Subcommittee on International Security, Proliferation and Federal Services, *Annual Report of the Postmaster General*, hearing, 107th Cong., 2nd sess., Sept. 27, 2002, (Washington: GPO, 2003), p. 75.

¹⁵ Most recently, see P.L. 108-199 § 601.

¹⁶ *Principles of Federal Appropriations Law* consists of four volumes and enunciates GAO's understanding of the statutes, regulations, and case law governing proper use of appropriated funds. The relevant portions can be found in U.S. General Accounting Office, *Principles of Federal Appropriations Law, Volume I*, GAO Report GAO/OGC-91-5, July 1991, pp. 4-156 - 4-191. Herein this volume is referred to as *Principles*.

¹⁷ *Ibid.*, p. 4-188.

for by statute or appropriation.¹⁸ Agencies, then, generally have a good deal of discretion in using appropriated funds to advertise.

The Department of Justice is responsible for prosecutions under criminal statutes, such as the aforementioned 1919 anti-lobbying law. Otherwise, investigation and enforcement of appropriate practices regarding government advertising falls to agencies' inspectors general, GAO, and Congress. Yet it is unclear how vigorously these limits on advertising are being enforced. Congress has examined some large advertising campaigns, such as the Bureau of the Census's planned expenditure of over \$100 million to encourage citizen participation in the 2000 census.¹⁹ However, the Department of Justice never has indicted anyone for lobbying with appropriated funds.²⁰ In 2004, GAO did issue a few comptroller general opinions on the use of appropriated funds for advertising the new Medicare program and promoting a new forest management plan.²¹ However, GAO reviews of this sort are infrequent and its opinions are purely advisory — they do not have the force of law.²²

Recent Legislation

S. 2416 and companion bill H.R. 4639 were introduced on May 13 and June 22, 2004. It would require GAO to review any advertisement costing more than \$10 million. Agencies would not be allowed to expend appropriated funds on advertisements deemed false, deceptive, or political. S. 2416 was referred to the Senate Committee on Governmental Affairs and H.R. 4639 to the House Committee on Government Reform.

¹⁸ On the necessary expense doctrine, see General Accounting Office, *Principles of Federal Appropriations Law, Volume 1*, pp. 4-14 - 4-28.

¹⁹ E.g., U.S. Congress, House Committee on Governmental Reform, Subcommittee on the Census, *Oversight of the Census: Examining the Census Bureau's Advertising Campaign*, hearing, 106th Cong., 1st sess., July 27, 1999 (Washington: GPO, 2000).

²⁰ U.S. General Accounting Office, *No Strong Indication That Restrictions on Executive Branch Lobbying Should Be Expanded*, GAO Report GGD-84-46, Mar. 20, 1984, p. 3.

²¹ U.S. General Accounting Office, *Medicare Prescription Drug, Improvement, and Modernization Act of 2003 — Use of appropriated funds for flyer and print and television advertisements*, B-302504, March 10, 2004; U.S. General Accounting Office, *Department of Health and Human Services, Centers for Medicare & Medicaid Services — Video News Releases*, B-302710; U.S. Government Accountability Office, *Forest Service — Sierra Nevada Forest Plan Amendment Brochure and Video Materials*, B-302992, Sept. 10, 2004. For further information, see CRS Report RS21811, *Medicare Advertising: Current Controversies*, Kevin R. Kosar.

²² A search of GAO's website archive reveals that prior to the 2004 decisions, the most recent GAO decision on government advertising came in 1993, when GAO examined and approved the U.S. Forest Service's purchase of advertisements for National Fishing Week [<http://searching.gao.gov/>]. U.S. General Accounting Office, Decision of the Comptroller General, *U.S. Forest Service Newspaper Advertisements*, File B-251887, July 22, 1993. The activity of inspectors general is more difficult to assess, as there are 57 inspectors general and records of their investigations are not readily accessible in one central database.