

# Review of Government Advertising

## Government Advertising Costs Near Record High

Since the government amended the *Government Advertising Act* (Act) in 2015, its advertising spending has grown steadily. These amendments weakened our Office’s authority to ensure that public money is not spent on advertising that gives the government a partisan advantage.

In 2017/18, the government spent more than \$62 million on advertising—the most since the 2006/07 fiscal year. A sizable proportion—just over 30%—was for advertisements we believe had as their primary objective to foster a positive impression of the governing party. We outline those campaigns in the following pages. Although we were required to approve these ads as compliant under the amended Act, we noted that they would not have passed our review under the original Act—and therefore would not have been broadcast, displayed or printed.

The original 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.

The original Act gave the Auditor General discretionary authority to determine what is partisan. Under this system, although our Office took issue with a very small proportion of ads (less than 1%), we approved the overwhelming majority of the

thousands of advertisements submitted to us. When significant amendments to the Act were introduced 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 we can 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 the ad must say it was paid for by the Government of Ontario.

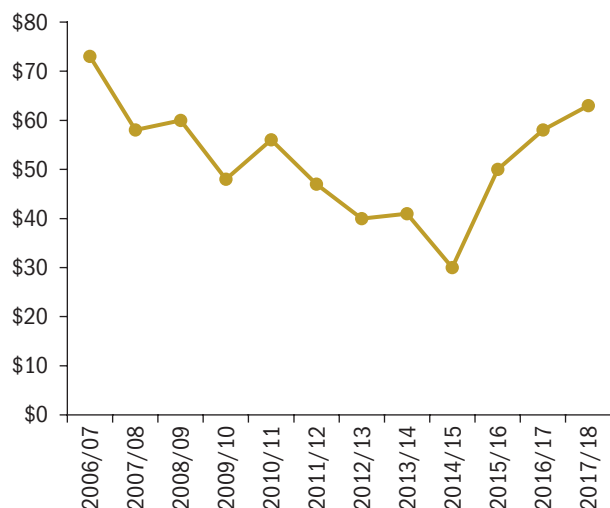
## Fiscal Year Results Show Increase

In the fiscal year ending March 31, 2018, our Office reviewed 2,595 advertising items in 292 submissions. The government spent \$55.0 million producing and running these items. The cost of digital advertising on social media and search services exempt from our review totalled another \$7.60 million. This brings the total spending on government advertising for the fiscal year to \$62.60 million.

**Figure 1** shows government spending on advertising since 2007. **Figure 2** shows a comparison of submissions and number of ads sent to our Office for review over the last four fiscal years.

**Figure 1: Advertising Expenditures, 2006/07–2017/18\* (\$ million)**

Source of data: Office of the Auditor General/Advertising Review Board



\* Yearly expenditures include all digital advertising costs.

**Figure 2: Volume and Value of Government Advertising Submitted for Auditor General Review**

Source of data: Office of the Auditor General of Ontario

Fiscal Year	# of Submissions	# of Ads	Value <sup>1</sup> (\$ million)
2017/18	292	2,595	55.0
2016/17	318	2,669	53.7
2015/16 <sup>2</sup>	229	1,384	43.7
2014/15	182	653	20.9

1. Value of ads submitted and reviewed by the Office of the Auditor General. Number of ads and submissions include preliminary submissions.
2. Digital advertising (except social and search services) was added as a reviewable medium under the *Government Advertising Act* in June 2015.

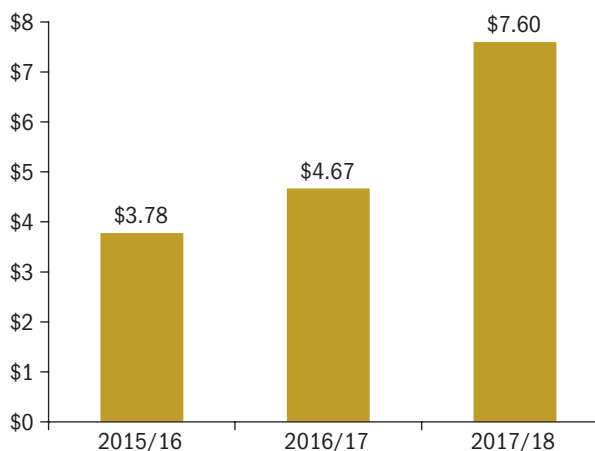
See **Appendix 1** for a breakdown of reviewable advertising costs by each government ministry.

## Exempted 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, or any combination of these

**Figure 3: Government Spending on Digital Advertising Exempt from Auditor General Review (\$ million)**

Source of data: Advertising Review Board



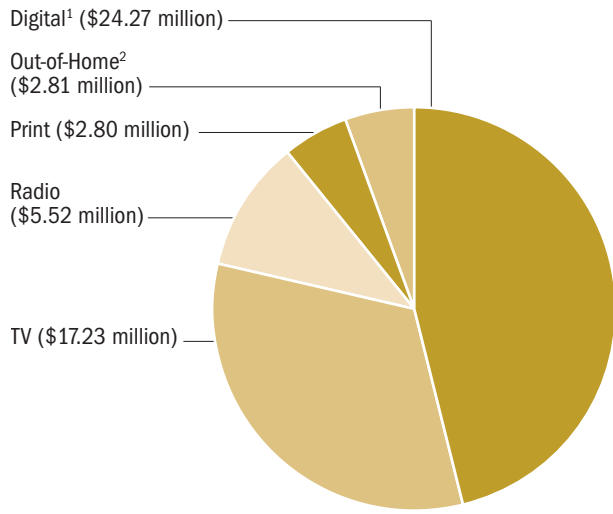
that a government office proposes to pay to have displayed on a website. However, at the same time, a regulation came into force that limited which digital advertising we could review. Regulation 143/15 says that our Office can review digital ads displayed on a website “*other than* a social media website such as Facebook or Twitter” (emphasis added). As well, ads displayed as a result of the government using “a search marketing service, such as Google AdWords,” would not be subject to review.

In the 2017/18 fiscal year, the government spent \$7.60 million on digital ads that were excluded from our review, including \$5.95 million on social media websites and \$1.65 million on search services. This is a 60% increase from the previous fiscal year. See **Figure 3**.

With the government’s spending on exempted digital advertising rising in each of the last three fiscal years, consideration should be given to closing this loophole. As **Figure 4** shows, in the last fiscal year, the government spent more on digital advertising (both included and excluded from our review) than it did on TV time. However, given the narrow definition of partisanship in the current Act, closing this loophole could likely do little to ensure that the government’s digital advertising is non-partisan.

**Figure 4: Advertising Expenditure by Medium, 2017/18**

Source of data: Ontario government ministries/Advertising Review Board



1. Includes costs of all digital advertising and search marketing services (including those types that are exempt from our review). Production/agency costs are not included.
2. Includes billboards, transit posters, digital screens, etc.

## Two Violations under Amended Act

Although we found the overwhelming majority of advertisements submitted to us complied with the revised Act, two submissions did not. The two exceptions were:

- Preliminary versions of seven Ministry of Infrastructure cinema ads violated Section 6(1)1 of the Act because they failed to include a statement saying the Government of Ontario had paid for the items. The items, in a campaign called “New Ontario Infrastructure,” promoted government public-works projects.
- Preliminary versions of four television commercials from the Ministry of Seniors Affairs were found in violation of Section 6(1)1 of the Act because they failed to include a statement saying the items had been paid for by the Government of Ontario. The items, in a campaign called “Get the Reference,” promoted government services aimed at older Ontarians.

In both cases, as required, the ministries resubmitted amended versions that included the

required statement, and we found both in compliance with the Act.

## Ad Campaigns That Would Not Have Passed Our Review under the Previous Act

The last fiscal year saw a number of advertisements submitted to our Office for review that we would not have approved under the previous version of the Act. The first two examples are ones that we first approved as compliant with the amended Act in 2016/17, and that were still being used in 2017/18. A common feature of these campaigns was that they appeared designed primarily to give the government credit for its accomplishments.

They are described below:

- **A campaign that said “when Ontario students realize their full potential today, they’re ready to take on tomorrow.”** The Ministry of Education spent \$2.81 million in 2017/18 on this campaign, called “Graduation,” identical to one titled “Education Life Cycle” that ran in 2016/17. Spending on the campaign in 2016/17 was \$2.88 million. We were required under the amended Act to find the advertisements in compliance, but we advised the Ministry that these television, cinema and digital commercials would not have passed under the previous Act because “we believe that the general thrust of this feel-good campaign is to foster a positive impression of the governing party.”
- **A campaign about reductions to hydro bills.** We had concerns in 2017/18 about a \$2.66-million multimedia campaign by the Ministry of Energy promoting the Ontario Fair Hydro Plan, which discounted electricity rates by 25%. This campaign followed a \$1.04-million radio and digital campaign on the same subject in 2016/17, which we found was self-congratulatory. We would not have approved either campaign under the old Act.

The 2017/18 campaign included television commercials (in 25 languages) along with radio ads (in 19 languages), and digital ads. We advised the Ministry that in our view, a “primary objective” of these ads was to “foster a positive impression of the government’s broader energy initiatives in the recent past rather than to provide Ontarians with specific details about the Fair Hydro Plan taking effect this summer.” However, we were required under the amended Act to approve the proposed campaign.

In addition, we told the Ministry that “the radio and TV ads suggest that ‘upgrades to our electricity system’ and ‘the elimination of coal plants’ are what have caused hydro prices to increase. This could be seen as misleading as there are other important reasons not mentioned.”

We also noted that the TV and radio ads said that there will be no increases to hydro rates beyond the rate of inflation for four years, even though that “could change because of the upcoming election in June 2018,” when a new government could potentially alter that commitment.

## Campaigns in 2017/18 We Took Issue With

Various ministries submitted the following advertising campaigns during the 2017/18 fiscal year. Under the previous version of the Act, these campaigns would not have passed our review for various reasons. However, we had to find them in compliance with the revised legislation. When we issued our compliance, we noted our concerns to the responsible ministry.

Government advertising campaigns costing more than \$1 million are listed in **Figure 5**. These campaigns accounted for almost 80% of the total reviewable expenditure on advertisements that our Office reviewed in the past fiscal year. It is worth noting that six out of the highest-costing eight cam-

paigns either would not have passed our review in their entirety or included elements that would not have prior to the 2015 revisions to the Act.

- **A campaign to promote “New Ontario Infrastructure.”** This \$4.88-million campaign, the costliest of the last fiscal year, included 329 targeted digital ads, online videos, cinema and radio ads highlighting government investments in specific infrastructure projects. In having to approve these ads under the amended Act, we advised the Ministry of Infrastructure that this campaign was “self-congratulatory” and “aimed at ensuring that the government is getting credit in certain areas of Ontario for its actions.” We also found phrases used in the ads, such as “it’s how we build,” “see how we’re building” fostered a positive impression of the government.

This campaign was similarly themed to one that ran in 2016/17 about “Ontario’s nearly \$160-billion investment in infrastructure.” Spending for this campaign was \$2.95 million for television and digital. We would also have found this campaign not to be in compliance with former Act because its overall thrust was to ensure the government gets credit for its potential future spending plans.

- **Government ads about child care that could be perceived as political.** The Ministry of Education began running advertisements in October 2017 about its plan to create more licensed child-care spaces over the next five years.

The television and pre-roll ads told viewers that: “Over the next five years, we’ll help double the amount of licensed child care for kids, aged 0 to 4.” It is not until the 30-second ads draw to a close that it is possible to determine that the government, rather than a political party, paid for them.

We told the Ministry at the time that the ads could be perceived as political in light of the forthcoming election in June 2018. We also noted that they provided no useful information

**Figure 5: Campaigns Costing More Than \$1 Million in 2017/18**

Source of data: Ontario government ministries

Topic	Ministry <sup>1</sup>	Expenditure (\$ million)
New Ontario Infrastructure	Infrastructure	4.88
Child Care Fall 2017	Education	4.06
OSAP <sup>2</sup>	Advanced Education and Skills Development	3.88
Ontario 150	Tourism, Culture and Sport	3.72
OHIP+ Launch	Health and Long-Term Care	3.60
Graduation	Education	2.81
Fair Hydro Plan-Phase II	Energy	2.66
Fair Workplaces	Labour	2.61
Seniors Aging Well	Seniors Affairs	2.50
Smoking Cessation	Health and Long-Term Care	2.39
Opioids	Health and Long-Term Care	2.02
Consumer Protection Ontario	Government and Consumer Services	1.81
Foodland Ontario	Agriculture, Food and Rural Affairs	1.77
Sexual Violence and Harassment	Status of Women	1.23
Ontario Savings Bonds	Finance	1.11
Flu Campaign	Health and Long-Term Care	1.10
ServiceOntario	Government and Consumer Services	1.02
<b>Total</b>		<b>43.17</b>

1. Name of ministry during the 2017/18 fiscal year.

2. Included three campaigns: "Monkey," "You Earned It," and "Yes You Can."

and fostered a positive impression of the government. However, the amended Act required us to find them in compliance.

The campaign was expanded to include digital advertising and multilingual television ads, which ran until February 2018. We continued to express concern that the ads provided no useful information to viewers and appeared intended to promote a positive impression of the government. In addition, we noted that "with the upcoming general election in June 2018, commitments made for 'over the next five years' could change and could be interpreted as a political campaign commitment instead of government policy." However, the amended Act required us to find the expanded campaign in compliance.

The total cost of the campaign in 2017/18 was \$4.06 million.

- **OHIP+ ads self-congratulatory.** The Ministry of Health and Long-Term Care made three preliminary submissions for a multilingual television and cinema campaign between August and October 2017 titled "A Little Easier" about OHIP+, a new program to provide free prescription drugs to all Ontarians under age 25.

We found all three submissions "self-congratulatory," and we noted that "the use of the words 'we' and 'completely 100% free' lead us to conclude that these scripts have a primary objective of promoting the partisan interests of the government party."

The Ministry subsequently made eight final submissions for the campaign, renamed "OHIP+ Launch" and covering television and digital formats. It dropped the phrase "completely 100% free," but kept the word "we."

We concluded that for three of the eight new submissions (two television and one digital), the ads “have a primary objective of promoting the partisan interests of the government party,” and would not have passed our review under the previous Act.

The campaign cost \$3.60 million in 2017/18.

- **Some labour ads misleading.** We had concerns about one component of a \$2.61-million television and digital campaign by the Ministry of Labour that outlined changes to Ontario law regarding the minimum wage, personal emergency leave, paid vacations and shift scheduling. Specifically, we found that six digital ads referencing “reliable scheduling” could “leave a misleading impression that the law has already changed in regards to scheduling” when, in fact, the scheduling provisions would not take effect until January 1, 2019. We advised the Ministry that these ads would not have passed our review under the previous version of the Act.

## Other Issues of Interest

### Government Advertising before and during Elections

The amendments made in 2015 to the *Government Advertising Act, 2004* stipulate that the government cannot advertise as of the day when an election writ is issued. As well, changes made in 2016 to election financing rules placed further limits on when the government can advertise prior to a scheduled election: government advertising is now prohibited 60 days before the writ is issued. In both cases, these rules do not apply if the government determines that the advertising relates to a revenue-generating activity, is time-sensitive, or meets any other criteria that it may prescribe.

In the period leading up to the June 7, 2018, election, we noted that the government observed these new statutory requirements. Govern-

ment offices made 34 submissions to our Office for review of items they proposed to run in the blackout period (March 10, 2018, to May 9, 2018) and/or the writ period (May 10, 2018, to June 7, 2018). Thirty-three of these submissions clearly fell within the revenue-generating or time-sensitive categories. These included Ontario Parks advertisements, notices of relocation of ServiceOntario offices, and international advertisements aimed at attracting investment to Ontario. One submission, on Ontario’s forthcoming rules regarding the legalization of cannabis, was withdrawn when our Office questioned the Ministry of the Attorney General’s representation to us that the ads were time-sensitive.

As well, we had concerns about a \$152,000 campaign whose advertisements would begin running just before the start of the blackout period. The Ministry of Government and Consumer Services (Ministry) planned a print campaign for ethnic newspapers in 19 languages that described a variety of available government services.

We advised the Ministry that “we believe that a primary objective of this campaign is to give the multi-ethnic communities it is targeting a positive impression of the governing party.” For this reason, the campaign would not have passed our review under the previous Act, although the amended Act required us to find the items in compliance.

Specifically, we noted that 44 of the 64 ads were to be published mostly in weekly newspapers, just two days before the start of the pre-writ advertising blackout. We advised the Ministry that “although the letter of the law may not be violated if the insertions occur then, we believe the spirit of it would be.” The campaign still went ahead as planned.

### Advertising by Provincial Agencies

Government agencies have been exempt from the Act since its inception almost 15 years ago. In the past year, a ministry transferred an existing advertising campaign to a newly created agency, thus



exempting a significant portion of a \$3.98-million campaign from our review.

The then Ministry of Environment and Climate Change (Ministry) created an on-line video campaign called “Reduce Your Carbon Footprint,” which described the various rebate and incentive programs available for people wanting to make their homes or businesses more energy efficient.

The Ministry submitted the campaign for our review and we found it in compliance with the revised Act. However, we advised them that the digital versions of the ads would not have passed our review under the original Act because claims about rebates “appear overstated.”

In any case, the campaign was transferred from the Ministry to a new not-for-profit agency called the Green Ontario Fund (Fund). The Fund began running the videos on television as well, even though they had not been submitted for review as television advertisements.

Although advertising by government agencies is exempt from our review, a 2005 agreement with the government 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; and
- the government granted the third party permission to use the Ontario logo or another official provincial visual identifier in the item.

As the Ontario logo was removed from the original Ministry videos, these commercials did not meet the third-party rule and so did not have to be submitted for our review.

The Ministry reported spending \$806,500 on creative costs up to the time the campaign was transferred to the Fund. Since the Fund, as an agency, does not have to submit its ads for our review, the money spent on this advertising is not included in our tabulation of how much the govern-

ment spent on advertising. However, our audit of the agency’s financial statements show that it spent an additional \$596,000 in creative costs and \$2.57 million to purchase media time.

After the new government came to power in June 2018, it announced that agency would be winding down. The rebate and incentive programs available were closed.

## 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 under the amended Act before they can run.

In addition, all proposed television and cinema commercials, along with bulk-distributed printed materials (householders) must be submitted in early versions for preliminary review in each language the government intends to run them. After receiving a preliminary approval, these proposed advertisements must be resubmitted to our Office in their final form for approval. (Under the old Act, preliminary reviews were voluntary, and could be submitted in a single language. This was a more efficient process.)

The Act requires government offices to submit reviewable items to our Office. They cannot publish, display, broadcast, or distribute the submitted

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 compliance 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 be used. 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.

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.

## Revised Criteria for Proposed Advertisements

In conducting its review, the Auditor General's Office now only determines whether the proposed advertisement is in compliance with the amended Act. The following are the areas 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. What follows is a brief description of the significant areas that have required such clarification over the years.

### Websites Used in Advertisements

Although government websites were not specifically reviewable in the original Act, we took the position that a website or similar linkage used in an advertisement is an extension of the advertisement. Following past discussions with the government, our Office came to an agreement 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 this page for any content that may not meet the standards of the amended Act. For example, the page must not include a minister's name or photo.

### 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 we examine websites 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.

A government social-media account and any content that its administrators may post to it are not considered 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 financed partisan advertising by government. We have identified such items in every one of our annual reports, including this one, since the amendments took effect.

### RECOMMENDATION 1

We recommend that the previous version of the *Government Advertising Act, 2004* as it appeared on June 3, 2015, be reinstated, while leaving in the amendments that included digital advertisements to be included as a reviewable medium.

### TREASURY BOARD SECRETARIAT RESPONSE

The government will endeavor to explore options for the review of government advertising. Expenditure management is a priority for this government. In support of this priority, the government will continually review advertising paid for by the government of Ontario to ensure it is delivered in the most efficient and effective manner, and delivers value for taxpayer dollars.

## Appendix 1: Expenditures for Reviewable Advertisements under the Government Advertising Act, 2004, April 1, 2017–March 31, 2018\*

Source of data: Ontario government ministries

Ministry <sup>1</sup>	# of		Production/ Agency Costs (\$)	Media Costs (\$)				Total (\$)	
	Submissions	Items		TV	Radio	Print	Digital		Out-of-Home <sup>2</sup>
Accessibility	1	16	28	–	–	–	490,000	–	490,028
Advanced Education and Skills Development	9	104	697,125	2,233,638	–	27,940	761,540	896,365	4,616,608
Agriculture, Food and Rural Affairs	5	80	101,773	989,554	604,151	–	–	79,503	1,774,981
Attorney General	4	4	241	–	–	4,628	1,559	–	6,428
Citizenship and Immigration	7	119	113,534	387,574	91,361	118,696	93,437	–	804,602
Community Safety and Correctional Services	3	3	520	47,292	–	1,136	5,954	–	54,902
Economic Development and Growth	25	95	274,608	3,000	1,375	438,093	777,323	574,527	2,068,926
Education	16	114	1,026,973	4,023,277	–	1,500	1,974,510	–	7,026,260
Energy	6	99	860,227	657,591	891,905	–	253,300	–	2,663,023
Environment and Climate Change	3	44	806,500	–	–	–	–	–	806,500
Finance	6	136	255,458	–	605,818	325,424	381,572	–	1,568,272
Government and Consumer Services	16	176	829,286	–	–	108,128	2,046,892	–	2,984,306
Health and Long-Term Care	51	440	1,644,870	3,164,413	2,513,295	723,509	3,644,808	1,014,947	12,705,842
Housing	1	16	1,710	–	95,389	–	139,766	59,227	296,092
Infrastructure	5	343	999,268	124,280	93,797	–	3,659,731	–	4,877,076
International Trade	10	206	213,929	–	–	38,982	725,945	88,823	1,067,679
Labour	6	100	864,969	993,756	249,383	–	505,120	–	2,613,228
Municipal Affairs	1	1	1,857	–	–	5,154	–	–	7,011
Natural Resources and Forestry	33	146	13,550	12,096	68,087	162,092	93,971	19,553	369,349
Northern Development and Mines	2	3	220	–	–	317	1,225	–	1,762
Research and Innovation	1	2	–	–	27,912	23,315	–	–	51,227
Seniors Affairs	10	156	639,414	890,865	–	674,994	299,365	–	2,504,638

Ministry <sup>1</sup>	# of		Production/ Agency Costs (\$)	Media Costs (\$)					Total (\$)
	Submissions	Items		TV	Radio	Print	Digital	Out-of-Home <sup>2</sup>	
Status of Women	2	3	268,071	653,748	—	—	304,034	—	1,225,853
Tourism, Culture and Sport	60	151	303,010	3,052,654	161,366	115,606	406,321	6,650	4,045,607
Transportation	9	38	13,554	—	118,221	28,850	104,780	67,003	332,408
<b>Total</b>	<b>292</b>	<b>2,595</b>	<b>9,930,695</b>	<b>17,233,738</b>	<b>5,522,060</b>	<b>2,798,364</b>	<b>16,671,153</b>	<b>2,806,598</b>	<b>54,962,608</b>

\* The Auditor General/Act requires our Office to report annually on expenditures for advertising and printed matter reviewable under the *Government Advertising Act, 2004*. 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 Act dealing with submission requirements and use of ads during the Auditor General's review.

1. Name of ministry during the 2017/18 fiscal year. The ministries of Children and Youth Services, Community and Social Services, Indigenous Relations and Reconciliation, Francophone Affairs and Treasury Board Secretariat did not incur any advertising costs under the Act.

2. Includes billboards, transit posters, digital screens, etc. Media costs associated with cinema advertising are included in TV column.