



Office of the Auditor General of Ontario

## Review of Government Advertising

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*December 2023*

# Review of Government Advertising

## Government Advertising Dropped Significantly After Decrease in COVID-19 Advertising

The Office of the Auditor General of Ontario has been reviewing government advertising and related government spending annually since 2005, when the *Government Advertising Act, 2004* (Act) was proclaimed.

In the fiscal year ending March 31, 2023, the government spent \$33.72 million (see **Figure 1**) on advertising, less than half of what was spent the previous fiscal year (\$69.33 million). One reason for the drop in spending was a substantial decrease in advertising campaigns about COVID-19. In the 2021/22 fiscal year, COVID-19 vaccination advertising and

related initiatives totalled \$45.68 million, or 66% of all government advertising. In 2022/23, however, Ministry of Health advertising spending dropped to less than \$3 million on all its campaigns. For example, COVID-19 guidance and winter vaccine advertising campaigns totalled less than \$300,000 in 2022/23.

**Figure 2** shows the long-term trend in government advertising expenditures over the last 15 years, from 2008/2009 up to and including March 31, 2023. While the government's total spending on advertising in 2022/23 amounted to \$33.72 million, our Office reviewed \$28.86 million in costs for 74 submissions including 923 advertisements. Some types of digital

**Figure 1: Advertising Expenditures, Reviewable and Exempt from Our Office's Review**

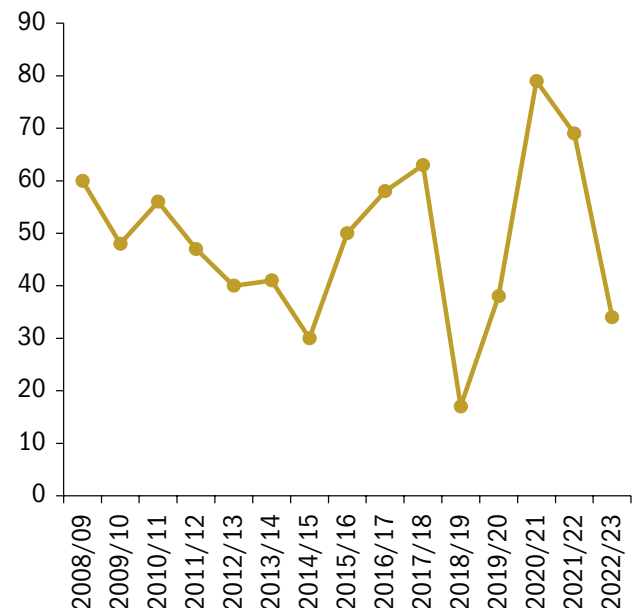
Prepared by the Office of the Auditor General of Ontario

Government Advertising	Cost (\$ million)
Reviewed by the OAGO as required by the <i>Government Advertising Act, 2004</i>	28.86
Not reviewed due to Ontario Regulation 143/15 covering social media <sup>1</sup>	4.06
Not reviewed due to Ontario Regulation 143/15 covering search-marketing services <sup>1</sup>	0.80
<b>Total</b>	<b>33.72</b>

1. Ontario Regulation 143/15 under the *Government Advertising Act, 2004* limits what types of digital advertising our Office can review.

**Figure 2: Trend in Government Advertising Expenditures 2008/09–2022/23 (\$ million)**

Source of data: Ontario ministries and Advertising Review Board



advertising, including advertising on social media platforms and through search-marketing services, have been exempt from our review since a 2015 amendment to the Act. In 2022/23, digital advertising in these media totalled \$4.86 million.

The top 10 advertising campaigns by expenditure for the 2022/23 fiscal year are listed in **Figure 3**. These campaigns accounted for \$29.93 million (or 89%) of the total expenditure on advertisements in 2022/23. Our Office reviewed content created for reviewable forms of media for these campaigns, such as television, radio and website advertisements, but did not review content created for social media and search-marketing services because these are exempted by regulation from our review.

Our Office took issue with two campaigns totalling \$24.89 million—close to three quarters (74%) of the total dollars spent on government advertising in 2022/23. Elements of both campaigns would have been considered partisan advertising by our Office under the original Act. Changes made to the Act in 2015, however, narrowed

the definition of “partisan,” and we were required to find these ads in compliance with the Act.

The cost of advertising campaigns we report on includes both the purchase of advertising media and production costs. See the **Appendix** for a breakdown of reviewable advertising costs by each government ministry.

## Our Office’s Review Under the Government Advertising Act, 2004

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 originally gave the Auditor General discretionary authority to determine what was partisan. Under this system, our Office took issue with a very small proportion (less than 1%) of ads, and approved the overwhelming majority of the thousands of advertisements submitted to us. When significant amendments to

Figure 3: Top Ten Advertising Campaigns by Cost, 2022/23

Topic	Ministry	Expenditure* (\$ million)
<b>Building a Better Health Care System</b>	Finance	20.80
<b>A Plan to Catch Up</b>	Education	4.09
<b>Cancer Screening</b>	Health	1.14
<b>Breaking Free</b>	Health	0.82
<b>Winter Driving</b>	Transportation	0.69
<b>Service Ontario, Always ON</b>	Public and Business Service Delivery	0.64
<b>Make it Local, Economic Recovery</b>	Agriculture, Food and Rural Affairs	0.53
<b>Learn and Stay Grant</b>	Colleges and Universities	0.49
<b>Housing Supply</b>	Municipal Affairs and Housing	0.45
<b>Cervical Cancer Screening</b>	Health	0.28
<b>Total</b>		<b>29.93</b>

\* Expenditure totals include both reviewable and non-reviewable media.

the Act were introduced by the government in 2015, we cautioned that these changes 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 to the Act imposed a specific and narrow definition of “partisan” as the only measure we could use in our review of advertisements. Essentially, the Auditor General cannot find an advertisement partisan under the Act as long as the advertisement avoids:

- using the name, voice or image of an elected official, or the logo of a political party;
- directly identifying and criticizing a recognized party or member of the Assembly; or
- including, to a significant degree, a colour associated with the governing party.

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 advertisement states it was paid for by the government of Ontario.

Our Office continues to identify those advertisements that would not have passed our review under the original version of the Act.

## Campaigns We Took Issue With in 2022/23

In the fiscal year 2022/23, we documented concerns about one campaign submitted to our Office by the Ministry of Finance, and another submitted by the Ministry of Education. Under the previous version of the Act, these ads and their respective websites would not have passed our review.

Our Office concluded that the primary objective of these ads and/or information on their respective websites was to foster a positive impression of the government. A description of these two ad campaigns follows.

- **Building a Better Health Care System campaign.** Submissions from the Ministry of Finance for the Building a Better Health Care System campaign would not have passed our review under the former version of the *Government Advertising Act*,

2004 for either its ad content or information on the website referenced in the campaign ads.

While some ads in the campaign included new information about health care services such as “pharmacists can now write and renew certain prescriptions,” of the 443 ads submitted, 181 would have been classified as partisan for their content. The ads we took issue with included statements such as “we’re reducing wait times for surgeries,” “we’re building 3,000 more hospital beds” and “we’re adding and upgrading nearly 60,000 long-term care beds”, without context or evidence to back up these claims. As well, information on the website referenced in the campaign’s ad content included statements about “recruiting thousands of health care workers.”

According to a document submitted to our Office, the campaign was meant “to build awareness of the Province’s plan to improve Ontario’s health care system,” to “educate Ontarians about the array of health care resources available to them and the changes being implemented to improve access to quality health care,” and to “(build) confidence in the province’s health system and (empower) people to protect themselves so the province and economy can remain open to support the people of Ontario in many aspects of daily life including work, health and family.”

This Ministry of Finance campaign represented \$20.80 million in advertising spending—the highest dollar value campaign in 2022/23. It accounted for about 62% of the government’s \$33.72 million total spending on advertising in the fiscal year.

- **A Plan to Catch Up campaign.** The ads in this campaign directed Ontarians to a website that included messages that would not have passed our review under the former version of the *Government Advertising Act, 2004*. The website content included statements about “hiring 3,000 more staff in schools” but offered no context or



evidence to back up the claims. It also included statements about the government’s position that might have been intended to influence public perceptions of teachers and/or their bargaining agents during contract negotiations, such as “providing teachers with a fair and reasonable pay raise” and “updating hiring practices to meet the needs of students first.”

The purpose of the campaign, according to a document submitted to our Office, was to raise awareness among Ontario parents and the general public that Ontario has a plan to support students coming out of the pandemic that will prepare them for the jobs of tomorrow. The ads would “demonstrate an understanding that COVID-19 has been hard on many students” and that it would be “important for students to be in class with their peers so that they get the full school experience that includes extra-curriculars.”

The advertising campaign, which cost more than \$4 million, had the second-highest cost of all campaigns in 2022/23.

We were required to find both campaigns in compliance, due to the narrow definition of “partisan” in the current Act. When we issued our compliance opinions, however, we noted our reservations to both submitting ministries.

See **Figure 3** for the top 10 campaigns by cost of 2022/23.

## Other Issues of Interest

### Digital Advertising Dominated; Some Government Campaigns Ran Using Only Social and/or Search Marketing

Our authority to review digital advertising came into effect along with other changes made to the Act in June 2015. Digital advertising includes video, text, images and any combination of these that the government proposes to pay to have displayed on a website or digital screen. Ontario Regulation 143/15 under

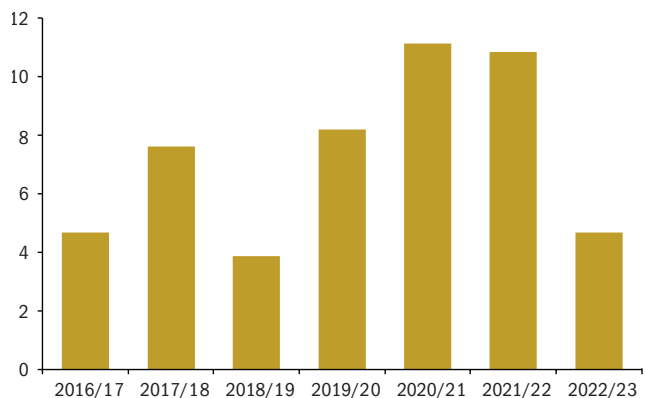
the Act limits what types of digital advertising we can review. Our Office can review only digital ads displayed on a website “other than a social media website such as Facebook or Twitter.” As well, ads displayed as a result of the government using a search-marketing service, such as Google Ads, are not subject to our review.

In the 2022/23 fiscal year, the government spent a total of \$4.86 million on digital ads that were excluded from our review. This included \$4.06 million on ads that ran on social media sites and \$0.80 million on search-marketing services. In 2021/22, the government spent \$10.85 million on ads on social media sites and search-marketing services, or about 16% of the \$69.33 million spent on all advertising that year. In 2022/23, the government spent \$4.86 million on these types of ads, or just over 14% of the \$33.72 million in total spending. **Figure 4** shows the trend in government spending on exempted digital advertising over the last seven fiscal years.

While the percentage of total spending on exempted media was down slightly overall, for the first year, a number of ministries ran relatively low-cost campaigns using only social media and/or search-marketing services. For example, the Ministry of Labour, Immigration, Training and Skills Development ran a search-marketing services campaign for about \$28,000 to inform people coming from Ukraine to Ontario, and

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

Source of data: Advertising Review Board, Ministry of Public and Business Service Delivery and other Ontario ministries.



the residents and businesses interested in supporting them, of available resources and supports. As another example, the Ministry of Natural Resources and Forestry ran social-media-only information campaigns on flood safety, rabies awareness, an Indigenous Youth Work Exchange Program and a Stewardship Youth Ranger Program for a total cost of just over \$22,000.

In 2022/23, spending on all digital advertising, including exempted social media and search-marketing services, accounted for \$13.93 million compared to \$12.87 million for all other types of advertising. (Neither total includes agency fees.) See **Figure 5** for a breakdown of spending by medium.

Similar to 2020/21, the government's use of, and spending on, all digital advertising in 2022/23 was more than all of its spending on TV, radio and print advertising combined. In our view, given this

significant trend, our Office should be required to review all digital ads the government pays for, without exception.

## Overview of Our Compliance Function

### What Falls Under the Act

The *Government Advertising Act, 2004* (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.

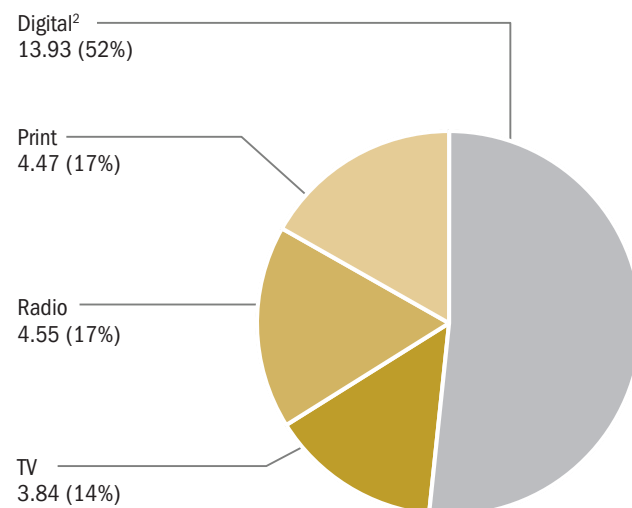
The Act requires government offices to submit all reviewable items to our Office. They cannot publish, display, broadcast or distribute the item until the head of that office (usually the deputy minister) receives notice, or is deemed to have received notice, that the advertisement has been found in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

**Figure 5: Advertising Expenditures<sup>1</sup> by Medium (\$ million)**

Source of data: Ministry of Public and Business Service Delivery and other Ontario ministries



1. Agency fees are not included. Out-of-home advertisements, which include billboards, transit posters, etc., was reported as a \$400 expenditure.
2. Includes media costs of all digital and social media advertising, and search-marketing services (including those types that are exempt from our 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 original Act, preliminary reviews were voluntary, and usually only ads in English were submitted for preliminary review.)

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 complies with the amended Act. The following

are the requirements with which the advertisement must comply:

It must include a statement that it is paid for by the government of Ontario.

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 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 "first 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 were being followed, in the same way that 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.

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, potentially paving 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 was in force from January 30, 2006, to June 3, 2015, be reinstated, but also include an amendment that adds digital advertising as a reviewable medium.

### TREASURY BOARD RESPONSE

The government continues to ensure the Office of the Auditor General reviews and approves advertising spends 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.

The government is not proposing any amendments to the Act at this time.

### RECOMMENDATION 2

We recommend that the government revoke Ontario Regulation 143/15 under the *Government Advertising Act, 2004* to enable the Office of the Auditor General of Ontario to review all digital advertising paid for by the government, without exception.

### TREASURY BOARD RESPONSE

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

Paid social advertising often forms 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 reviewable under the Act.

The government is maintaining the status quo at this time.



## Appendix: Expenditures for Reviewable Advertisements Under the Government Advertising Act, 2004, April 1, 2022–March 31, 2023<sup>1</sup>

Source of data: Ontario government ministries

Ministry <sup>2</sup>	# of Submissions	# of Items	Agency Fees and Production Costs (\$)	Media Costs (\$)					Out-of-Home <sup>3</sup>	Total (\$)
				TV and Cinema	Radio	Print	Digital			
Agriculture, Food and Rural Affairs	9	69	121,754	27,064	772,246	59,974	26,927	-	1,007,965	
Colleges and Universities	2	6	-	-	-	1,290	219,809	-	221,099	
Economic Development, Job Creation and Trade	3	8	6,421	-	-	-	90,792	-	97,213	
Education	11	67	809,305	922,869	1,279,635	367,641	367,300	-	3,746,750	
Finance	11	447	5,954,166	2,888,531	2,106,181	3,977,641	5,997,938	-	20,924,457	
Health <sup>4</sup>	8	172	-	-	-	-	1,654,163	-	1,654,163	
Labour, Immigration, Trade and Skills Development	2	8	8,220	-	-	9,964	98,603	-	116,787	
Natural Resources and Forestry	5	14	1,260	-	2,885	12,986	9,281	400	26,812	
Public and Business Service Delivery	3	22	-	-	-	-	173,235	-	173,235	
Solicitor General	5	6	-	-	746	1,770	2,671	-	5,187	
Tourism Culture and Sport	13	78	5,925	-	19,220	41,957	227,059	-	294,161	
Transportation	2	26	18,250	-	373,704	-	201,385	-	593,339	
<b>Total</b>	<b>74</b>	<b>923</b>	<b>6,925,301</b>	<b>3,838,464</b>	<b>4,554,617</b>	<b>4,473,223</b>	<b>9,069,163</b>	<b>400</b>	<b>28,861,168</b>	

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 (Act)*. In order to verify the completeness and accuracy, we may review selected payments and supporting documentation. We may also examine compliance relating to the section of the Act dealing with submission requirements and use of advertisements during the Auditor General's review.

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

3. Includes billboards, transit posters, etc.

4. Data does not include submissions made in 2022/23 where costs were to be incurred in 2023/24 only. Financial data includes costs incurred in 2022/23 relate to extensions granted for 2021/22 submissions.



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