Guidelines on MLA Advertising and Communications During the Pre-campaign Period

Purpose:

To provide information regarding advertising and other communication activities conducted by or on behalf of Members of the Legislative Assembly during the 60 days before a campaign period.

Discussion:

Election advertising is defined by section 228 of the Election Act as the transmission to the public by any means, during the period beginning 60 days before a campaign period and ending at the end of the campaign period, of an advertising message that promotes or opposes, directly or indirectly, a registered political party or the election of a candidate, including an advertising message that takes a position on an issue with which a registered political party or candidate is associated.

Advertising includes, but is not limited to:

(a) advertisements on television, radio or in newspapers and magazines  
(b) advertising on Internet websites  
(c) brochures, signs, posters, billboards  
(d) mailing inserts, newsletters, and  
(e) displays, exhibitions

The Election Act establishes that election advertising does not include:

(a) the publication without charge of news, an editorial, an interview, a column, a letter, a debate, a speech or a commentary in a bona fide periodical publication or a radio or television program,  
(b) the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be an election,  
(c) the transmission of a document directly by a person or a group to their members, employees or shareholders, or  
(d) the transmission by an individual, on a non-commercial basis on the Internet, or by telephone or text messaging, of his or her personal political views.
An election expense includes the value of property or services used during the period beginning 60 days before a campaign period by or on behalf of a candidate to promote or oppose, directly or indirectly the election of a candidate. Therefore, the value of any election advertising or campaigning conducted by or on behalf of a candidate during the 60 days before a campaign period is an election expense and subject to the candidate’s election expenses limit.

Section 3.1 (2) of the *Election Act* provides that nothing in the Act affects a Member of the Legislative Assembly in the doing of an act necessary for the performance of the Member’s duties. Elections BC recognizes that Members may continue informing the public of available services during the 60 days before a campaign period. However, there are perception issues regarding what does and does not constitute election advertising and a public expectation that Elections BC will monitor those activities and respond to complaints regarding MLAs conducting advertising containing partisan messages.

It is important to note that nothing in these guidelines supersedes rules regarding the use of public funds by MLAs.

**Guidelines:**

In order for advertising to meet the definition of election advertising established by the *Election Act*, the advertising must directly or indirectly promote or oppose a candidate or a registered political party. The test must be one of intention, not perception. Intent is subjective, but objective considerations will be used as indicators of intent.

**Indicators that would support the position that advertising conducted by or on behalf of a Member of the Legislative Assembly was not intended to promote or oppose the election of a candidate or registered political party would include:**

- advertising that has occurred historically during the relevant time of year
- advertising that is consistent with previous advertising conducted by the Member
- factual information on how to contact the Member, including the address of the Member’s constituency office, or
- advertising within the normal parameters of promotion for a specific program or activity
- advertising or activities that are necessary for the performance of a Member’s duties
Indicators that MLA advertising and activities are election campaigning or election advertising would include:

- advertising containing information that directly or indirectly promotes or opposes a candidate or registered political party
- advertising specifically planned to coincide with the 60 day pre-campaign period
- a material increase in the normal volume of advertising
- a material increase in the number and size of public events (groundbreakings, ribbon cuttings) and advertising announcements regarding them held with the acquiescence or consent of the Member

If an MLA conducts election advertising or engages in election campaigning during the 60 day pre-campaign period, the value of the advertising or the cost of the campaigning will be an election expense subject to the candidate’s spending limit, regardless of the source of the funds.

For more information
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