



ELECTIONS BC

A non-partisan Office of the Legislature

GUIDE TO COMMUNICATIONS FOR PROVINCIAL ELECTION ADVERTISING SPONSORS

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Introduction

Elections BC is the non-partisan Office of the Legislature responsible for the administration of the provincial electoral process in B.C. and the campaign financing provisions for local government elections.

The *Election Act* sets the rules for the provincial electoral process. This guide is intended to explain the election advertising rules in the *Election Act* and how those rules apply to third party advertisers for provincial elections. For election advertising rules as they apply to candidates, registered political parties and registered constituency associations, you should refer to the Guide for Financial Agents Appointed Under the *Election Act*.

This guide is intended only as an aid to understanding the *Election Act*. How the Act applies to any particular case will depend on the individual circumstances of the case, and may change in light of new legislation and judicial developments. Where there is inconsistency between this guide and the *Election Act*, the Act will prevail.

Where possible, references to specific sections of the *Election Act* are included.

You can view the *Election Act* on the Elections BC website (elections.bc.ca) or you can buy a copy of the Act from Crown Publications (crownpub.bc.ca).

Privacy

Elections BC has the authority to collect, use, disclose and dispose of personal information under the *Election Act* and the *Freedom of Information and Protection of Privacy Act*. This information is used to administer provisions of the *Election Act*.

For information about Elections BC's privacy policies, please visit elections.bc.ca/privacy or contact the **Privacy Officer, Elections BC** at 1-800-661-8683 or privacy@elections.bc.ca or PO Box 9275 Stn Prov Govt, Victoria, BC V8W 9J6.

Election advertising

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What is election advertising?

For third party advertising sponsors, election advertising is:

- the transmission to the public by any means, during 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.

Election advertising does not include:

- messages on the Internet that do not and would not normally have a placement cost, including social media posts, websites and videos

Examples of messages that **are not** election advertising include: Facebook, Instagram, and Snapchat posts, tweets, YouTube videos, and websites.

- 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,
- 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,
- the transmission of a document directly by a person or group to their members, employees or shareholders, or
- 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.

This definition is broad, and in some cases it can be difficult to determine if an item or activity is election advertising. For more information on how the definition of election advertising is applied, refer to the “Review process and evaluation criteria” on page five of this guide.

It is important to note that advertising by third party sponsors is only restricted during the campaign period of an election, which lasts 29 days including General Voting Day. Advertising conducted outside of this period by a third party is not election advertising, even if it promotes or opposes a candidate or registered political party.

Types of activities that can be election advertising

- television, radio, newspaper or magazine advertisements
- signs, billboards, posters, mailing inserts, bumper stickers, branded clothing, branded objects, displays, exhibitions and public address announcements
- telephone calls, text messages and voicemail messages sent using an automated system (e.g. robocalls)
- newsletters, brochures, or other advertising media that are sent to the public
- Internet pay-per-click ads, banner ads, display ads, pop-up or pop-under ads, pre-roll video ads, promoted search results, etc.

Types of activities that are not election advertising

The definition of election advertising only captures advertising communications which are transmitted to the public, and does not capture other types of non-advertising communication. Conducting the following activities does not require registration as an election advertising sponsor:

- any transmission of personal or private communications between individuals
- any message sent by a person who is engaged in commercial or charitable activity with the receiver and the message consists solely of an inquiry or application related to that activity
- any communication on the Internet which does not and would not normally have a placement cost, including social media messages, websites and videos. Examples of messages that **are not** election advertising include: Facebook, Instagram, and Snapchat posts, tweets, YouTube videos, and websites.
- 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, including publication without charge in a bona fide Internet publication or program
- 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 (this exception extends to e-books, documentaries, movies, plays and

other similar works or performances)

- the transmission of a document or other media directly by a person or a group to their members, employees or shareholders
- the transmission by an individual, on a non-commercial basis on the Internet, or by telephone or text messaging, of their personal political views

Review process and evaluation criteria

Elections BC reviews and responds to inquiries regarding election advertising and potential election advertising on a case-by-case basis as they are brought to our attention.

The following criteria are used when determining if a message is election advertising:

1. Was the message transmitted to the public?
2. Did transmission occur during the campaign period?
3. Did the advertising promote or oppose, directly or indirectly, a registered political party or candidate, or did it take a position on an issue associated with a registered political party or candidate?

If the answer is 'yes' for each of these questions, the message is likely election advertising.

Indicators that advertising and activities are election advertising include:

- advertising that identifies particular candidates or political parties that support or oppose an organization's aims
- advertising that evaluates the performance of a particular candidate or party
- advertising that sets out or compares the positions of particular parties or candidates on a policy the advertiser is promoting or opposing
- promoting or opposing policies which are so closely associated to a candidate or party (or candidates or parties) that it is unreasonable to argue that the item is not campaign material
- advertising which references the election, voting, the date of General Voting Day, "Your choice", "Make your voice heard", etc.
- advertising specifically planned to coincide with the campaign period

- formatting or branding a communication in a similar manner to a political party's or candidate's own election material
- a material increase in the normal volume of advertising
- a material increase in the number and size of public events

Indicators that advertising and activities may not be election advertising include:

- advertising or activities that are necessary for the performance of a Member of the Legislative Assembly's duties, or for the duties of an officer, director, employee or agent of government
- advertising that does not name a candidate or political party or take a position on an issue supported or opposed by a political party or candidate
- advertising that has occurred historically during the relevant time of year
- advertising that is consistent with previous advertising conducted by the sponsoring person or group
- factual information on how to contact or locate the sponsor
- advertising within the normal parameters of promotion for a specific program or activity

How to request an opinion on whether a message is election advertising or not

On request, Elections BC will review a message and provide an opinion on whether our office considers the message to be election advertising. To request an opinion, call Elections BC at 1-800-661-8683 or email electoral.finance@elections.bc.ca.

Obtaining an opinion from Elections BC is not the same as obtaining a legal opinion. If you require greater certainty, you should obtain independent legal advice.

Registration as an advertising sponsor

Except for candidates, registered political parties and registered constituency associations, any individual or organization that sponsors election advertising must first register with Elections BC. Individuals and organizations that do so are called registered election advertising sponsors, or more commonly, third party advertisers.

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How to determine who the sponsor is

The sponsor of election advertising is:

- (a) the individual or organization that paid for the election advertising, or
- (b) if the services of conducting the election advertising are provided free of charge, the individual or organization that received the free advertising, or
- (c) if the individual or organization that would be the sponsor under (a) or (b) is acting on behalf of another individual or organization, that other individual or organization is the sponsor.

If an individual or organization pays for materials such as bumper stickers, t-shirts or signs to be produced, that person is the advertising sponsor, not the person who wears the t-shirt or posts the sign or bumper sticker. For example, the candidate's campaign is the sponsor of election advertising lawn signs, not the person who posts the sign in their front yard.

Individuals who make homemade signs are not advertising sponsors

Individuals who make their own election advertising materials on a small scale are not election advertising sponsors under the *Election Act*.

To be a provincial election advertising sponsor, an individual must pay others for advertising services, receive free advertising services from others, or produce and personally hand-out more than 25 copies of homemade signs or pamphlets during the campaign period. Therefore, individuals who:

1. use their own supplies and equipment to make their own election advertising materials, such as handmade signs or pamphlets, and
2. do not work with others on either preparing or transmitting the advertising,
3. make 25 or fewer homemade signs or pamphlets, and
4. hand-deliver those signs or pamphlets directly to 25 or fewer other individuals

are not advertising sponsors.

There must be no question of who is responsible for the advertising. This means that the advertising must be hand-delivered directly to another person, not dropped in a mailbox or otherwise distributed anonymously.

Individuals who are not election advertising sponsors do not have to register with Elections BC, do not have to include an authorization statement on their election advertising and do not have to file disclosure reports.

Groups of individuals or organizations that conduct any sort of election advertising are advertising sponsors and must register with Elections BC before sponsoring the advertising.

s. 194 **Who can register as an election advertising sponsor?**

Any individual or organization can register as an election advertising sponsor as long as they are not an organization of a partisan political character and are independent from:

- registered political parties
- registered constituency associations
- candidates
- financial agents and official agents of registered political parties and candidates

Individuals and organizations that have previously committed an offence under the *Election Act* or who have failed to file required disclosure reports or to pay required penalties may be ineligible to register.

The list of current registered election advertising sponsors can be viewed on our website.

s. 239, 240 **When and how to register**

An eligible individual or organization may register as an election advertising sponsor at any time. However, it is mandatory to register before sponsoring election advertising.

Once registered, election advertising sponsors remain registered even between elections. Sponsors can be deregistered if they apply for voluntary deregistration in writing, or if they are deregistered for failure to comply with the *Election Act*.

To register you must complete and submit an application for registration. The application can be obtained by contacting Elections BC or can be downloaded from our website.

In order for an application to be accepted, it must be signed by the individual applicant, or by two principal officers or principal members of an organization.

Steps to register as a third party advertiser:

1. Complete form 422 – Election Advertising Sponsor Application for Registration. This form is available on our website or can be requested from our office.
1. Submit form 422 to Elections BC by mail, fax or email.
2. If your application is approved, Elections BC will send you a letter confirming your registration.
3. If your application is not approved, or if more information is required, Elections BC will contact you and explain what is required.

s. 240(6) **Requirement to file registration information updates**

Since registration as an election advertising sponsor is ongoing, registered sponsors must ensure that their registration information is kept current. Registration updates must be sent in writing to Elections BC within 30 days after a change to the registration information has occurred.

To update your registration information:

1. Complete form 424 – Election Advertising Sponsor Registration Update. This form is available on our website or can be requested from our office.
2. Submit form 424 to Elections BC by mail, fax or email.
3. If your registration update is complete, Elections BC will update your information.
4. If more information is required about your registration update, Elections BC will contact you and explain what is required.

s. 250 **Information to be open to the public**

The registration forms filed by election advertising sponsors are available for public inspection at Elections BC's office.

s. 242 **Voluntary deregistration**

A registered election advertising sponsor may apply to the Chief Electoral Officer for voluntary deregistration as long as they do not have an unpaid penalty or unfiled advertising disclosure report and are not subject to deregistration for failure to comply with the *Election Act*.

To voluntarily deregister:

1. Complete form 431 – Election Advertising Sponsor Application for Deregistration. This form is available on our website or can be requested from our office.
2. Submit form 431 to Elections BC by mail, fax or email.

3. If your application is approved, Elections BC will deregister you and will send you a letter confirming your deregistration.
4. If your application is not approved or if more information is required, Elections BC will contact you and explain what is required.

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Reregistration

You can reregister as an election advertising sponsor by sending a new application for registration to Elections BC. In order for a reregistration to be approved, the sponsor must file any outstanding advertising disclosure reports and must pay any outstanding penalties.

Conducting election advertising

s. 239 **Election advertising sponsors must be independent**

Registered election advertising sponsors must not sponsor election advertising together with or on behalf of registered political parties or constituency associations, candidates and their financial and official agents.

This means that election advertising sponsors **must not** do any of the following with a candidate's or political party's campaign:

- share strategies and information
- share campaign material
- provide or receive direction or suggestions
- distribute each other's materials
- coordinate or cooperate

s. 230 **No indirect election advertising**

An individual or organization must not sponsor election advertising with the property of any other individual or organization or indirectly through any other individual or organization.

s. 235.1 **Sponsors must not exceed election advertising limits**

The value of election advertising that can be conducted during the campaign period by a third party sponsor, or by a group of third party sponsors, is limited. Registered sponsors may conduct election advertising independently, together in combination with other registered sponsors, or both independently and together with other sponsors, but they may not exceed the spending limits.

For a general election, the spending limits for each third party sponsor are \$3,000 in relation to a single electoral district and \$150,000 overall during the campaign period.

For a by-election, the spending limit is \$3,000.

These limits are adjusted for changes to the consumer price index (CPI). Elections BC will publish the exact spending limits at the start of an election.

There are penalties for exceeding the advertising limits. For more information, refer to the "Exceeding third party advertising limits" section on page 24 of this guide.

How the advertising limits work

Each registered sponsor has their own separate advertising limit. Sponsors cannot share or combine their advertising limits with other sponsors.

When election advertising is sponsored, the full value of the advertising is subject to the sponsor's advertising limit. The sponsor may continue to conduct election advertising until they have reached their advertising limit.

Example: ABC Group is a registered sponsor. ABC Group independently conducts province-wide election advertising with a value of \$100,000. Thus, ABC Group has \$50,000 remaining under their advertising limit for province-wide advertising, and is entitled to continue sponsoring election advertising until they reach their limit.

When election advertising is co-sponsored by more than one sponsor, the value of the advertising is divided between the co-sponsors on a reasonable basis (e.g. 50/50 for two sponsors) and the value is subject to the limit for each sponsor.

Example: ABC Group and XYZ Group are both registered sponsors. ABC and XYZ prepare and conduct province-wide election advertising together as co-sponsors. The total value is \$150,000, or \$75,000 each. Thus, ABC and XYZ have reached the \$150,000 advertising in combination limit and cannot sponsor any more election advertising together as co-sponsors. However, ABC and XYZ each have \$75,000 remaining under their separate advertising limits. Therefore, both are entitled to continue sponsoring election advertising independently or with other registered sponsors until each has reached their separate advertising limits.

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How to determine the value of election advertising

The value of election advertising is:

- (a) the price paid for preparing and conducting the election advertising, or
- (b) the market value of preparing and conducting the election advertising, if no price is paid or if the price paid is lower than the market value.

The value of election advertising includes all direct costs (e.g. materials, publishing, broadcasting and transmission fees, outside design services, etc.) and excludes indirect costs (e.g. overhead).

Example #1: A registered sponsor pays an agency \$500 to produce a radio election advertisement, and pays a radio station \$150 per play to broadcast the ad. The commercial is played 20 times during the campaign period. What is the value of this election advertising?

Answer: \$500 production cost + (\$150 x 20 plays) = \$3,500

Example #2: A registered sponsor prepares an election advertising brochure on their own computer and makes 500 copies at a local print shop for \$0.25 per

copy. The brochures are mailed to 500 different homes within the community at a postage rate of \$0.85 per brochure. What is the value of election advertising?

Answer: 500 brochures x (\$0.25 printing + \$0.85 postage per brochure) = \$550. The value of using the computer is not included in the value of election advertising.

Example #3: A registered sponsor has 500 election advertising signs from a previous election. The 500 signs cost \$2,250 to produce during the last election. If the sponsor puts only 400 of the signs up during the campaign period, what is the value of the election advertising?

Answer: Since the signs were purchased during the previous election, the sponsor must determine the current fair market value of 500 signs of the same quality. In this example, assume that the sponsor calls a local print shop and learns that the lowest replacement cost for 500 signs of the same quality is now \$2,500. The value of election advertising is \$2,000, calculated as follows:

\$2,500 current fair market value divided by 500 signs = \$5 per sign

400 signs used times \$5 per sign = \$2,000

Valuing staff, volunteer and outside services

The value of services used to prepare and conduct election advertising is not included in the value of election advertising if:

- the services are performed by the individual who is the sponsor, or
- the services are performed by an existing staff member or volunteer who normally performs these services for the sponsor organization as part of ongoing operations.

However, the value of services used to prepare and conduct election advertising **must be included** in the value of election advertising **if:**

- the services are purchased or received from an outside vendor, or
- the services are performed by a new employee or volunteer of the sponsor organization who has been hired or recruited in relation to election advertising, or who has been seconded or reassigned from their normal duties.

In other words, for the purpose of calculating the value of election advertising, services provided in relation to ongoing activities by a sponsor to their own campaign, or by existing staff and volunteers to a sponsor organization are considered to be overhead, and are not included in the value of election advertising.

Example: A registered sponsor has a staff member that regularly prepares messages intended for the general public on issues related to public policy. The staff member prepares and transmits an advertising message intended to promote the aims of the organization; the message also meets the definition of election advertising. Does the sponsor include the value of the staff member's services in the value of election advertising?

Answer: No. The staff member's services are not included in the value of election advertising. Since the staff member usually performs these services, the services are treated like overhead, which is not included in the value of election advertising. However, if the staff member had been newly hired to prepare the election advertising, or if the staff member was reassigned from other unrelated duties, the value of the services would be required to be included in the value of election advertising.

Proration and apportionment of election advertising expenses

The value of election advertising can be prorated or apportioned according to the following principles:

- The full production cost of election advertising must be included in the value. This applies to all election advertising, even if the advertising is used for other purposes before the election, or will continue to be used after the election.
- For broadcasting or distribution costs, include only the portion that is actually used or distributed during the campaign period.
- For advertising that is co-sponsored by two or more independently registered election advertising sponsors, each sponsor must report their share of the value of the advertising. For example, if each sponsor paid for half of the advertising, divide the value of election advertising equally between the sponsors.

Example: Two advertisers jointly rent a billboard for one year at a rate of \$1,000 per month (\$12,000 per year). The cost of producing the billboard advertisement is \$2,000. An election is called and the billboard is election advertising. It remains on display through the campaign period. What is the value of election advertising?

Answer: Since the campaign period is 29 days including General Voting Day, 29 days worth of transmission costs must be included along with the full production value of the billboard advertisement. This amount is divided equally by the two sponsors.

Total value of election advertising:

$$\$2,000 + \$12,000 \times (29 \text{ days} \div 365 \text{ days}) = \$2,953.42$$

\$2,953.42 ÷ 2 sponsors = \$1,476.71 election advertising for each sponsor

s. 231(1) **Requirement for authorization statement on election advertising**

Most election advertising must contain an authorization statement which identifies the sponsor, indicates that the sponsor is registered and provides a B.C. telephone number or mailing address where the sponsor can be contacted. For sponsors that are numbered corporations or unincorporated organizations, the name of a principal officer or principal member of the organization is also required. For messages that are sponsored by more than one sponsor, each sponsor's authorization is required. For example:

Election advertising sponsor – individuals

- Authorized by John Smith, registered sponsor under the *Election Act*, 604-123-4567

Election advertising sponsor – incorporated organizations

- Authorized by ABC Company, registered sponsor under the *Election Act*, 604-123-4567

Election advertising sponsor – numbered corporations and unincorporated groups

- Authorized by Just a Club; Jane Doe, registered sponsor under the *Election Act*, 604-123-4567

Election advertising sponsor – more than one sponsor

- Authorized by ABC Company, 604-123-4567 and ABC Trade Union, John Smith, 604-123-4567, registered sponsors under the *Election Act*

s. 231(2) **Advertising exempt from authorization statement requirement**

The authorization statement is not required for election advertising on the following items:

- clothing (e.g. shirts, sweaters, vests, jackets, hats, etc.)
- novelty items, including wearable novelty items (e.g. buttons, badges, pins, brooches, stickers, wristbands, necklaces, etc.)
- small items of nominal value that are intended for personal use (e.g. pens, mugs, magnets, key-chains, notepads, etc.)

Authorization policy for advertising on the Internet

Elections BC recognizes that it is not practical for sponsors to include the authorization statement on certain Internet election advertising due to the space and character limitations imposed by some message formats (e.g. pay-per-click ads).

For Internet election advertising, the authorization statement is not required to be contained within the advertising message **if** selecting (i.e. clicking, finger-tapping) the advertising message sends the viewer to a website, landing page or profile page that contains the sponsor's required authorization statement.

s. 231(3), **Authority to remove unauthorized and restricted advertising**

234(3) If an election advertising message does not have the required authorization statement, Elections BC may require the advertising to be discontinued or removed and destroyed. Elections BC can remove and destroy unauthorized election advertising without notice.

Similarly, if election advertising or any material that identifies a candidate, registered political party or registered constituency association is located within 100 metres of a building that contains a District Electoral Office or a voting place where advance or general voting is taking place, a District Electoral Officer (DEO), or someone authorized by a DEO, may enter a property and remove or cover or obscure the election advertising or material.

s. 228.1, **Where and when election signs may be placed**

234 Important safety note: Placing or erecting election signs by digging or driving stakes into the ground can pose a safety hazard to sign installers and to underground infrastructure (i.e. gas lines and other utilities). Before placing election signs, you may wish to contact BC One Call at 1-800-474-6886 or bconecall.bc.ca to determine if there are risks in your area. This service is free of charge and is not associated with Elections BC.

The timing and placement of election signs is regulated by the *Election Act*, by local municipalities, and for signs on provincial highways, by the *Transportation Act*.

To be certain, election signs may not be placed in or within 100 metres of the building where a District Electoral Office is located, or in or within 100 metres of a building where a voting place is located while advance or general voting is being conducted.

Election signs may be placed as follows:

- Public property: contact your municipality to determine if there are by-laws on where and when election signs can be placed on municipal public property.
- Private property: election signs may be placed or removed at the discretion of the property owner, subject to municipal or other by-laws.
- Rental or strata property: election signs must be allowed to be placed on the premises to which a renter's tenancy agreement relates, and must be

allowed on the premises of an owner or tenant's strata unit. However, landlords, strata corporations and their agents may set reasonable limits on the size and type of election signs permitted, and may restrict placement in common areas.

- Provincial highways: the Ministry of Transportation and Infrastructure's election sign policy provides that election signs:
 - must only be installed after the election is called, and must be removed the next working day after General Voting Day
 - signs not removed by the owners on the next working day following the election will be removed by maintenance contractors. Maintenance contractors will invoice the owner of the signs for the cost of removal.
 - must be further from the road than standard traffic signs, and must not obstruct, simulate or be attached to any traffic control device (e.g. signs, posts, poles)
 - must not be placed on bridges, overpasses, tunnels or other highway structures
 - must not be placed on the following provincial highways:
 - Highways within Provincial Parks
 - Highway 1, from Horseshoe Bay to Hope
 - Highway 5, from Hope to Kamloops
 - Highway 19, from Duke Point Ferry Terminal to Trans-Canada Highway
 - Highway 19 – Nanaimo Parkway, from Trans-Canada Highway to Island Highway
 - Highway 19, Parksville to Campbell River
 - Highway 91 and 91A
 - Highway 99, from the US border to Horseshoe Bay
 - Highway 17, from Tsawwassen ferry terminal to Highway 99, and
 - Highway 97C, from Aspen Grove to Peachland

s. 228.1

Advertising in rental or strata properties

As noted in the previous section, election signs must be allowed to be placed within the premises to which a renter's tenancy agreement relates, and must be allowed within an owner or tenant's strata unit. However, landlords, strata

corporations and their agents may set reasonable limits on the size and type of election signs permitted, and may restrict placement in common areas.

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Restriction on campaigning near election offices and voting places

During a campaign period, the 100 metres surrounding the building where a District Electoral Office is located is a restricted area. Individuals and organizations must not do the following in these restricted areas:

- post, display or disseminate:
 - any election advertising, or
 - any material that identifies a candidate, registered political party or registered constituency association, unless authorized by the District Electoral Officer

Example: displaying a poster in the restricted area which lists the names of registered political parties or candidates seeking election would require the permission of the District Electoral Officer before posting, even if the ad is neutral (e.g. a notice of an all candidates meeting).

Likewise, while advance or general voting is being conducted, the 100 metres surrounding each building that contains a voting place is a restricted area. Individuals and organizations must not do any of the following in these restricted areas:

- post, display or disseminate:
 - any election advertising, or
 - any material that identifies a candidate, registered political party or registered constituency association, unless authorized by the District Electoral Officer
- canvass or solicit votes or otherwise attempt to influence how a voter votes
- carry, wear or supply a flag, badge or other thing indicating that the individual using it is a supporter of a particular candidate or registered political party
- post, display, disseminate or openly leave a representation of a ballot marked for a particular candidate or registered political party

Individuals and organizations are also prohibited from transmitting election advertising using a loud speaker or public address system if the loud speaker or sound system is within hearing distance of a voting place while advance or general voting is being conducted.

If these rules are contravened, the District Electoral Officer or another election

official has the authority to enter the property where the materials are located to remove or obscure these materials.

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Election advertising restrictions on General Voting Day

Individuals and organizations must not sponsor or agree to sponsor, or publish, broadcast or transmit to the public election advertising on General Voting Day.

The following are exceptions to the ban on election advertising on General Voting Day:

- an Internet message that is posted for the sole purpose of encouraging voters to vote in the election
- the distribution of pamphlets or the posting of messages on signs, posters or banners
- a notice of an event that the leader of a registered political party intends to attend
- an invitation to meet or hear the leader of a registered political party
- an Internet message that was posted before General Voting Day and that is not changed until after the close of voting

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No restriction on rates charged for third parties

Registered political parties, registered constituency associations and candidates must be charged equivalent rates for equivalent election advertising.

This restriction does not apply to election advertising sponsored by third parties.

Contributions

A contribution to a third party advertising sponsor means a contribution of money only. In-kind donations of goods and services to third parties are not contributions for purposes of the *Election Act*.

Recording contributions

All sponsors must record information for each contribution received during the period beginning six months before a campaign period and ending at the close of general voting for an election. The information is required to be recorded for all contributions, even if they were not received in relation to election advertising or an election.

The following information must be recorded for each contribution:

- the contributor's full name (first and last name; initials are not acceptable) and address
- the contributor's class, in accordance with the following list:
 1. individuals
 2. corporations
 3. unincorporated organizations engaged in business or commercial activity
 4. trade unions
 5. non-profit organizations
 6. other identifiable contributors
 7. anonymous contributors
- the value of each contribution and the date it was made
- if the contributor is a numbered corporation or an unincorporated organization, the full names and addresses of at least two individuals who are principal officers, directors or principal members of the organization

Sponsors are required to ensure that reasonable effort is made to record or obtain the information required for contributions accepted in the six months prior to the campaign period.

Advertising disclosure reports

s. 244 **Who must file a disclosure report?**

Any individual or organization that sponsored election advertising with a value of \$500 or more during a campaign period must file an advertising disclosure report with Elections BC.

However, Elections BC requests that all registered election advertising sponsors file a disclosure report, even if they spent less than \$500. This helps Elections BC separate those sponsors that were not required to file a report from those sponsors that failed to file a report.

If you or your organization sponsored advertising valued under \$500, please complete and submit only form F-AS, the cover page to the advertising disclosure report. Ensure that you check the box that indicates “advertising sponsored during the campaign period did not have a total value of \$500 or more; no additional forms required.” Elections BC will contact you if no report is received.

s. 244 **When and how to file a disclosure report**

A disclosure report must be filed within 90 days after General Voting Day for the election to which the report relates, and must be submitted on the reporting forms provided by Elections BC. Disclosure reports can be submitted to Elections BC by email, fax, or mail using the contact information located on the last page of this guide.

s. 245 **Required contents of a disclosure report**

An advertising disclosure report must contain the following information:

- the value of election advertising sponsored, reported by advertising type
- any amount of the sponsor’s own assets that were used to pay for election advertising, other than assets received from reported contributions, and
- the amount of contributions accepted during the period beginning six months before the campaign period and ending at the close of general voting for the election, reported by class of contributor

In addition, the following information is required for all contributors who gave more than \$250 during the period beginning six months before the election was called and the close of voting:

- the contributor's full name (first and last name; initials are not acceptable)
- the contributor's class
- the value of each contribution and the date it was made
- if the contributor is a numbered corporation or an unincorporated organization, the full names of at least two individuals who are principal officers, directors or principal members of the organization

s. 246, 247 **Late filing and failure to file a disclosure report**

If a required disclosure report is not filed within 90 days after General Voting Day, there is a late filing period of 30 days. A sponsor may file the report during the 30 day late filing period if they pay a late filing fee of \$500.

If the required disclosure report is not filed before the end of the late filing period, the sponsor must pay a penalty of \$500 per day until the report is filed. The sponsor will also be deregistered as a third party advertiser.

A sponsor may apply to the Supreme Court for relief from the filing obligations and penalties.

s. 249 **Obligation to maintain records in B.C. for five years**

All advertising sponsors, even those who have deregistered, must keep their records regarding contributions and election advertising expenses for at least five years after their advertising sponsor disclosure report is filed. This includes copies of disclosure reports, records of contributions and contributor information, expense receipts and transaction slips, and any other information necessary to validate the contents of a disclosure report. These records must be kept in British Columbia.

s. 250 **Information to be open to the public**

The information filed by registered sponsors with Elections BC, including registration information and disclosure reports, is available for public inspection at Elections BC's office in Victoria. The advertising sponsor disclosure reports are also posted on our website.

Election opinion polls and surveys

s. 233.1 **Definition of election opinion survey**

An election opinion survey is an opinion survey about an election or a matter of public discussion in relation to the election, including an opinion survey about an issue discussed publicly in the election.

This includes surveys about:

- what an individual thinks about a particular candidate or election issue
- how an individual intends to vote
- which election issues are most important, etc.

A legitimate opinion survey which is conducted in good faith in accordance with accepted survey standards is not election advertising.

s. 233.1 **Ban on publishing new election opinion survey results on General Voting Day**

There is a ban on publishing the results of an election opinion survey on General Voting Day if the results have not previously been made available to the public. This includes broadcasting the opinion survey results and transmitting them on the Internet.

Offences, penalties and relief

s. 235.2 **Exceeding third party advertising limits**

If an election advertising sponsor exceeds the advertising limit, they:

- are deregistered as an election advertising sponsor and cannot reregister until after the next general election, and
- must pay a penalty that is 10 times the amount by which they exceeded the limit.

If the sponsor is an unincorporated organization, the members of the organization are jointly and severally liable to pay the penalty.

s. 235.3 **Court order for relief from advertising limit**

To apply for relief from the penalties for exceeding the advertising limit, an application must be made to the Supreme Court within 120 days after General Voting Day.

The court may grant relief from the financial and/or deregistration penalties if the court considers that the sponsor acted in good faith, or the court may refuse to grant relief.

s. 246 **Late filing of an advertising disclosure report**

If a sponsor who is required to file an advertising disclosure report fails to file within 90 days after General Voting Day, the sponsor can file the report late during the 30 day late filing period if they pay a late filing fee of \$500.

s. 247 **Failure to file an advertising disclosure report**

If a sponsor does not file an election advertising disclosure report before the end of the late filing period, the sponsor:

- must pay \$500 a day until the report is filed with Elections BC, and
- is deregistered as an election advertising sponsor and cannot reregister until after the next general election.

If the sponsor is an unincorporated organization, the members of the organization are jointly and severally liable to pay the penalty.

s. 248 **Court order for relief from filing obligation**

Advertising sponsors can apply to the Supreme Court for relief from the obligation to file an advertising disclosure report or for relief from a penalty for filing late or not filing a report.

An application for relief must be made to the court within 120 days after General Voting Day.

Advertising sponsors who are considering applying for relief may want to consult independent legal counsel about the process.

Depending on the timing and details of an application for relief the court may:

- grant relief from filing the report or from specific obligations relating to the report
- grant relief from the late filing fee or failure to file penalty
- provide an extension of time to file the disclosure report, with or without payment of the late filing fee
- make any order the court considers reasonable to secure compliance
- refuse to grant relief

s. 264

Offences in relation to election advertising and other promotion

The *Election Act* contains serious penalties for people who fail to comply with the election advertising rules. Some of the penalties have been discussed earlier and include financial fees and deregistration. Other contraventions are more serious and constitute offences under the legislation. The courts determine whether an individual or organization has committed an offence.

Examples of election advertising offences include, but are not limited to:

- sponsoring election advertising if not registered as an advertising sponsor
- sponsoring election advertising indirectly
- not including the sponsor's authorization statement on the election advertising
- conducting election advertising on General Voting Day before the close of voting, other than the advertising exceptions on page 19.
- publishing new election opinion survey results on General Voting Day before the close of voting

For a complete list of offences related to election advertising, please review section 264 of the *Election Act*.

A person who commits an election advertising offence is liable to a fine of up to \$10,000, up to one year imprisonment, or both.

s. 266

Offences in relation to false and misleading information

If an individual or organization does any of the following, an offence is committed:

- provides false or misleading information when required or authorized under the *Election Act* to provide information
- makes a false or misleading statement or declaration when required under the *Election Act* to make a statement or declaration

A person is not guilty of an offence under this section if, at the time the information was given or the statement or declaration was made, the person did not know that it was false or misleading and, with the exercise of reasonable diligence, could not have known that it was false or misleading.

A person who commits this offence is liable to a fine up to \$20,000, up to two years imprisonment, or both.

Glossary

Advance voting	An opportunity to vote before General Voting Day. Advance voting is held between 8 a.m. and 8 p.m. on the Saturday and Sunday two weeks before General Voting Day and on the Wednesday, Thursday, Friday and Saturday of the week before General Voting Day. [<i>Election Act</i> , s. 76, 97]
Campaign period	The time between when an election is called and the close of voting on General Voting Day. [<i>Election Act</i> , s. 1]
Candidate	<p>An individual who stands for election to the Legislative Assembly. To become a candidate, an individual must meet the requirements of the <i>Election Act</i>, file nomination documents, and receive a certificate of candidacy from Elections BC.</p> <p>For election financing and election advertising purposes, a candidate includes an individual who becomes a candidate or who was a candidate. [<i>Election Act</i>, s. 1, 52-68]</p>
Chief Electoral Officer (CEO)	An independent Officer of the Legislature appointed by the Lieutenant Governor on the recommendation of the Legislative Assembly. The Chief Electoral Officer supervises and administers the provincial electoral process. [<i>Election Act</i> , s. 1, 4-13]
Constituency association	An organization formed for an electoral district as the local organization of a political party or as the local organization to support an independent Member of the Legislative Assembly for that electoral district. [<i>Election Act</i> , s. 157]
Contribution	Money provided to a sponsor of election advertising, whether given before or after the sponsor acts as a sponsor. [<i>Election Act</i> , s. 228]

District Electoral Officer (DEO)	A person appointed by the Chief Electoral Officer to conduct elections in an electoral district. [<i>Election Act</i> , s. 18-21, 88]
Elections BC (EBC)	The usual name for the Office of the Chief Electoral Officer. Elections BC administers the electoral process in B.C. This includes provincial general elections and by-elections, provincial referendums, recall and initiative petitions and votes, and campaign financing for local elections.
Electoral district (ED)	A geographic area represented by a single Member of the Legislative Assembly (MLA). Electoral districts are also called constituencies or ridings. [<i>Constitution Act</i> , s. 18; <i>Electoral Districts Act</i>]
Financial agent	An individual appointed to manage the finances of an individual or group. Registered political parties, registered constituency associations, candidates, leadership contestants, and recall and initiative participants must appoint a financial agent. [<i>Election Act</i> , s. 175-178; <i>Recall and Initiative Act</i> , s. 29, 59, 107]
General Election	Elections called on the same date for all the electoral districts in the province. [<i>Election Act</i> , s. 1, 24, 26-28]
General Voting Day (GVD)	The day when an election is held. General Voting Day is Day 28 (the 28th day after the election is called). If it is a holiday, then General Voting Day is the next day that is not a holiday. [<i>Election Act</i> , s. 27]
Member of the Legislative Assembly (MLA)	A person elected to represent an electoral district in the Legislative Assembly. [<i>Constitution Act</i> , s. 18]

Political party	<p>An organization that has as a primary purpose the fielding of candidates for election to the Legislative Assembly. [<i>Election Act</i>, s. 155]</p>
Third party advertiser	<p>Another name for individuals and organizations, other than candidates, registered political parties and registered constituency associations, who sponsor election advertising. Third party advertisers cannot sponsor election advertising unless they are registered with Elections BC. [<i>Election Act</i>, s. 239]</p>
Time	<p>All times referred to in the <i>Election Act</i> are local times, except for the close of nominations and voting hours on General Voting Day, which are Pacific time. [<i>Election Act</i>, s. 2]</p>
Voting place	<p>The building or facility where advance voting is held or where voters of one or more voting areas are assigned to vote on General Voting Day. [<i>Election Act</i>, s. 1, 81]</p>
Value of election advertising	<p>The value of election advertising is:</p> <ul style="list-style-type: none">▪ the price paid for preparing and conducting the election advertising (including applicable taxes), or▪ the market value of preparing and conducting the election advertising (including applicable taxes), if no price is paid, or if the price paid is lower than the market value. <p>[<i>Election Act</i>, s. 228]</p>
Writ of election	<p>A formal order signed by the Chief Electoral Officer and the Lieutenant Governor that directs a District Electoral Officer to conduct an election. An election is called when the writ of election has been issued. In a general election, a writ is issued for every electoral district in the province. [<i>Election Act</i>, s. 1, 26]</p>

Questions?

For more information

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