

repubblika

A CIVIL SOCIETY MOVEMENT

Press Release

The report by the Commissioner for Standards in Public Life in the case of the allocation of public funds for alleged political advertising in print media (K/028) following Repubblika's complaint of 19 October 2020 about advertising purchased by the Ministry of Carmelo Abela to promote Carmelo Abela, refers to "two previous cases in which it was alleged that public resources were being used by Ministers for self-promotional purposes."

Although it is not for us a matter of ambiguity that the use of public funds for personal promotion is unacceptable use of public money and a breach of existing codes of ethics, a consensus has emerged that Ministers and public entities need specific guidelines and procedures with regard to appropriate expenditure in advertising.

In spite of the fact that that consensus includes public remarks made by the Prime Minister and the Speaker, who both underlined their agreement for the need of these guidelines, we have seen no evidence of urgency in adopting such rules. In the meantime, people's letter-boxes are being stuffed by personal publicity of ministers evidently paid for by taxpayers through the ministry's budget. And expenditure in the media, particularly print media, on a discretionary and discriminatory basis is rampant.

In order to help facilitate the process, meet the outcome that the Prime Minister and the Speaker have publicly said they desire, and avoid any further waste of public money, Repubblika is taking the initiative of proposing a set of draft guidelines.

This draft is based on widely available international models. We have specifically consulted best practice models including in particular guidelines by the government of the UK, Canada, Australia, New Zealand. We have also reviewed relevant rulings of the European Court of Human Rights and recommendations by the Organisation of American States.

06.05.2021



DRAFT GUIDELINES ON INFORMATION AND ADVERTISING CAMPAIGNS BY THE GOVERNMENT

1. These guidelines set out the principles applying to information and advertising campaigns undertaken by the government and public sector entities in its control, including Local Councils.
2. Members of the public have the right to equal access to comprehensive information about government policies, programs and services which are relevant to their entitlements, rights and obligations.
3. The government may use public funds to explain policies, programs, or services, to inform the public of their obligations, rights and entitlements, to encourage informed consideration of issues, or to change behaviour.
4. The government may not use public funds for party or personal political purposes, to promote the image or character of individuals in office or seeking office, or to promote political programs that are not expected to be implemented within the current legislature or are likely to feature in an electoral manifesto or as promises in subsequent elections.
5. These guidelines do not apply to advertising of commercial products (such as utilities or transport services) offered by companies in which the state holds an interest, provided that the advertising is limited to the normal commercial promotion of those products. Any advertising that promotes policy matters, even by public sector commercial entities, is subject to these Guidelines.
6. The entity responsible for these policies is the Ministry of Finance, specifically the office of the Permanent Secretary.
7. There shall be an Independent Communications Committee (ICC) chaired by the Permanent Secretary at the Ministry of Finance, and including the Director of Information, a representative nominated by the Istitut tal-Ġurnalisti Maltin, a representative of the Leader of Opposition, and a representative of the Minister for Culture.
 - In the conduct and exercise of their functions, the ICC and its members are expected to act independently of any direction by any other entity and authority.



- The Committee is to be provided administrative assistance and adequate resources by the Ministry of Finance.
 - Members of the Committee from outside the public service are to be appropriately compensated for their functions.
 - The Committee members are to declare any potential conflict of interest and conduct themselves at all times in strict adherence to ethical norms.
8. The government's communications are to be non-partisan, effectively managed, well coordinated, clear and responsive to the diverse and genuine information needs of the public.
 9. The government must be projected equally in both official languages.
 10. Communications for and by the government must be cost-effective and achieve savings through standardisation.
 11. The ICC considers campaigns and provides instructions or advice to the line Director or CEO on all advertising campaigns valued at more than €14,000 or when requested to do so by the line Director or CEO. Multiple campaigns of related themes happening within a 2-year period are to be considered for the purpose of their value as one campaign.
 12. Campaigns covered by these Guidelines require the prior approval of the ICC.
 13. The ICC will consider proposed campaigns for compliance with these guidelines with particular reference to points 2, 3 and 4 above. The ICC will provide any advice or instruction to the line Director or CEO.
 14. Campaigns valued at less than €14,000, even if exempted from the requirement of pre-approval by the ICC, must otherwise comply with these Guidelines. The ICC may, on its own initiative, direct the suspension or termination of any campaign it considers non-compliant with these Guidelines.
 15. A campaign is a planned series of communication activities that share common objectives and have specific timelines and a dedicated budget. An advertising campaign includes paid media placement.
 16. Line entities are to include their plans for campaigns for the subsequent year's budget and seek and obtain prior approval from the Budget Office.



17. After the expiry of the fourth year of a legislature or, if earlier, when Parliament is dissolved by a writ calling a General Election, government advertising is to be limited exclusively to what is required by statute or regulation for legal purposes, to inform the public of a danger to health, safety or the environment, or to undertake specific advertising that is deemed by the ICC to be urgent. The rule applies as appropriate to Local Councils and Local Council elections.
18. An advertising campaign involves paid media placement. Large-scale recruitment advertising not related to specific job vacancies is an advertising campaign for the purposes of these Guidelines. Line entities should seek advice from the ICC if they are unsure whether an activity is an advertising campaign.
19. These guidelines do not apply to informative advertising, even if paid, appearing not more than twice, containing factual statements and with low creative content for purposes such as recruitment for specific job vacancies, tender notices, invitations to make submissions or apply for grants, notice of public meetings at a particular time and place and other public notices.
20. Submissions to the ICC are to include details of all campaign elements including:
 - advertising, including: TV; radio; digital advertising; outdoor; print; advertorials; recruitment; costs of media; fees and commission for media buying; media planning; creative development and production;
 - marketing activities, including: design and branding; direct and relationship marketing; customer relationship management programs; telemarketing; campaign help lines; partnership marketing; sponsorship marketing; field or experiential marketing; merchandising; advertiser-funded programming; audio-visual activity; storage and distribution of marketing materials;
 - consultation activities, including: associated publicity, events, resources and materials, research, analysis and evaluation;
 - communication strategy, planning, concept and proposition testing and development;
 - market research that informs marketing and advertising activity and evaluation of marketing and advertising activity;
 - printing and publications, including their distribution and dissemination;



- events, conferences and exhibitions, including stakeholder, public and internal communication events, but excluding training events;
 - public relations (PR) activity; and
 - digital activity, including: website and application development; search engine marketing, including pay-per-click; digital display advertising; content partnerships; email marketing; mobile and SMS marketing; the promotion of social media pages, profiles, ballots or posts; and interactive online content.
21. On the basis of the ICC's written advice, the line Minister will approve, or otherwise, the launch of the campaign.
22. If the campaign is approved by the Minister for launch, the ICC will publish its instructions or advice with respect to the relevant campaign on its website.
23. The Minister of Finance will, on a quarterly basis, provide Parliament with detailed expenditure reports on advertising campaigns approved by the ICC.
24. Details of advertising campaigns undertaken, whatever their size, are to be published in the entity's annual reports. The details are to include an evaluation of their effectiveness and actual expenditure figures compared with estimates approved by the ICC.
25. The subject matter of campaigns should be directly related to the line entity's responsibilities and should be limited to policies and programs underpinned by legislative authority, appropriation of Parliament, or a Cabinet decision intended for implementation during the current legislature.
26. Campaigns should enable the recipients of the information to distinguish between facts, comment, opinion and analysis.
27. Information presented as a fact must be accurate and verifiable. It is unacceptable for the campaign to seek to mislead the recipient and any comparisons are to include a detailed statement of the basis for the comparison.
28. Pre-existing policies, products, services and activities should not be presented as new.



29. Campaigns must be presented in objective language, free of political argument, not vague and not in the style of a slogan or motto.
30. Campaigns must not attempt to foster a positive impression of a particular party or a particular individual, to promote party political interests, or to promote elected officials or politicians seeking election.
31. Campaigns must not mention political parties by name.
32. Campaigns must not attack or scorn the views, policies or actions of opposition parties, civil society organisations, or other groups.
33. Campaigns must not include party political slogans or images.
34. Campaigns must not be designed to influence public support for a political party, a candidate for election, a Minister or a Member of Parliament.
35. Campaigns must not refer or link to the web sites or personal social media handles of politicians or political parties.
36. Campaigns should only be instigated where a need is demonstrated, target recipients are clearly identified and the campaign is informed by appropriate research and evidence.
37. Campaign information should clearly and directly affect the interests of recipients.
38. The medium and volume of the advertising activities should be cost effective and justifiable within the budget allocated to the campaign.
39. The expense on advertising must be proportionate and reasonable in the context of the budgetary value of the initiative being promoted.
40. Distribution of unsolicited material should be carefully controlled and must exclude any images of politicians.
41. Campaigns should be evaluated to determine effectiveness.
42. Procurement policies and procedures for tendering and commissioning of services and the employment of suppliers are to be followed, and there must be a clear audit trail regarding decision-making.



43. The allocation of advertising by government entities must not be grounded in discriminatory criteria. Any decision on the allocation of advertising must be grounded in objective criteria related to the audience targeted by the campaign and the reach of the media concerned and must at all times be compliant with point 2 of these Guidelines regarding the equal right of access to information.
44. There shall be no government spending for advertising on media, whether conventional or social, that is owned, or controlled, or acting on behalf of political parties, Members of Parliament including Ministers or candidates for office.
45. Advertising spend shall be contracted directly with the media or with publicity agencies acting on behalf of all media and previously registered under a fixed-term framework contract entered into after an open competitive process.

Subject to the authority vested in the Department of Contracts under relevant regulations, the ICC is to participate in the oversight of the procurement process for framework contracts for agencies which must be based on relevant, objective and predetermined criteria for eligibility.

46. Government entities shall not pay the media to carry content under the relevant Broadcasting Authority regulations on mandatory public service transmissions such as announcements in the face of serious emergencies or by requirement of the authorities responsible for civil defence.
47. All payments made by the governments or public entities to organisations owning or controlling the media for any purpose are to be made on a non-discriminatory basis, after consultation with the ICC and reported transparently on the ICC website.
48. The Prime Minister can exempt a campaign from compliance with these Guidelines on the basis of a national emergency, extreme urgency or other compelling objective reason. Where an exemption is approved, the ICC will be informed of the exemption, and the decision will be formally recorded and reported to Parliament.
49. The ICC, or where applicable under the appropriate legislation, the Ombudsman, the Auditor General, the Commissioner for Standards in Public Life, or any other agency of Parliament, may recommend to the Prime Minister consequences for entities that fail to comply with these Guidelines.

The recommendations, depending on the severity of the breach, may include:



- minimal consequences (such as requirements to work collaboratively, revision of control systems, an affirmation of responsibilities of senior officers, and observations on compliance with management rules),
- moderate consequences (such as required commitment to training and education, internal reorganisation, and an increase in reporting requirements),
- more severe consequences (such as the imposition of measures of redress, conditions on funding or a direct reference to a Cabinet discussion),
- or most severe consequences (such as the freezing of allotments, constraints on high-value transactions, constraints on authorities, recommendations of a reorganisation of the institution, or placing the institution in receivership).

50. The ICC, or where applicable under the appropriate legislation, the Commissioner for Standards in Public Life, the Ombudsman, the Auditor General, or any other agency of Parliament, may recommend to the Prime Minister consequences for individuals that fail to comply with these Guidelines.

The recommendations, depending on the severity of the breach, may include:

- minimal consequences (such as requirements for training and education, persuasion, coaching and mentoring),
- moderate consequences (such as reassignment, transfer or redeployment and observations made in performance appraisal),
- more severe consequences (such as disciplinary reprimand, suspension, financial penalties, withholding performance pay, removal of security classification, demotion, changes in delegated authority, and unsatisfactory performance rating),
- or most severe consequences (termination of employment, prohibition from contracting or disqualification from public service employment).

51. Recommendations by the ICC or other relevant agencies under the terms of Guidelines 49 and 50 are to be published on the ICC's website together with the Prime Minister's response.



52. Ministers that are the subject of recommendations for disciplinary action made by the ICC or other relevant agencies under the terms of Guideline 50 for egregious or persistent breaches of these guidelines would be expected to resign.
53. Members of Parliament (including Ministers) and Parliamentary political parties should have access to funding managed by Parliamentary services for communications related to Parliamentary business. For Parliamentary political parties, the funding should be based on the number of seats they hold in the House. These Guidelines are not applicable to campaigns funded by the Parliamentary services.