



The BC and Yukon Community Newspapers Association is pleased to offer its member newspapers this guide to federal and provincial government advertising.

For more information on the upcoming elections, please contact the BCYCNA office at 604-669-9222 or via email at info@bccommunitynews.com.

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NEW FEDERAL RULES FOR ADVERTISING AND ELECTION SURVEYS

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THE RULES FOR THE PROVINCE

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be conducted on General Voting Day by publishing it in a newspaper or magazine, or on radio or television, whether the publication is done within British Columbia or outside of British Columbia [Election Act, section 233].

An individual or organization must not charge a registered political party, registered constituency association or candidate a rate for election advertising in a periodical publication or on radio or television that exceeds the lowest rate charged by the individual or organization for equivalent advertising in the same medium during the same campaign period [Election Act, section 232]. Rates also apply to the costs of producing advertising.



THIRD PARTY ADVERTISING

Organizations or individuals other than candidates, registered political parties and registered constituency associations, who wish to sponsor election advertising are considered to be “third party” advertisers.

In contrast, conducting advertising on behalf of a candidate or political party is not third party advertising, but rather an election expense of that candidate or registered political party.

The dollar limit on third party advertising costs of \$5,000 was struck down and currently no spending limits apply. However, a third party advertiser wishing to sponsor election advertising must register by filing an application with the Chief Electoral Officer. Application forms are available from the Chief Electoral Office or at the Elections BC website at www.elections.bc.ca/general/eas-kit.html.

Application forms include information on:

- the name and full address of the applicant or the names of the principal officers of the organization;
- a service address at which notices and communications will be accepted; and
- a telephone number where the applicant can be contacted.

All election advertising must indicate the name of the registered sponsor, have the sponsor’s authorization and give a telephone number or mailing address at which the sponsor may be contacted.

There are restrictions on type and timing of advertising. A sponsor must not:

- conduct election advertising by publishing it in a newspaper, magazine, radio or television on General Voting Day, or agree to sponsor such advertising;
- campaign or display election advertising within 100 metres of the district electoral office or voting places during Advance or General Voting.
- conduct election advertising by using a public address system or loudspeaker that is within hearing distance of the voting place while Advance or General Voting is taking place.

ELECTION OPINION POLLS

Section 235 of the Elections Act that previously dealt with opinion polls has been struck down.

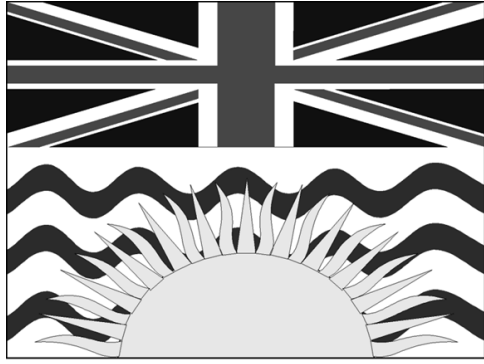


OFFENCES AND PENALTIES

If an individual or organization fails to comply with their obligations in relation to election advertising and/or election opinion polls, they have committed an offence under section 264(1) of the Election Act. An individual or organization that commits an offence under section 264 of the Election Act is liable to a fine of not more than \$5,000 or imprisonment for a term not longer than one year, or both.

QUESTIONS?

Phone toll free: 1-800-661-8683 (tty: 1-888-456-5448). Email electionsbc@gems3.gov.bc.ca. Or check out the Elections BC website at www.elections.bc.ca/general/eas-kit.htm.



THE RULES FOR THE PROVINCE

Under the Election Act, the media has certain obligations relating to the publication or broadcasting of election advertising. The following is a summary of those obligations.



ELECTION ADVERTISING

By definition of the act, advertising includes, but is not limited to leaflets, lawn signs, billboards, brochures, newspapers, radio, television, newsletters and public address systems.

Election advertising is any form of advertising conducted during a campaign period to promote or oppose, directly or indirectly, the election of a candidate or a registered political party. A campaign period is the period between when an election is called and the close of General Voting for that election, a period of 28 days.

Election advertising may only be conducted by a candidate, registered political party, registered constituency association, or a registered sponsor. A sponsor is an individual or organization other than a candidate, registered political party or registered constituency association, that sponsors election advertising. Sponsors must register with Elections BC. There is not a cost for registering as an election advertising sponsor.

Rules for conducting election advertising Election advertising must not be conducted (or published) unless:

- it identifies the name of the sponsor;
- indicates that it was authorized by the identified sponsor or, in the case of an authorized participant, the financial agent;
- indicates that the sponsor is a registered sponsor under the Election Act; and
- gives a British Columbia telephone number or British Columbia mailing address at which the sponsor or financial agent may be contacted regarding the advertising.

In the case of a candidate, the name of the financial agent must be identified and in the case of a third party sponsor, the registered sponsor must be identified. For example:

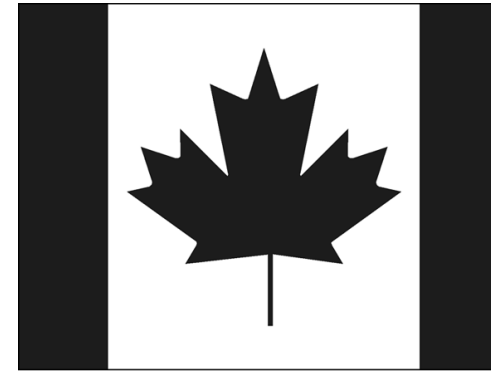
Authorized by Jane Doe, financial agent, (250) 123-4578 Authorized by Jane Doe, registered under the Election Act, (250) 234-5678

Election advertising sponsors must make an individual available who is responsible for answering questions from the public that are directed to the address or phone number indicated on the advertising.

PROHIBITION AGAINST CERTAIN ELECTION ADVERTISING ON GENERAL VOTING DAY

On General Voting Day, a media outlet must not publish election advertising in newspapers, magazines, on radio or television [Election Act, section 233].

An individual or organization must not sponsor, or agree to sponsor election advertising that is, or is to



NEW RULES FOR ADVERTISING AND ELECTION SURVEYS

The new Canada Elections Act introduced by Bill C-2, which came into force on September 1, 2000, establishes new rules for publishing or broadcasting election opinion surveys, and provides for a blackout on political advertisements and new opinion surveys during a federal election day. These new provisions reflect recent court decisions.



BACKGROUND

The Canada Elections Act previously in force prohibited partisan election advertising at the beginning of a campaign – for about one week, depending on the length of the election period – and at the end of a campaign, on the day before election day and election day itself. The Alberta Court of Appeal (Somerville, 1996) struck down the provision as it applied to candidates and third parties (third parties are groups or individuals other than candidates, registered parties and their electoral district associations). As a result, only advertising by registered parties was prohibited during the blackout periods.

The Act previously in force also prohibited the publication of survey results on the last three days of the election period. In the Thomson Newspapers case (1998), the Supreme Court of Canada struck down that provision as an undue restriction on freedom of expression.

ADVERTISING AND SURVEYS: BAN ON ELECTION DAY

The new Canada Elections Act bans election advertising and the publication of new opinion surveys on election day. This measure applies to registered parties, candidates and third parties.

ELECTION OPINION SURVEYS: REQUIREMENT TO DISCLOSE METHODOLOGY

To help electors arrive at an informed opinion on the validity of survey results, the media is required under the new Act to disclose the methodology of the election opinion surveys they publish.

The first media outlet to release the results of an election opinion survey, and any other outlet broadcasting or publishing them during the next 24 hours following initial publication, must publish the survey methodology at the same time. In addition, the election survey's sponsor is required to supply a detailed description of the methodology to anyone requesting it, for a maximum fee of \$0.25 per page. Whatever medium is used to make the results public – radio, television, print, or the Internet – the description of the methodology must contain the following information:

- the name of the survey's sponsor the name of the person or organization that conducted the survey the date or period when the survey was conducted the population from which the survey sample was drawn the number of people contacted to participate in the survey if the survey was not based on recognized statistical methods, an indication that it was not the margin of error

Print and Internet publishers must also include:

- the wording of the survey questions instructions on how to obtain the written report of the survey results that each survey sponsor must make public



INTERNET

The new Act reflects the growing importance of the Internet in public communications. The Internet is explicitly included in the sections on election advertising and the blackout provisions that appear in the Act.

The new one-day ban on election advertising on polling day applies to the Internet, as well as to traditional print and electronic media. The ban does not apply, however, to survey results and election advertising that were already posted on the Internet before the start of the ban, and that have remained unchanged since they first appeared on the Internet.

THIRD PARTY ELECTION ADVERTISING

The new Canada Elections Act, which came into force on September 1, 2000, regulates election advertising by third parties – individuals and groups other than candidates, registered political parties, or their electoral district associations. This is one of the most substantial changes included in the new legislation.

CONTEXT

In 1993, amendments to the Canada Elections Act previously in force set a \$1,000 limit on the amount a third party could spend on partisan campaign advertisements during an election period. When the Alberta Court of Appeal struck down this provision (Somerville, 1996), third parties were free to spend as they liked to promote or oppose candidates, parties and their positions on campaign issues. In the Libman case (1997) that invalidated some sections of the Quebec Election Act, however, the Supreme Court of Canada supported the view that campaign advertising could be subject to restrictions, because it is a legitimate objective for electoral legislation to set spending limits for all electoral participants, including third parties. The new provisions in the Act are intended to ensure a level playing field for all parties involved in election campaigns.

DEFINITIONS

The new Act defines election advertising as “the transmission to the public by any means during an election period of an advertising message that promotes or opposes a registered party or the election of a candidate, including one that takes a position on an issue with which a registered party or candidate is associated.” It also specifies that editorials, news, speeches or interviews are not considered to be election advertising. Nor are personal Web pages posted on the Internet on a non-commercial basis.

REQUIREMENT TO REGISTER

Under the new Act, a third party spending \$500 or more on campaign advertising is required to register with the Chief Electoral Officer of Canada during the election period.

If the third party is a trade union, corporation or other entity with a governing body, the application for registration must include a copy of the resolution passed by its governing body authorizing it to incur election advertising expenses.



SPENDING LIMITS ON ELECTION ADVERTISING

A third party may spend up to a total of \$150,000 nationally on election advertising. Of this amount, it may spend no more than \$3,000 in any single electoral district. For by-elections, the maximum is \$3,000 for each electoral district.

OTHER PROVISIONS

A third party must identify itself on any election advertising it places and indicate that it has authorized the advertisement.

The blackout on election advertising applies to third parties, just as to registered political parties and candidates. No election advertising is allowed, whether published or broadcast, on election day until all

polling stations in the electoral district have closed.

Under the new Act, third parties are not entitled to reimbursement of their advertising expenses, do not receive the voters lists, and are not, as third parties, entitled to issue tax receipts for contributions they receive.



FINANCIAL REPORTING

Registered third parties are required to submit a report to the Chief Electoral Officer within four months of the election. This report has to indicate the contributions received for the campaign and the expenditures made for election advertising during the campaign. Expenditures include the costs of producing and placing election advertisements.

In the report, third parties are required to disclose the name and address of anyone who contributed more than \$200 for election advertising in the period beginning six months before the election was called and during the election period. When a numbered company contributes more than \$200, the name of its chief executive officer or president must be indicated. The financial report has to be audited if the third party has spent \$5 000 or more in election advertising expenses.

Failure to comply with any of these provisions constitutes an offence under the Canada Elections Act. The new Act prohibits collusion between candidates, registered political parties and third parties, to prevent circumvention of the limits.

The Chief Electoral Officer must publish the third party reports within one year of the issue of the writs for an election, in the format he deems most suitable.

For more information, please contact:

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