

3 August 2018

Standing Committee on Finance
House of Commons
Ottawa
K1A 0A6

Re: 2019 Pre-Budget Submission

The Association of Canadian Advertisers (ACA) appreciates this opportunity to provide its comments to the Standing Committee on Finance on the important subject of Economic Growth: Ensuring Canada's Competitiveness. Specifically, our submission focusses on what steps the federal government should take to support and/or encourage Canadians and their businesses to grow the economy in the face of a changing economic landscape. We offer 3 recommendations.

ACA, a national not-for-profit organization, is the only professional trade association solely dedicated to representing the interests of client companies that market and advertise their products and services in Canada. Our members, over 200 companies and divisions, represent a wide range of industry sectors, including manufacturing, food and beverage, retailing, packaged goods, financial services and communications. They are the top advertisers in Canada, with collective annual sales of more than \$300 billion.

Economic Growth: Advertising is critical to fuelling Canada's economic engine...

Consumer spending greatly determines the future of a nation's economy and advertising informs and motivates people to spend more. By encouraging more buying, advertising promotes both job growth and productivity improvements to help meet increased demand and enable each consumer to have more to spend.

Advertising is critical to a healthy and robust Canadian media ecosystem and is one of the primary resources sustaining the Canadian broadcasting system. Advertising is a consistent source of funding for the programs and journalism that inform, entertain, employ and educate Canadians. Net advertising media spend in Canada was estimated at \$14.08 billion in 2015.¹ Additionally, Canadian industry sponsorship spend was estimated to be \$1.98 billion in 2017.²

¹ CMDC Media Digest 2016/17

² 11th Annual Canadian Sponsorship Landscape Study, Interim Report, 2017

However, this only represents a small portion of advertising's overall impact on the economy. A Deloitte study recently pegged the GDP multiplier effect of advertising in Canada at 6.37, registering the impact of advertising, excluding sponsorship spending, at almost \$90 billion.³

... yet advertising is under attack

Despite the important role advertising plays in Canada's economy, Canada's advertising industry, is threatened by the federal government's policy agenda on two fronts, specifically:

1. Proposed restrictions on food and beverage advertising and sponsorship and,
2. The threat to the simultaneous substitution regime.

1. Proposed Restrictions on Food and Beverage Advertising and Sponsorship

Industry recognizes that obesity is a serious challenge that needs to be addressed. And Industry has taken responsibility and steps to tackle the issue and wants to work with government to develop further solutions - solutions that do not cripple Canadian industry in the process.

However, Senate *Bill S-228* and regulatory amendments to the *Food and Drugs Act* being pursued by Health Canada threaten to severely limit Canadian companies' right to legally and responsibly market their products, including advertising products directed to adults. This regulatory regime will have grave consequences to the growth of the economy and to the competitiveness of Canadian business.

In November 2017, ACA commissioned Doug Blair, a recognized authority on both RIAs and CBAs, to conduct a comprehensive economic impact analysis on *Bill S-228* and the then proposed Health Canada regulatory framework.

The impacts of those restrictions were severe and would reduce:

- Advertising revenues by between \$860 million to \$1.15 billion per year, including \$300 million to broadcast
- GDP by between \$5.4 to \$7.28 billion
- Employment by 22,690 to 30,580 person-years
- Wages and salaries earned by Canadians by \$1.6 to \$2.11 billion per year.
- Provincial taxes by \$225 million to \$300 million, and
- Federal taxes by \$306 million to \$407 million.

³ The Economic Contribution of Advertising in Europe: A Report for the World Federation of Advertiser, January, 2017

Since the study was completed, *Bill S-228* has been amended to now define children as being under 13 years of age (as opposed to under 17) and Health Canada has offered up yet another version of proposed restrictions in their May 2018 publication - *Restricting Marketing of Unhealthy Food and Beverages to Children: An Update on Proposed Regulations*.

We are currently updating our economic impact analyses to incorporate the age amendment in *Bill S-228* and Health Canada's latest proposals. The findings will likely be made public this fall, and preliminary review indicates the consequences will be much the same as witnessed in the original study last November.

Proponents of *Bill S-228* and Health Canada officials will contend that *Bill S-228* and the department's regulatory intent have been significantly amended. However, when put into practical application, these changes have been for the most part merely semantic, with the combined effect resulting in a comparable economic impact, including the restricting of food and beverage advertising to adults.

With reference to the foregoing, it should be recognized that industry has been effectively excluded from the legislative and policy processes associated with *Bill S-228* and Health Canada's proposed restrictions on food and beverage advertising.

Health Canada's failure to adhere to the Cabinet Directive on Regulatory Management (CDRM) and meaningfully collaborate with other departments to mitigate collateral damage

With specific regard to proposed restrictions on food and beverage advertising, we do not believe Health Canada has been faithful to the CDRM.

CDRM reiterates the Government of Canada's commitment to "ensure that its regulatory activities result in the greatest overall benefit to current and future generations of Canadians". For this assessment, the most relevant standards that regulators must meet are found in Section 6 of the Directive on Regulatory Impact Analysis. The CDRM stipulates that "departments and agencies are responsible for assessing the benefits and costs of regulatory and non-regulatory measures, and adhere to the requirements for analyzing the benefits and costs of regulation set

out in guidance from the Regulatory Affairs Sector of the Treasury Board Secretariat. This guidance includes the Triage Statement, the Regulatory Impact Analysis Statement Template and the Canadian Cost-Benefit Analysis Guide for Regulatory Proposals.”

Health Canada recently solicited stakeholder input, via survey, regarding the potential cost implications to its vague policy framework. The Health Canada survey was collectively rejected by key Canadian food and beverage associations - Association of Canadian Advertisers, Food & Consumer Products of Canada, Canadian Beverage Association and Restaurants Canada - as being impossible to complete given the ambiguous, contradictory and rudimentary nature of its construction.

Similarly the survey exercise was cited for its failure to recognize and consult other key stakeholders who will be impacted by S-228 and Health Canada’s regulations, including, but not limited to, the Institute of Communications Agencies, Canadian Media Directors Council, Baking Association of Canada, Movie Theatre Association of Canada and Dairy Processors of Canada. To put this in perspective, bakers and dairy processors, who will likely no longer be able to advertise their bread and cheese products, were not consulted by Health Canada to determine the potential impacts on their businesses.

We also submit that the development of restrictive regulatory policy of this magnitude, having impacts across a variety of sectors, needs to include a horizontal review across all affected departments, including Heritage and Agriculture and Agri-Food Canada.

This is particularly important given the apparent disregard by Health Canada of the compounding impacts of the many other elements of its Healthy Eating Strategy including changes to Front of Package labelling, Canada’s Food Guide, and sodium reduction.

Recommendation 1: Rather than look at each element in isolation, we recommend a comprehensive cost benefit analysis of the entire Healthy Eating Strategy done in full consultation with other departments.

The economic impacts of S-228, supported by Health Canada regulatory restrictions on food and beverage advertising, will be severe. In addition to the major reduction in cash flow to a

struggling Canadian media, these measures will put Canadian actors, technicians and creative talent out of work and likely see the marketing departments of major food and beverage manufacturers and marketers permanently closed as advertising will move to foreign digital platforms beyond the reach of Canadian regulation.

Notwithstanding the exorbitant costs inherent to the measures being advocated by *Bill S-228* and Health Canada, these draconian measures are being pursued while latest Statistics Canada data, released August 2017 found that national obesity rates among children and youth (ages 5-17) declined between 2004 and 2015, from 13% to 12%.⁴

Recommendation 2: That Finance advocate deferment of passage of Bill S-228 (expected early this fall) to allow industry to provide appropriate input and provide the government with the time to ensure coordinated economic and regulatory alignment across all Ministerial mandates, including a comprehensive Cost Benefit Analysis of Health Canada's complete Healthy Eating Strategy.

2. Simultaneous Substitution of the NFL Super Bowl

In August 2016, the CRTC issued Broadcasting Order CRTC 2016-335, eliminating simultaneous substitution of advertising (simsub) for the Super Bowl, effective February 2017 onward.

Simultaneous substitution is a long-standing and successful cornerstone of Canadian broadcast policy. The policy benefits the entire broadcasting system, an already ailing system disadvantaged by intense competition from global players like Netflix, who do not have to operate by the same rules as Canadian broadcasters.

Importantly, simsub protects the program rights paid for and acquired by Canadian broadcasters while giving advertisers across the country the opportunity to reach Canadian consumers with advertising that is relevant to them. Such marketing opportunities are essential for many businesses to grow their sales and build their companies, in turn creating jobs and providing fuel

⁴ <http://www.statcan.gc.ca/daily-quotidien/170801/dq170801a-eng.htm>

to grow a robust and productive economy, consistent with the objectives of this pre-budget consultation.

Moreover, advertisers in Canada run ads that are relevant to Canadians and support the efforts of Canadian businesses. For instance, in the February 2016 Super Bowl lineup, Wealthsimple, a Canadian financial start-up contributing to our economy, advertised using simultaneous substitution to reach its Canadian audience. Under the CRTC order prohibiting simultaneous substitution for the 2017 Super Bowl, Wealthsimple was no longer able to reach the same audience – nor was any other Canadian advertiser.

Canadian advertisers also follow the rules. Government and industry have worked hard to assemble unique commercial standards, both mandatory and self-regulatory, that reflect our values. Canadian commercials comply with these Canadian advertising standards. U.S. advertisers have no interest or need to do so. Because of the CTRC decision, Canadians can now be exposed to commercials they are not otherwise able to view on Canadian broadcasts. For instance, an ad in the 2016 Super Bowl for Jublia, a toenail fungus medication, would not have been approved in Canada. In last year's Super Bowl, there were 12 violations to our advertising guidelines.

It is unfathomable that the CRTC, an organization with jurisdiction over Canadian telecommunications services, would choose to favour and sanction broadcast commercials that are essentially “illegal” in Canada over Canadian-made commercials that comply with Canadian laws.

This CRTC decision affects all parties in the advertising ecosystem and critically, represents the case for the dismantling of the entire simsub regime. Revenue to media advertising agencies is reduced and Canadian TV commercials simply are not being made, thereby eliminating commercial production activity in Canada and reducing opportunities for Canadian performers to appear in and showcase products and services.

ACA and ACTRA will again intervene in the NFL's Supreme Court challenge to Broadcasting Order CRTC 2016-335, slated for late fall.

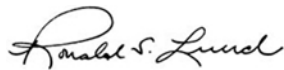
Recommendation 3: *That Finance advocate for the elimination of Broadcasting Order CRTC 2016-335, which is consistent with the objects of this pre-budget consultation.*

Conclusion

Advertising is a critical component of a well-functioning Canadian economy. Canadian advertisers provide the life-blood to Canada's media industry, which is under serious attack. Yet the Canadian advertising industry itself is under attack, threatened by legislation and regulation that will have serious and long-term repercussions on the Government's goal of improving productivity and competitiveness for Canadian businesses and ultimately the Canadian economy.

ACA looks forward to the opportunity to discuss in more detail the concerns laid out above with members of the Commons Standing Committee on Finance and, therefore, requests to appear as a witness during the pre-budget hearings.

Sincerely,

A handwritten signature in cursive script that reads "Ronald S. Lund".

Ronald Lund
President & CEO
Association of Canadian Advertisers