

RCA strongly supports the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005.

Reproductive Choice Australia is a National Coalition of over 20 organisations including Children by Choice, the Public Health Association of Australia, the Australian Women's Health Network, the Women's Electoral Lobby, and all state-based pro-choice groups. RCA's goals are to:

- Maintain, extend and improve women's access to abortion both legally and practically.
- Ensure access to non-directive counselling and information on pregnancy options.
- Advance the capacity of Australian women to exercise choice and control over their reproductive lives

RCA strongly supports the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005 – or a Bill very much like it – becoming the law of the land. The Bill should be commended for seeking to close a loophole in current legal arrangements that enables Crisis Pregnancy Centres (CPCs) to deny potential and actual users of their service the basic legal protections enjoyed by Australians: protection from deceptive or misleading advertising. It is our view that all Australians, whether or not they pay a fee for a service – and regardless of their sex, religion or pregnancy status – have a right to truth in advertising.

RCA seeks to use this opportunity to remind the Committee that behind the concept of truth in advertising is a view of citizens, patients and consumers as rational individuals whose autonomy – or capacity to govern their own lives – merits protection. Misleading or deceptive advertising seeks to manipulate the behavior of citizens by providing false information on which they - trusting in its veracity – might choose to act. Truth in advertising laws say that regardless of the benefits that might accrue to the advertiser of getting citizens to do what they want – to buy their products or use their services – manipulating or coercing individuals into behaving in ways that *if they knew the truth they might not* is an unjustified abuse of their autonomy.

Small-l Liberal states like Australia have consumer protection laws like those that prohibit misleading and deceptive advertising because they believe they see the defense of individual liberty as the central task of government. Citizens must be free to exercise their own values in pursuit of what *they* define as “a good life”. Of course, in pluralist nations like ours citizens will disagree about what a good life is, and how they ought to go about living one, but alongside the right of each to control and direct their lives according to their values is the obligation to respect the right of others to do the same.

The State has some positive obligations to protect the liberty of citizens to direct their own lives, or to exercise what ethicists call autonomy. One is to ensure that citizens have the information they need to make informed choices. The Federal Health Minister noted as much recently when he advocated for consumer protection regulation to enable Australian citizens to make “more informed choices about what they do with their lives”. He was speaking about the need for the Federal Government to regulate to ensure food labeling included “prominent” and “unmistakable” information about nutrition, so Australians could make informed choices about what they eat but the concept – that the State has a role in ensuring its citizens are provided with clear and honest information on which to base informed choices about what to do with their lives – also holds true for pregnancy counseling. Real choice will founder on a glacier of lies.

RCA’s understanding of the process being undertaken by this committee is that it is a collegial one in which Senators work with one another and the community to better understand the implications of the Bill, and to make constructive suggestions as to how it might be improved so it can be debated in both houses and come to a vote. Having carefully read through the transcript of the Canberra hearing and the submissions made to the Committee – as well as the Bill itself – RCA would like to take note of what appear to be some key overlooked areas of consensus amongst those both supporting and opposing the bill. In so doing, we hope to dispel any false impression that might be gained that the two sides are hopelessly divided, and that the evidence is inconclusive about the need for this Bill, or one very much like it, to become Law.

There is agreement amongst both supporters and opponents of the Bill that

transparency in advertising is an important principle worthy of support.

Mrs Foster, the Executive Officer of the AFPSS – the agency in receipt of \$300,000 of government funding and the umbrella organisation for 27 anti-choice pregnancy services in this country – confirms that “Pregnancy Help Australia [the name the AFPSS operates under] is supportive of the requirement of truth and transparency in advertising in relation to all counselling services including pregnancy counselling.”(CA40, Canberra hearings).

There is agreement among both supporters and opponents of the Bill that there are two sorts of counseling agencies that current operate in Australia: one set that might be called anti-choice/pro-life and another that can be called pro-choice/all-options.

Again, I call attention to the key testimony of a principle of the AFPSS on this matter. Mrs Foster, in answer to questions from Senator Stott-Despoja at the Canberra hearings, confirmed that the constitution of the AFPSS – currently being revised – will not be changed or in any way amended with regard to two key provisions. The first, the AFPSS’s commitment to providing an “organisational structure for state, regional and local prolife pregnancy support service centres”. The second, it’s commitment **not** to “advise, provide or refer directly or indirectly for abortion or abortifacients’. Obviously, this philosophy – which Mrs Foster calls “pro-life” - is fundamentally different to that of a pro-choice organisation, which does not have a philosophical objection to “advising, providing or referring directly or indirectly” for any of the three options - adoption, continuing or abortion - available to a woman facing an unplanned pregnancy.

There is an admission from the Chief Executive Officer of the AFPSS and the Director of Counselling Services Deborah Garratt that while the AFPSS claims to support transparency, it does not provide it to women.

In the Canberra hearings Senator Nettle asked:

“Do you list anywhere that you do not refer for termination or provide information to women about access to termination? Is that listed anywhere in your advertising or anywhere in your

material?”

Mrs Garratt—Not specifically....[deleted]

Senator NETTLE—...you do not indicate anywhere in your own material that you do not do that?

Mrs Foster—No.

It is the view of RCA these two key points of agreement, and this crucial admission by two principles of the umbrella organisation for state, regional and local anti-choice “pregnancy support service centres”, should ensure support for the key features of this Bill.

If we can all agree that transparency matters, and that meaningful distinctions exist between currently available types of pregnancy counseling services **but that they are not being made evident to women in the advertisements and notices of some of these services**, than it becomes clear that disagreements about the Bill are quibbles around the margins that *do not* go to the importance of the principle of transparency in advertising and the need for it to be guaranteed in law to all service-users, not just fee-paying ones.

I want to quickly list those quibbles, and to propose some relatively easy remedies for them, so they might be better recognized when they arise as the relatively insubstantial matters they are, and not as in any sense fatal to the substance of the Bill:

Quibbles about Terminology

One terminological hurdle the Bill faced was identifying language that captured the key differences between “pro-life” and pro-choice counselling. Opponents of the Bill have objected to its use of the terms “refer” and “non-directive”. They insist on referring to pro-choice services as “pro-abortion” as a means of supporting the false claim that pro-choice service are hampered by the same biases as pro-life ones: in this case a philosophical opposition to adoption and motherhood.

The debate about language is as charged as the abortion debate itself. But this is not a debate about abortion, but one about transparency in advertising, and it is RCA's view that quibbles about language need not bog this bill down.

The language that should be used in advertisements and notices of CPC is the language that alerts women to the nature of the service being offered. Precisely what terminology does this is an empirical question, the answer to which can be discovered by ethical, high-quality research. RCA proposes a process by which a reputable market research company agreed to by Senators on the Committee who support and oppose the Bill be charged with surveying an adequate number of women of reproductive age to discover what terms clearly and unambiguously indicate to them the nature of the service being advertised, and for that language to be used in the legislation to achieve its aims of ensuring truth in advertising.

Quibbles About What Sort of Organisations Should Need to Transparently Advertise

Historically and to this day, it is has been anti-choice pregnancy counselling services who have engaged in false advertising in order to lure women they describe as “at risk of abortion”, “abortion-minded” or “abortion vulnerable” into ringing their services. The deceptive and misleading aspects of the advertising are deliberately designed to entice women who would *not* choose – if they knew the agency was anti-choice – to ring them up to discuss their unplanned pregnancy. (I table here 2 documents, one from an anti-choice group called CareNet which makes somewhat chilling reading in this regard, as it exposes the use by anti-choice agencies of research designed to elicit from young women what terms they associate with a pro-choice services so they could be falsely employed in pro-life advertising to trick other women into calling the service. The other from a follow-up research report showing the high take-up rate by CPCs of suggestions on how to use deceptive labelling and other practices to attract women “at risk of abortion” made in an earlier report). It is not surprising, therefore, that the Bill focuses on curtailing the reprehensible behaviour of those exploiting the loopholes in the law.

Having said that, pro-choice services never have had anything to hide when it comes to the their philosophical approach to the issue of unplanned pregnancy, or their referral patterns.

Pro-choice services, counsellors and staff are proud of the non-sectarian, quality, all-options nature of the service they provide and have no desire to disguise the pro-choice philosophy that guides their word from potential service-users. For this reason, RCA feels confident pro-choice services would have no objection to ensuring this tag was attached to all advertisements and notices about their service.

Quibbles About the 24 Hour Health and Help Pages

Opponents of the Bill have made much of the legislation’s restriction of their freedom to advertise on these pages. It should be noted that currently, it is pro-choice services that suffer this restriction, as only 24 hour services can place notices there, and the Federal Government only funds 24 hours phone services with an anti-choice philosophy.

One solution to this problem would be for the Government to fund a pro-choice 24 pregnancy help line, that could – transparently advertised of course - take its place beside all other services advertising in this section. In any case, RCA believes the Bill must specify the size, type and colour of the “transparency labels” affixed to all services in this and all other sections of the phone book, as well as in all notices and advertisements covered by the legislation. If the phrase “This service does not provide referrals for terminations of pregnancy” or “pro-life service” or whatever phrase is chosen in a legitimate focus group process” is in red, 14 point, arial type print, for instance, at least it will be easy – at a minimum – for women to clearly recognise the leaning of the services in that section. To see clearly, in this instance, that all services in the health and help section are anti-choice.

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In its submission, and this opening statement, RCA has attempted to make clear its reasons for believing in truth in advertising, and its reasons for supporting the current Bill, or one similar to it. We feel it is important for those opposing the Bill to explain why they feel it is better for the pregnancy counseling environment, one which we feel sure they would agree focuses on women – some very young, all at a vulnerable time in their lives – to remain unregulated with regard to advertising. Why if anti-choice CPCs have nothing to hide, would

they object to legislation the primary purpose of which is to ensure pregnant women have the same rights as other Australian citizens: the right to full and honest information about the nature of pregnancy counseling services available to them?

And if anti-choice CPCs do have something to hide, if they are relying on deception to manipulate women *who if they knew the truth would choose not to contact them*, Australians will have a right to ask why the Senators on this committee, having had this problem brought to their attention, chose not to act – quickly and in a bi-partisan manner – to solve it.