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The Parliament of the  
Commonwealth of Australia

THE SENATE

*Presented and read a first time*

## **Pregnancy Counselling (Truth in Advertising) Bill 2006**

**No.     , 2006**

*(Senators Stott Despoja, Troeth, Nettle and Carol Brown)*

**A Bill for an Act to prohibit misleading or  
deceptive advertising or notification of pregnancy  
counselling services, and for related purposes**



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**A Bill for an Act to prohibit misleading or deceptive advertising or notification of pregnancy counselling services, and for related purposes**

The Parliament of Australia enacts:

**Part 1—Preliminary**

**1 Short title**

This Act may be cited as the *Pregnancy Counselling (Truth in Advertising) Act 2006*.

**2 Commencement**

This Act commences on the day on which it receives the Royal Assent.

1       **3 Definitions**

2                     In this Act:

3                     ***non-directive pregnancy counselling service*** means a service that  
4                     offers counselling, information services, referrals and support on  
5                     all three pregnancy options, being:

- 6                     (a) raising the child; or  
7                     (b) adoption; or  
8                     (c) termination of pregnancy;

9                     and will provide referrals to termination of pregnancy services if  
10                    requested to do so.

11                    ***pregnancy counselling service*** means a counselling service that  
12                    has as its purpose, or one of its purposes, the provision of advice or  
13                    information services to women and their support persons regarding  
14                    options in relation to pregnancy, childbirth or termination of  
15                    pregnancy.

16                    ***termination of pregnancy*** means the surgical or medical  
17                    termination of a pregnancy.

18       **4 Objects**

19                    The objects of this Act are to:

- 20                    (a) prohibit misleading and deceptive notification and  
21                    advertising of pregnancy counselling services; and  
22                    (b) promote transparency and full choice in the notification and  
23                    advertising of pregnancy counselling services; and  
24                    (c) improve public health; and  
25                    (d) minimise the difficulties associated with obtaining advice to  
26                    deal with unplanned pregnancy.

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## **Part 2—Misleading advertising or notification**

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### **5 Misleading advertising or notification of pregnancy counselling services**

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(1) A person who provides a pregnancy counselling service must not publish, distribute, display or broadcast, by Internet, television, telephone, radio or like service, or by post:

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(a) any material that is misleading or deceptive as to the nature of the services it provides; or

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(b) any material that is likely to mislead or deceive as to the nature of the services it provides.

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(2) In relation to a pregnancy counselling service that is provided by way of telephone, a person must not publish, distribute, display or broadcast in connection with the advertising or notification of such service by any means:

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(a) any material that is misleading or deceptive as to the nature of the services it provides; or

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(b) any material that is likely to mislead or deceive as to the nature of the services it provides.

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(3) In a prosecution of a person for an offence against subsection (1) or (2), it is a defence if a person proves that he or she:

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(a) took no part in determining the content of the material; and

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(b) could not reasonably be expected to have known that the material was inaccurate or misleading.

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(4) This section applies whether the service is provided free of charge or for a fee.

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(5) Contravention of subsection (1) or (2) is an offence.

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Penalty:

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(a) for an individual—a maximum of 2,000 penalty units; or

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(b) for a body corporate—a maximum of 10,000 penalty units.

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Note: Section 4B(3) of the *Crimes Act 1914* does not apply.

## **6 Requirements for advertising or notification of pregnancy counselling services**

- (1) A person who provides a pregnancy counselling service that does not provide referrals for terminations of pregnancy must include in any material that advertises or notifies the public of its services by Internet, television, telephone, radio or like service, or by post, a statement that “This service does not provide referrals for terminations of pregnancy” or a like statement.
- (2) A person who provides a pregnancy counselling service that does provide referrals for terminations of pregnancy must include in any material that advertises or notifies the public of its services by Internet, television, telephone, radio or like service, or by post, a statement that “This service does provide referrals for all pregnancy options” or a like statement.
- (3) In relation to a pregnancy counselling service that is provided by way of telephone, where such service does not provide referrals for terminations of pregnancy, a person who provides such service must include in any material that advertises or notifies the public of its services by any means, a statement that “This service does not provide referrals for terminations of pregnancy” or a like statement.
- (4) In relation to a pregnancy counselling service that is provided by way of telephone, where such service does provide referrals for terminations of pregnancy, a person who provides such service must include in any material that advertises or notifies the public of its services by any means, a statement that “This service does provide referrals for all pregnancy options” or a like statement.
- (5) Advertising or notifying material that does not comply with subsection (1), (2), (3), or (4) is taken to be material that is misleading or deceptive to the public for the purposes of section 5.
- (6) Contravention of subsection (1), (2), (3) or (4) is an offence.

Penalty:

- (a) for an individual—a maximum of 2,000 penalty units; or

1 (b) for a body corporate—a maximum of 10,000 penalty units.

2 Note: Section 4B(3) of the *Crimes Act 1914* does not apply.

3 **7 Grant of Commonwealth financial assistance not payable where a**  
4 **pregnancy counselling service engages in misleading or**  
5 **deceptive conduct**

6 Where a participating State receives financial assistance from the  
7 Commonwealth in whatever form and the financial assistance is  
8 used for making payments to a pregnancy counselling service and  
9 the service is found to have engaged in misleading or deceptive  
10 conduct in accordance with section 5, or has not met the  
11 requirements of subsection 6(1), (2), (3) or (4), the financial  
12 assistance is not payable until the pregnancy counselling service  
13 has ceased to engage in the misleading or deceptive conduct or has  
14 met the requirements of subsection 6(1), (2), (3) or (4).

15 **8 Minister to report annually on payments to and performance of**  
16 **pregnancy counselling services**

17 (1) Where a payment or a grant of financial assistance is made by the  
18 Commonwealth:

19 (a) to a State where the payment is made to a pregnancy  
20 counselling service; or

21 (b) directly to a service provider engaged in the provision of a  
22 pregnancy counselling service;

23 the Minister is to report annually:

24 (c) the amount of each payment to each State and each  
25 pregnancy counselling service provider; and

26 (d) the name of each service provider receiving a payment; and

27 (e) the policy that each service provider advocates being either:

28 (i) a pregnancy counselling service which does not provide  
29 referrals for terminations of pregnancy; or

30 (ii) a non-directive pregnancy counselling service which  
31 provides referrals for all pregnancy options.

32 (2) The Minister must, as soon as practicable after 30 June but before  
33 30 September in each year, cause to be laid before each House of  
34 the Parliament a report in accordance with subsection (1).

1       **9 Disclosure of policy by pregnancy counselling service a condition**  
2               **of financial assistance**

3               A pregnancy counselling service is ineligible to receive a payment  
4               or a grant of financial assistance from the Commonwealth:

- 5               (a) unless it first discloses in any contract made after the  
6               commencement of this Act with the Commonwealth or with a  
7               State whether it is:
- 8                       (i) a pregnancy counselling service which does not provide
  - 9                       referrals for terminations of pregnancy; or
  - 10                      (ii) a non-directive pregnancy counselling service which
  - 11                      provides referrals for all pregnancy options; and
- 12               (b) the Minister reports the information obtained in accordance  
13               with paragraph (a) in the annual report required by section 8.

14       **10 Regulations**

15               The Governor-General may make regulations prescribing matters:

- 16               (a) required or permitted by this Act to be prescribed; or
- 17               (b) necessary or convenient to be prescribed for carrying out or
- 18               giving effect to this Act.