

# Free speech vs. third-party advertising in elections

By Antonella Artuso, Queen's Park Bureau Chief, July 08, 2013

If it's possible to have too much of a good thing, then it's happening right now in Ontario elections.

As voters in five ridings get set to cast their ballots, groups with a serious stake in the outcome are considering whether they'll deplete their bank accounts to give themselves a stronger voice in the electoral process.

Queen's University Professor Jonathan Rose, who teaches political communications, said Ontario has no limits on third-party political advertising during elections, like in the United States, where the Supreme Court has ruled that limits would be unconstitutional and hundreds of millions of dollars are ploughed into promoting views and attacking opponents.



Members of the Ontario Professional Fire Fighters Association threw their support behind the Liberals in the last provincial election. (W. BRICE McVICAR/QMI Agency files)

"How do we balance free speech, which is really important in a democracy, with unfair advantage that money might buy?" Rose said. "You wouldn't want the environment minister, who might have supported clean energy, to be targeted by natural gas producers; you wouldn't want the education minister to be targeted. And at the same time, you wouldn't want opposition members to be targeted by supporters of the government,

"Some limitations are necessary in order to have a level playing field and in order to ensure that the participants in an election are political parties and citizens," he said.

Ontario Chief Electoral Officer Greg Essensa raised a warning in his most recent annual report after spending by third parties more than tripled between the 2007 and 2011 provincial elections.

In 2007, the first year that third parties had to register with Elections Ontario, total spending by 18 parties reached just over \$1.8 million.

In the 2012 byelections, where two ridings and a Liberal majority were on the line, spending hit almost \$1.7 million.

Two teacher unions at war with the Ontario government -- the Elementary Teachers' Federation of Ontario (ETFO) and the Ontario Secondary School Teachers' Federation (OSSTF) -- together spent almost \$1.5 million in two byelections.

The ETFO was the biggest third-party advertiser in the 2011 election at \$2.6 million, and the OSSTF, whose former president Ken Coran is now the Liberal candidate in the London West byelection, has forked out directly and through Working Families almost \$900,000 since Elections Ontario began keeping score in 2007.

"My recommendation to the Assembly was that they establish an independent body to review third-party advertising rules here in Ontario. Based on our review, my recommendation is that they should at least consider some form of third-party spending limits, some form of third-party contribution limits, look at strengthening the reporting requirements for third parties and looking at adopting some anti-collusion provisions and stricter registration controls," Essensa said. "It goes right to the core of our democracy ... one of the core principles is that it's a fair and level playing field for all."

One of the busiest third-party advertisers, Working Families -- a coalition of teacher, nurse and building unions-- has focused all its attention on defeating the Progressive Conservative agenda on labour and other issues.

Marcel Wieder, a senior consultant for Working Families, said the group hasn't decided if it will advertise in the Aug. 1 byelections in London West, Etobicoke-Lakeshore, Scarborough-Guildwood, Ottawa South and Windsor-Tecumseh.

Working Families, which has spent more than \$2 million in the last two provincial election campaigns on advertising, does not endorse a specific candidate but believes democracy is well served with a variety of voices, he said.

"Elections are an opportunity for the public to have their say and it's an opportunity to be able to give better direction in terms of the course of how the province is governed," Wieder said.

PC MPP Monte McNaughton, whose party favours limits on advertising, said the current rules allow unions to help the Ontario Liberal Party retain power.

The Tories were unsuccessful in convincing a court that Working Families was a front for the Ontario Liberals, but the party remains convinced that unions have an undue influence over the government through unrestricted advertising that hurts the Liberals' main political opponent.

"I don't put anything past (Premier) Kathleen Wynne and the Liberals and their union boss friends," McNaughton said. "They're going to do whatever they can to win elections."

Wynne has said that she will consider limits on third-party political advertising, and NDP Leader Andrea Horwath is open to the idea as well.

Nothing will be in place in time for these byelections.

But even if the Ontario Legislature should follow the example set by other jurisdictions, like the federal government, which caps third-party advertising so that one organization cannot spend more than a political party, there is a new wrinkle.

Rose said that political and third parties can maximize their advertising buck by posting YouTube videos.

While videos, like the recent ones targeting federal Liberal Leader Justin Trudeau, might cost only a few thousand dollars to make, they can attract mainstream media.

"So the earned media that you get on your little ad is far more significant than the amount of money you paid on your little ad," Rose said. "It suggests that even controlling expenditures still does not limit influence."

## WHO'S SPENDING WHAT

### **2007 Election 3rd-Party Advertising:**

- \* Canadian Union of Public Employees: \$112,249
- \* Carpenters' Union: \$27,755
- \* Coalition After Property Tax Reform: \$59,260
- \* College of Dental Hygienists of Ontario: \$33,017
- \* Elementary Teachers of Toronto: \$15,000
- \* Labourers International Union of North America \$4,563
- \* Canadian Union of Public Employees: \$35,277
- \* National Citizens Coalition: \$2,511
- \* Ontarians for Responsible Government: \$3,423
- \* Ontario Electricity Coalition: \$69,099
- \* Ontario Federation of Labour: \$100,858
- \* Ontario Professional Fire Fighters Assoc.: \$42,501
- \* Ontario Secondary School Teachers' Federation: \$15,000
- \* Parents for Inclusive Public Education: \$4,615
- \* Robert de la Penotiere: \$2,064
- \* The Coalition for Education Fairness Ltd.: \$224,675
- \* United Steelworkers, District 6: \$10,918
- \* Working Families: \$1,084,905

### **2011 Election Third Party Advertising:**

- \* Canadian Union of Public Employees (Local 4400): \$81,017
- \* Canadian Union of Public Employees (Ontario Division): \$81,391
- \* Contractor of the Ontario Electrical League: \$91,000
- \* Elementary Teachers' Federation of Ontario: \$2,662,246
- \* FundHer.ca: \$2,198
- \* Lincoln, Welland and Haldimand Building and Construction: \$3,065
- \* Trades Council Political Action Committee Canadian Auto Workers: \$6,270
- \* Ontarians for Responsible Government: \$7,495
- \* Ontario Clean Air Alliance: \$9,054
- \* Ontario English Catholic Teachers' Association \$1,918,541
- \* Ontario English Catholic Teachers' Association: Sudbury unit: \$7,069
- \* Ontario Professional Fire Fighters Assoc.: \$39,337
- \* People for a Better Ontario: \$4,331
- \* People for a Progressive Ottawa: \$9,513
- \* Quinte St. Lawrence Building Trades Council Political Action Committee: \$1,019
- \* Service Employees Int. Union: \$3,270
- \* Time for Change Ontario: \$106,057
- \* Vaughan Professional Fire Fighters Assoc.: \$3,780
- \* Working Families: \$1,047,815

### **2012 Byelections Third Party Advertising:**

- \* Animal Alliance of Canada: \$848
- \* Elementary Teachers' Fed. of Ontario: \$781,679
- \* Elementary Teachers' Federation of Ontario: York Region: \$64,289
- \* Not This Time Coalition: \$36,683
- \* Ontarians for Responsible Government /National Citizens Coalition: \$7,465
- \* Ontario Medical Association: \$88,248
- \* Ontario Secondary School Teachers' Federation: \$676,494
- \* Vaughan Professional Fire Fighters Assoc.: \$2,839