



ABC ALUMNI LIMITED SUBMISSION TO

Australian Government Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts

# **Review of options to support the independence of the national broadcasters**

**30 August 2023**

## **INTRODUCTORY STATEMENT**

ABC Alumni Limited represents a community of more than 300 former staff and supporters of the Australian Broadcasting Corporation – many of them experienced reporters, editors, and senior managers. We support fully funded, high quality, independent, ethical and free public media in Australia. Our objectives are to promote excellence across all media platforms through advocacy, education, mentoring, and public forums.

We welcome the statement in the Introduction to this Review’s Public Consultation Paper that “the national broadcasters perform a vital function” and that they “are a key pillar in the government’s approach to addressing the harmful effects of misinformation and disinformation.”

We welcome too the decision by the Albanese government to provide funding on a quinquennial (5-year) basis rather than the triennial funding that has prevailed since 1989.

We recognise that binding future governments to honour such a 5-year funding arrangement, especially if a government of a different political persuasion is elected in the middle of a quinquennium, is difficult. But whichever party has a majority in the House of Representatives, there has historically usually been a Senate majority that favours well-funded national broadcasters.

Accordingly, in our view, the best way to safeguard quinquennial funding, and to reduce the chances of an arbitrary reduction of funding mid-term, is to amend the ABC and SBS Acts.

The same applies to further measures to ensure that appointments to the ABC and SBS boards are made on merit.

Thank you for considering this submission.

## EXECUTIVE SUMMARY

This submission is in two parts, each dealing with one of the two terms of reference of this review. Each part has numbered sections which address the issues highlighted in green on pages 9, 10, 13 and 14 of the Department's Public Consultation Paper.

### **PART 1:**

#### **POTENTIAL MECHANISMS TO PROVIDE GREATER CERTAINTY TO 5-YEAR FUNDING TERMS**

##### **Issue 1 (pp 5-7): Amendments to the ABC and SBS Acts relating to 5-year funding terms**

ABC Alumni recommends **amendments to the Acts** which would require that in the final year of any quinquennial funding period, the broadcaster is to produce an Assessment of its performance in the previous 5 years, a new 5-year Plan to cover the coming quinquennium, and an estimate of the quantum of funding required to fulfil that plan. Those documents should be subject to a **departmental review, open to public submissions**, that results in a report recommending a quantum of funding for the next quinquennium. Final decisions regarding funding would remain a matter for the government of the day.

##### **Issue 2 (p 7): Additional funding during a 5-year term**

The quinquennial funding should be a base, not a ceiling. Additional funding for specific purposes must be duly accounted for by the broadcasters.

##### **Issue 3 (pp 7-8): Other arrangements to provide greater stability to national broadcaster funding**

We submit that in order to maintain the value of funding over a 5-year period, the broadcasters' funding should be **indexed to the CPI**, not to the Department of Finance's Wage and Cost Index 6.

##### **Issue 4 (pp 8-10): Non-ongoing funding – suitable and unsuitable**

We submit that compensating the ABC for the 2019-22 indexation freeze is an unsuitable example of non-ongoing funding. The \$21 million per year of "compensation" (or a greater amount) should be rolled into the ABC's base funding.

**PART 2:****GOVERNANCE: APPOINTMENTS TO THE ABC AND SBS BOARDS****Issue 5 (p 11-12): Consultation with the Leader of the Opposition**

We recommend various amendments to s24W of the ABC Act to require genuine consultation over the appointment of the ABC and SBS Chairs. The Leader of the Opposition should not, however, have a veto over the choice of a Chair.

**Issues 6, 7 and 8 (p 12): Selection criteria and the role of the ABC and SBS Chairs**

We recommend that the ABC and SBS each be required to maintain a skills matrix to identify the skills of sitting Board Directors and skills that might be needed, and that prior to drawing up selection criteria for any particular Board vacancy the Minister should consult that matrix and the Chair of the relevant broadcaster.

**Issues 9 (pp 12-13): Appointments to the Nomination Panel**

We do not believe that formal selection criteria for appointments to the Nomination Panel are necessary. However we submit for consideration amendments to the ABC and SBS Acts, to emphasise that appointments to the Boards by the Secretary of the Prime Minister's Department are not subject to direction by the government or by any individual minister, including the Prime Minister.

**Issues 10, 11 and 12 (p 13): Functions of the Nomination Panel**

We recommend no changes to the functions of the Nomination Panel.

**Issue 13 (pp 13-14): Other governance matters**

We recommend that the option for the Minister to ignore the Nomination Panel's recommended candidates when appointing non-executive Directors should be removed, and we suggest alternative arrangements.

**LIST OF RECOMMENDATIONS (p 14)****CONCLUSION (p 15)**

## PART 1

### Potential mechanisms to provide greater certainty to 5-year funding terms

ABC Alumni supports the current practice of a 5-year funding term for the public broadcasters as it provides an improved level of stability, independence and security.

However, that funding remains vulnerable to changes at any time by the government of the day, which opens the possibility of political interference. It is also currently set at a level that fails to maintain its value in real terms against rising costs in the media sector.

One of the key stated aims of quinquennial funding when it was introduced was to [provide certainty](#) by bolstering “the independence and stability of the national broadcasters as a guard against political interference in Australia’s democratic institutions”.

That being the case, there are a number of ways in which that stated aim can be better delivered.

[What follows is commentary on the issues numbered 1 to 4 on pp 9 to 10 of the Department’s Public Consultation Paper.]

#### Issue 1: Amendments to the ABC and SBS Acts

1.1 The ABC and SBS Acts should be amended to include specific sections which set out the manner in which each organisation will be funded.

1.2 ABC Alumni has not attempted to draft amendments to the ABC Act. We suggest that perhaps additional clauses could be added to the beginning of **Part VI – Finance**. Since that Part currently begins at s67, and the previous **Part V – Employees** concludes with s33, it would seem to be possible to insert additional sections at the head of Part VI without affecting the numbering of other sections. In any event, the additional sections should specify that:

- a. Funding will be provided via a series of rolling 5-year terms.
- b. Quinquennial funding should be considered as base funding and would not preclude additional funding being provided for unforeseen developments, unexpected opportunities or new and pressing needs (see Issue 2 below).
- c. At least one year before the conclusion of each 5-year term, the ABC Board must provide, in addition to any corporate plan delivered under Part IVA of the Act, a detailed **5-Year Plan (the Plan)** setting out its aims, priorities, strategy and deliverables for the next 5 years, based on its duties and obligations under the

ABC Act and the Charter, and mindful of current media conditions and technological developments. The plan should provide estimates of the quantum of funding needed to meet these stated goals.

- d. The Board must also provide **an assessment (the Assessment)** of the ABC's achievements and performance during the current 5-year term, measured against its current 5-Year Plan.
- e. Within one month of the delivery of the Plan and the Assessment, the department of the federal government responsible for administering the ABC should institute a **formal public review** of the Plan and the Assessment and call for public submissions from interested parties [we envision a process similar to this Review].
- f. The Department, or a suitably qualified individual or panel appointed by the Department's Secretary, should publish, at least 3 months before the termination of the current 5-year term, a recommendation to the Minister on funding levels for the next 5-year term, based on the Plan, the Assessment, and public submissions.
- g. In the event that the government decides to provide funding at a different level to that recommended, a statement should be made to Parliament on the reasons for the decision, and time allowed for the matter to be debated.
- h. If a government decides to reduce ABC funding during the period of an existing 5-year term, then the Minister must request from the relevant Board a public report on the likely impact of that funding reduction on its ability to deliver on its current 5-Year Plan. A ministerial statement will then be made to Parliament, and time allowed for both the report from the Board and the Minister's statement to be debated.

1.3 Similar amendments should be made to the SBS Act.

1.4 We believe that this process, and particularly the public review envisioned in 1.2.e above, would provide an opportunity for individuals, organisations and interests across Australian civil society – universities and individual academic experts, rural and regional representative groups, scientific organisations, television production companies and their representative organisations, organisations representing the arts, writers, drama companies, musicians, music producers and publishers, trade unions, sporting organisations, charities, think tanks and other non-governmental organisations, and of course the consumers of ABC content – to express a view about the role the public broadcasters should play in Australian life.

1.5 It would, we suggest, broaden the discussion from the narrow focus on its News and Current Affairs output that tends to dominate political and media discussion of the ABC, in particular, on a day-to-day basis.

1.6 A 5-yearly funding agreement that followed such a public debate outside the electoral cycle would, we submit, be less vulnerable than the current largely secret decision-making to sudden reduction by an incoming government.

1.7 This procedure would also help to reduce the number of other efficiency reviews and inquiries that have been imposed on the ABC at far less than 5-yearly intervals, taking up unconscionable amounts of ABC management time and incurring considerable public expense.

***RECOMMENDATION 1: That the ABC and SBS Acts be amended to specify that the broadcasters should be funded on a 5-yearly basis, and that a public review of the broadcasters' 5-Year Plans should precede any government decision about the quantum of 5-yearly funding.***

## **Issue 2: Additional funding during a 5-year funding term**

2.1 In the event that additional funding is provided to the ABC or SBS during a 5-year term in response to new policy proposals or other unforeseen requirements, such funding can be provided for part or all of the remainder of the term. At the conclusion of that 5-year term, the broadcaster should include, in its Assessment, information on how that additional funding was used and a recommendation in its Plan about whether that funding should be continued for a defined period, or rolled into base funding for the next 5-year term.

## **Issue 3: Other arrangements that could be put in place to provide greater stability to national broadcaster funding: inflation indexation**

3.1 One of the greatest threats to the public broadcasters' ability to plan with certainty, and to maintain the services they are obliged to provide under their charters, is the effect of inflation, especially when (as now) the rate of inflation is high.

3.2 The current government restored the indexation which was frozen for the ABC's funding triennium 2019-22. However, the ABC's operating budget is currently increased annually according to the Department of Finance's Wage and Cost Index 6 [WCI6].

3.3 The Parliamentary Budget Office's [analysis of indexation](#) states that, because the wage component of the WCIs are based on the Safety Net Adjustment index and the way that is calculated, **"programs indexed by one of the WCI parameters typically grow at lower rates than both the CPI and changes in average wages over time."**<sup>i</sup>

3.4 As a case in point, ABC Alumni understands that the ABC's operating budget in 2023-24 will be increased by about 2.3% under WCI6, at a time when its wage bill will increase by 4% and many of its other costs will increase by a substantially higher percentage.

3.5 This amounts to a form of additional efficiency dividend levied on all government departments and entities that are indexed to a WCI parameter. However, we suggest that it is especially burdensome to the ABC, which these days produces very little of its non-News screen content in house. It competes for the services of independent producers, not only with commercial broadcasters, but increasingly with well-funded international streamers such as Disney, Amazon Prime, Paramount and Netflix. It is thus exposed directly to private-sector wage and cost increases in a way that many Commonwealth departments and entities are not.

3.6 If the government's stated intention to impose on the streamers a minimum quota of Australian-produced screen content goes ahead (and ABC Alumni fully support that proposal), the competition for the services of the Australian production sector will increase, as no doubt will prices.

3.7 It is obvious that, if the ABC's base funding is adjusted only every 5 years, and the annual indexation applied to that funding is well below the real rate of wage and cost inflation that it faces, the ABC will inevitably end up substantially poorer at the end of the funding term than at the start.

***RECOMMENDATION 2: That the ABC's base funding should be indexed at the rate of the CPI, like more than 100 other Commonwealth entities, rather than at WCI6 or any other Department of Finance Wage and Cost Index.***

#### **Issue 4: Non-ongoing funding**

4.1 The public consultation paper asks, "in what circumstances is non-ongoing funding most and least suitable?"

4.2 In ABC Alumni's view, non-ongoing funding is suitable to fund specific, one-off events or capital expenditures. Examples might be the expense associated with a switch from AM radio to some other technology for reliable, nationwide emergency broadcasting; the move of ABC staff (at least in part a result of pressure from the previous government) to new offices in Parramatta; the need to relocate the ABC's Brisbane office because of an apparent cancer-cluster.

4.3 Non-ongoing funding is not suitable for initiatives which require the ABC to hire staff on an ongoing basis. A classic example is the ENG (Enhanced News Gathering) funding introduced by the Rudd-Gillard governments, continued at a reduced level by the Coalition



from 2013 to 2022, and finally wrapped into ongoing funding in the most recent 2023 budget.

4.4 To fulfil the obligations imposed by the terms of the ENG funding, the ABC hired a substantial number of journalists and others, mostly based in regional bureaux, whose continued careers were dependant on the continuation, from triennium to triennium, of that funding. That uncertainty was unfair to those mostly young staff, unfair to ABC management, and unfair to the rural and regional constituencies whom they served.

4.5 The threat that such non-ongoing funding might be withdrawn increases, in an undesirable way, the power of the government of the day over the ABC and might be seen to influence its News coverage or other content. Furthermore, funding tied by the government to specific ABC expenditure diminishes the independence of the ABC Board and management.

4.6 The Department's Consultation Paper does not mention the most substantial, and in ABC Alumni's view, the least suitable example of non-ongoing funding in the current 5-year funding agreement.

4.7 In its October 2022 mini-budget, the Albanese government fulfilled an election promise by undertaking to repay, over four years, the money that was "lost" to the ABC when indexation was frozen between 2019 and 2022 – a sum of \$83.7 million. **At the end of those four years, this additional funding will cease**, which means that the ABC is looking at a sudden drop of some \$21m in its operating budget in the final year of the current 5-year funding term.

4.8 It is particularly unsuitable because the 'loss' that this funding was intended to repair is ongoing. Yes, the ABC received about \$84 million less, in total, between 2019 and 2022 than it would have done if its funding had been indexed rather than frozen. However the real damage lies in the fact that the ABC's total funding in 2021-22 was some \$40 million less than it would have been had it been indexed over those three years; and that loss is ongoing. All the ABC's annual operating budgets, going forward, will be \$40 million less than they otherwise would have been, partially offset **for four years only** by the \$22 million p.a. "compensation" awarded in non-ongoing funding.

4.9 To properly compensate the ABC for the effect of the indexation freeze, the additional \$83.7 million in non-ongoing funding (to compensate for the money lost 2019-22) should have been accompanied by an annual, ongoing increase to the ABC's operational budget of \$40 million per annum.

4.10 Perhaps such a sum was beyond the reasonable capacity of the national purse at a time when debt was high. But at the very least, the compensatory payment – at whatever level – should have been in the form of a permanent, ongoing increase to the ABC’s funding.

4.11 The current measure, as we say above, leaves the ABC looking at a sudden drop of more than \$20 million in its funding for the final year of this quinquennium. This is the opposite of that stability and certainty which the government seeks to introduce with quinquennial funding.

***RECOMMENDATION 3: That as a minimum the additional \$21m per year that has been added to the ABC’s funding for four years should be rolled into ongoing base funding. This would still represent less than half the annual loss to the ABC’s budget that is a permanent consequence of the indexation freeze of 2019-22.***

## **PART 2**

### **Appointments to the ABC and SBS boards**

ABC Alumni supports the process laid down in PART IIIA of the ABC Act for selecting and appointing the Chair and non-executive Directors of the public broadcasters. It is a substantial improvement on the arrangements that prevailed prior to 2012.

However, in our view, the frequency with which the Minister and the Prime Minister have ignored the list of candidates recommended by the Nomination Panel has devalued the process. Appointments made in this way raise suspicions that the Board is being 'stacked' for political reasons; and meritorious candidates – often well-known and always busy people – become reluctant to put their names forward or to go through what can be a somewhat arduous selection procedure if they think it is likely that the whole process will be ignored.

In our view, the ABC and SBS Acts should be amended to raise both the political cost and the visibility of such decisions – see issues 5 and 13 below.

The sections below relate to the numbered issues on pages 13 and 14 of the Public Consultation Paper.

#### **Issue 5: Consultation with the Leader of the Opposition**

5.1 It is obviously desirable that the appointment of the Chairs of the public broadcasters should be bipartisan, or failing that, that at least the opposition has no strenuous objections. Consultation over recent appointments of the Chair, however, have been nominal: the Leader of the Opposition was informed of the Prime Minister's most recent choice less than an hour before the appointment was announced.

5.2 On the other hand, ABC Alumni does not believe that the Leader of the Opposition should have a veto over the appointment.

5.3 Again, we have not attempted to draft specific amendments to the ABC and SBS Acts. However, we recommend that Section 24X (1) of the ABC Act should be amended to specify:

- a. That the Nomination Panel's recommended list of candidates for the office of Chair should be made available, in confidence, to the Leader of the Opposition at the same time as it is delivered to the Prime Minister.
- b. That the Leader of the Opposition should be given the opportunity to comment on the recommended list of candidates and those comments should be conveyed in writing to the Prime Minister, prior to any announcement of a successful candidate.
- c. Should the Prime Minister decide to appoint a person who has not been recommended by the Nomination Panel, the Leader of the Opposition should be informed of that choice, and of the reasons for it, at least 24 hours before it is made public [or before formal advice is given to the Governor-General].

- d. In the case of (c) above, the Prime Minister should be required to make a statement to the House of Representatives explaining the decision (rather than tabling the reasons in writing) and the Leader of the Opposition be given the opportunity to reply.

***RECOMMENDATION 4: That the ABC and SBS Acts should be amended to ensure that genuine consultation between the Prime Minister and the Leader of the Opposition takes place before the appointment of a new Chair of the ABC or SBS, and that if the Prime Minister chooses to over-ride the recommendations of the Nomination Panel, he or she must explain their reasons to the Parliament.***

## **Issues 6, 7 and 8: Selection criteria and the role of the ABC and SBS Chairs**

6.1 ABC Alumni believe that the general selection criteria specified in s12(5) (c) to (e) of the ABC Act are adequate, but that there should be specific provision for ensuring that the Board as a whole has the relevant skills and experience.

6.2 Section 24W of the ABC Act should be amended to specify that:

- a. In determining the selection criteria for the appointment of a non-executive Director, the Minister should take into consideration the skills mix of the current Board and the necessarily skills required for the specific vacancy being filled.
- b. This can be achieved by a requirement that the broadcasters maintain a Board skills matrix to identify required or missing skills in their current boards.
- c. In the lead up to the selection criteria being finalised, the Minister should consult with the relevant ABC or SBS Chair to discuss the skills matrix.
- d. Whether specific selection criteria are notified to the Nomination Panel, and what those criteria are, remain matters for the Minister to decide.

***RECOMMENDATION 5: That the public broadcasters be required to maintain a skills matrix identifying the skills of their current Boards and any skills needed, and that the Minister be required to take that matrix into account, and to consult with the Chair of the relevant broadcaster, before delivering any special selection criteria to the Nomination Panel.***

## **Issue 9: Appointments to the Nomination Panel**

9.1 On the whole, ABC Alumni believes that successive Secretaries to the Prime Minister's Department have made sensible appointments to the Nomination Panel. The exception occurred in 2013, when two outspoken critics of the ABC were appointed to the panel. One of them subsequently stated publicly that she had been asked to join the Panel by the Prime Minister, Tony Abbott.<sup>ii</sup>

9.2 We do not believe that selection criteria are necessary. However, if the ABC Act is being amended anyway, the appointment process could be strengthened by the addition of two sub-sections to s 24(F), along these lines:

(5) The Secretary of the Prime Minister's Department shall appoint members of the Nomination Panel who according to her or his sole judgment are most suited to performing the functions outlined in subsection 24(B), and, in particular, to nominating candidates for the ABC and SBS Boards on merit, rather than on the grounds of any former or current political inclination or affiliation.

(6) In appointing members of the Nomination Panel, the Secretary of the Prime Minister's Department will not be subject to direction by or on behalf of the Government of the Commonwealth, or by or on behalf of any individual Minister of the Government of the Commonwealth, including the Prime Minister.

***RECOMMENDATION 6: That the ABC and SBS Acts be amended to make it clear that appointments to the Nomination Panel are a matter for the sole judgment of the Secretary of the Prime Minister's Department and that they are not subject to direction by the government of the day.***

## **Issue 10, 11 and 12: Functions of the Nomination Panel**

10.1 ABC Alumni believes that the Nomination Panel process works well, when it is permitted to do so. See Issue 13 below.

## **Issue 13: Other governance matters: the appointment of non-executive Directors**

13.1 As we have stated above, the appointments process is severely weakened whenever the Nomination Panel's recommendations are ignored.

13.2 While there are conceivable reasons why the Prime Minister may wish to appoint a particular person, subject to genuine consultation with the Opposition Leader, to the position of ABC or SBS Chair, there is no valid governance reason for the Minister to interfere with, ignore or overturn the merit-based processes in relation to non-executive Directors.

13.3 ABC Alumni believes that the Minister's option of ignoring the Nomination Panel when appointing non-executive Directors to the Boards of the ABC and SBS should be removed.

13.4 Instead, the relevant Acts should be amended to provide that the Minister may suggest an additional name or names to the Nomination Panel, which the Panel can then consider and assess under their existing merit processes. As a result of that further consideration, the Panel may (at its own discretion) determine to include that candidate in their list of final recommendations, or to confirm their original advice.

13.5 The Minister should retain the right not to fill a Board vacancy for a specified period – perhaps 6 months – and to request that the process be repeated; but she or he should not

have any power to appoint a person who has not been recommended by the Nomination Panel.

**RECOMMENDATION 7:** *That the ABC and SBS Acts be amended to remove the option of the Minister to appoint non-executive Directors of the ABC and SBS Boards who are not on the list of candidates recommended by the Nomination Panel.*

## SUMMARY OF RECOMMENDATIONS

**RECOMMENDATION 1:** *That the ABC and SBS Acts be amended to specify that the broadcasters should be funded on a 5-yearly basis, and that **a public review** of the broadcasters' 5-Year Plans should precede any government decision about the quantum of 5-yearly funding.*

**RECOMMENDATION 2:** *That the ABC's base funding should be **indexed at the rate of the CPI**, like more than 100 other Commonwealth entities, rather than at WCI6 or any other Department of Finance Wage and Cost Index.*

**RECOMMENDATION 3:** *That as a minimum the additional \$21m per year that has been added to the ABC's funding for four years should be **rolled into ongoing base funding**. This would still represent less than half the annual loss to the ABC's budget that is a permanent consequence of the indexation freeze of 2019-22.*

**RECOMMENDATION 4:** *That the ABC and SBS Acts should be amended to ensure that **genuine consultation** between the Prime Minister and the Leader of the Opposition takes place before the appointment of a new Chair of the ABC or SBS, and if the Prime Minister chooses to over-ride the recommendations of the Nomination Panel, he or she must **explain their reasons to the Parliament**.*

**RECOMMENDATION 5:** *That the public broadcasters be required to maintain a **Board skills matrix** identifying the skills of their current Boards and any skills needed, and that the Minister be required to take that matrix into account, and to consult with the Chair of the relevant broadcaster, before delivering any special selection criteria to the Nomination Panel.*

**RECOMMENDATION 6:** *That the ABC and SBS Acts be amended to make it clear that appointments to the Nomination Panel are a matter for the **sole judgment** of the Secretary of the Prime Minister's Department and that they are **not subject to direction** by the government of the day.*

**RECOMMENDATION 7:** *That the ABC and SBS Acts be amended to **remove the option** of the Minister to appoint non-executive Directors of the ABC and SBS Boards who are not on the list of candidates recommended by the Nomination Panel.*

## CONCLUSION

ABC Alumni are conscious that its recommendations involve extensive amendments to the ABC and SBS Acts. [Where we have made specific remarks about the ABC Act, we assume that similar amendments can be made to the SBS Act.]

We understand that governments can usually find ways to circumvent legislation that they find inconvenient. But we can think of no better way, without imposing restrictions on a government's freedom of decision that no political party is likely to accept, of attempting to secure the stability of quinquennial funding and to ensure that appointments to the ABC and SBS Boards are on merit.

**SUBMITTED on behalf of ABC Alumni Limited by**

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<sup>i</sup> Parliamentary Budget Office, *Indexation and the Budget – an Introduction* <https://www.pbo.gov.au/about-budgets/budget-insights/budget-explainers/indexation-budget-introduction>

<sup>ii</sup> Janet Albrechtsen 'Fan-girl Ferguson would be a poor fit to chair ABC', *The Australian*, 2 Oct 2018