

Review of options to support the national broadcasters' independence



Submission by the Media Entertainment & Arts Alliance

August 2023

The Media, Entertainment & Arts Alliance (MEAA) welcomes the opportunity to contribute to this review of options to support the independence of the national broadcasters.

In preparing for this submission, MEAA notes it has consistently pointed to a number of serious concerns in relation to attempts of political influence by government over public broadcaster editorial decision making and related governance concerns as well lack of funding certainty. MEAA has suggested governance and funding options to strengthen the editorial independence and strength of the Australian Broadcasting Corporation (ABC) to prosecute its charter obligations¹ and reiterates many of these suggestions here.

Supporting stable funding arrangements

Our national public broadcasters – the ABC and the Special Broadcasting Service (SBS) - must be funded in a manner that enables achievement of their charters' obligations to provide programs and services that inform, educate, and entertain, and where gathering and presenting news and information, to do so accurately and impartially.

Over eight years (2014 to 2022), more than \$600 million has been estimated as being taken from the ABC's budget compared to a business-as-usual scenario being maintained from 2014.²

It is a matter of record that undertakings by the previous Government not to cut ABC funds were not honoured. Significant cuts were announced in May and November 2014, and these were followed by further indexation pauses, efficiency dividends and general funding cuts.

This period saw more than 1000 experienced ABC staff leave the organisation, taking their years of experience in public broadcasting with them.

Unreliable and reduced funding leaves national broadcaster operations hostage to government whims. It also hampers innovation in what is now very much a consumer-led market. It is a testament to ABC employees that they continue to prove their value and professionalism in the face of funding uncertainty and the operational changes brought about by the ceaseless challenge to the organisation's legitimacy.

We acknowledge that the Australian Government took a significant step in providing funding certainty to the national broadcasters when implemented five-year funding terms for the ABC and SBS, on 1 July 2023.

However, there remain additional ways to provide greater certainty, and in doing so guard against political interference.

MEAA's view is independent advisers should be engaged to assist government to assess five yearly appropriations against relevant ABC and SBS business plans and strategies. This would protect the allocation while ensuring it is subject to ordinary audit processes to ensure diligence in expenditure of public funds.

In addition, there have been a vast array of efficiency reviews – particularly at the ABC – 16 in the past 25 years in fact, with the major (and most pointed) efficiency reviews being conducted following changes of federal government.

¹ See for example MEAA Submission to Senate Environment and Communications References Committee *Allegations of political interference in the Australian Broadcasting Corporation* 13 November 2018

² *ABC Budget Cuts: a key expert speaks*, Michael Ward, Screenhub, 18 May 2018

These reviews have been ideological attempts to undermine public broadcasting and have galvanised the Australian community to defend the ABC's and SBS's value and independence.

While not all reviews are unwarranted, these reviews have been on the whole selective, ill-motivated and politically driven. The Government should be wary of such ad hoc reviews in the future.

None of the above should preclude the government of the day from being able to revise announced funding to provide additional funding during a five-year term to meet the changing needs of audiences.

Supporting effective governance arrangements

MEAA has expressed grave concerns in the past about the governance at the national broadcasters, particularly at the ABC³. MEAA and its members abhor selective and/or politically motivated "interventions" by senior ABC personnel.

MEAA believes that that this review should take steps to ensure that Board selection processes are sound and not polluted by political interference.

For the reasons set out in this submission and consistent with options proposed in the past⁴, we urge the Australian Government to support the following reforms regarding governance:

1. No appointments may be made to the ABC or SBS Board without consideration and recommendation of the independent Nomination Panel;
2. Extend the bar to Board appointments for certain political persons from one to three years;
3. No person who has an official role as a lobbyist or industry lobby group should be eligible for appointment to the ABC or SBS Boards;
4. Preclude politically aligned persons from being members of the independent Nomination Panel;
5. Disclosure of political affiliations and donations by Board candidates;
6. Create one further staff-elected Board member on the ABC Board, and establish two staff-elected Board members on the SBS Board;
7. At least half the directors should have experience in the media, journalism or broadcasting;
8. All candidates for Board appointments must have a demonstrated commitment to public broadcasting;
9. Selection criteria and ministerial amendments to these criteria should be made public; and
10. MEAA should be consulted as part of the ABC and SBS Board appointment process.

The *Australian Broadcasting Corporation Act 1983* (the ABC Act) and the *Special Broadcasting Service Act 1991* (the SBS Act) requires that a merit-based selection process is used to appoint non-executive directors to the ABC Board, including the Chairperson.

The independent Nomination Panel, established in 2007-08, advertises vacancies and assesses applications against merit-based selection criteria. It then provides the government with a report nominating at least three people for each vacancy.

³ See for example <https://www.meaa.org/mediaroom/abc-independence-must-be-preserved-meaa/> and www.meaa.org/news/abc-leadership-crisis-demands-full-public-inquiry/

⁴ *Ibid*

The government then makes a recommendation to the Governor-General who is responsible for appointing non-executive directors to the ABC and SBS Boards (other than the Managing Directors and the ABC staff-elected director). Despite these provisions, in recent years two ABC Board members have been appointed to the Board without being considered by the independent Nomination Panel and a further two were considered and rejected by the Panel but went on to be appointed by the Minister for Communications. There is a concern that several Board appointments have been influenced by political patronage, an antithetical disposition towards the corporation, or as a “trophy” appointment to crown an individual’s corporate curriculum vitae. None of these qualities have served the ABC or its audience well.

MEAA believes at least half the Boards should have relevant experience in the media, journalism or broadcasting which would be part-resolved by having two staff-elected directors.

It is important to have directors that reflect the broadest scope of Australian life and experience, and it is vital at a time when the media is experiencing enormous disruption and transformation that the ABC and SBS are led by people with comprehensive public broadcasting knowledge.

MEAA believes that the ability of the Prime Minister or Minister to opt out of the established appointments process is unjustified; it displays bad faith towards the independent Nomination Panel and compromises public trust in the national broadcasters.

MEAA also notes that former parliamentarians and senior political staff members are prevented from being appointed to the ABC or SBS Boards, but this prohibition is limited to 12 months from the date which they left those positions. MEAA is concerned that the 12 month “prohibition” is too short; it should be extended to three years. MEAA also supports the removal of the ability to appoint former parliamentarians and senior staff members where such persons have been nominated to the Board by the independent Nomination Panel. No such appointments should be possible unless a three-year cooling-off period is adhered to.

Finally, with respect to Board appointments, MEAA calls for the appointment of one further staff representative on the ABC Board. Recent staff engagement surveys have shown a dramatic decline in engagement and morale. An additional staff director position would assist in turning that around. ABC staff are close to the ground and have operational knowledge exceeding that of the majority of their Board colleagues. Another staff director will build staff confidence in the Board's operations and assist in avoiding future misadventure. The SBS Board, unlike the ABC Board, does not currently provide for staff representative, and should provide for this valuable input, ideally in the establishment of two staff representative positions, consistent with the proposed changes to the ABC Board.

Membership of the independent Nomination Panel is made through the secretary of the Department of Prime Minister and Cabinet. Although this appears to be at arms’ length from government, a range of persons with strong political affiliations have been appointed to the panel in the past. MEAA submits that public confidence in the operations of the board appointment process would be bolstered by a prohibition of persons set out in subsection 12(5A) (as amended) of the ABC Act and subsection 17(2A) of the SBS Act from appointment to the independent Nomination Panel.

A more urgent task is removing the ability of a Minister or Prime Minister to appoint persons not nominated by the panel. MEAA believes the Act should not have scope to appoint directors unless they have been assessed against the selection criteria by the independent panel.

Finally, MEAA as the union and professional body for workers in Australia's media and cultural sectors and upholder of the *Journalist Code of Ethics* should be consulted as part of the ABC and SBS Board appointment processes.

Conclusion

Australia's public broadcasters are consistently rated as among the country's most trusted news sources. That trust is enshrined in the broadcaster's charters that requires them to act in the interests of the Australian public – their independence is paramount. That trust must not be eroded.

The Australian Government now has an opportunity, through this review to ensure the national broadcasters remain truly independent and free from political interference and we encourage it to seize this opportunity.