



Australian Government

**Department of Infrastructure, Transport,
Regional Development, Communications and the Arts**

Review of options to support the independence of the national broadcasters

Australian Government response to key issues
raised during consultation

December 2024



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Table of contents

| | |
|---|----------|
| Introduction | 4 |
| Providing greater funding certainty | 4 |
| Supporting evidence-based funding decisions | 4 |
| Protecting announced funding decisions | 5 |
| Strengthening governance arrangements | 6 |
| Composition of the ABC and SBS Boards | 6 |
| Supporting informed and efficient operations of the Nomination Panel..... | 7 |
| Role of the Nomination Panel | 7 |
| Responsibility for Nomination Panel appointments | 7 |
| Composition of the Nomination Panel..... | 8 |
| Selection Criteria | 8 |
| Communication between key parties..... | 8 |
| Aligning directive and regulatory provisions | 9 |

Introduction

The Australian Government has implemented 5-year funding terms for the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS), which commenced on 1 July 2023. This funding stability underpins the delivery of quality content and services that inform, entertain and educate millions of Australians, including children, regional audiences and diverse multicultural communities.

To support these new funding arrangements, the Government requested the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department) undertake a review of options to support the independence of the national broadcasters (the review).

The Hon Michelle Rowland MP, Minister for Communications, released the terms of reference for the review on 20 July 2023, which outlined the matters to be considered as part of the review. The review considered how best to provide greater certainty for announced funding and governance arrangements to protect against political interference, including the appointment processes for the ABC and SBS Boards.

The following topics were outside the scope of the review:

- the quantum of funding, funding terms or funding models provided to the national broadcasters
- changes to advertising restrictions or limits on the ABC or SBS
- changes to the legislative Charters or corporate character of the national broadcasters
- merging the ABC and SBS
- the Minister's legislated power to direct the national broadcasters in certain circumstances
- the efficiency and performance of the ABC and SBS Boards
- the Staff-elected Director on the ABC Board, and
- operational matters that are the responsibility of the ABC and SBS.

A public consultation process opened on 20 July and closed on 31 August 2023. The department also undertook targeted consultations with the national broadcasters, the Nomination Panel for ABC and SBS Board appointments, and relevant government departments. Minister Rowland also consulted with the Chairpersons of the ABC, SBS and Nomination Panel. The department [published 27 public submissions on its website](#); confidential submissions and comments provided to the department during the consultation process were not published, though helped inform the findings of the review in the same manner as submissions. Submissions outside the scope of the review's terms of reference were not published.

This document summarises the key views and themes from submissions and the Australian Government's response following the consultation process.

Providing greater funding certainty

Supporting evidence-based funding decisions

Funding for the ABC and SBS is a decision of the government of the day, and since 1989 has been announced in multi-year terms. From July 2023, the Australian Government moved the national broadcasters to 5-year funding terms; prior to this they were generally provided with 3-year funding terms. Future funding for the national broadcasters has generally been announced a few months before each funding term was due to conclude.

Overall, submissions supported 5-year funding terms. Opposition to the 5-year funding terms for the ABC and SBS focused on a view that taxpayers should not fund the national broadcasters, rather than opposing the principle of 5-year funding terms.

Some submissions proposed a new structured framework to the funding decision-making process, which would see the national broadcasters present future funding requirements to government for earlier consideration in the funding term, (for example in the third year of a 5-year funding term) ahead of the next 5-year funding amount being decided. Submissions noted that earlier announcements of future funding would assist the national broadcasters with their long-term planning and remove the uncertainty that the current announcement timeframes can create for the national broadcasters.

Under this proposal, the department would assess ABC and SBS funding proposals, and could seek external technical expertise where relevant, to inform any advice to government on future funding for the national broadcasters.

This proposed approach would be designed to complement existing Budget processes, with the government of the day remaining the decision-maker on the amount of funding, and the national broadcasters retaining their operational independence in determining how they utilise their annual appropriation.

Some submissions suggested funding proposals be assessed by independent advisers, an independent body or a statutory authority as opposed to the department.

Australian Government response

The Government supports the view that funding provided to the ABC and SBS should be grounded in an evidence-based assessment of future funding and investment needs.

The Government will establish a more structured framework to support the national broadcasters' 5-year funding cycles. This will include working with the ABC and SBS to set timeframes within the 5-year funding cycle for assessment of forward funding proposals and announcement of Government decisions about future funding well ahead of the next funding cycle.

The Government should remain the decision-maker for ABC and SBS funding decisions. There would be a significant administrative burden to convene a unique independent panel for budget considerations every 5 years or when new additional funding was being considered, and the costs would be unlikely to outweigh any benefit given the existing rigour and scrutiny of the Budget process.

Protecting announced funding decisions

Announced funding for the ABC and SBS is not protected by legislation or any other framework under the current funding arrangements. Since 1989, successive governments have relied on convention to maintain funding at the level announced over the course of the funding term.

Some submissions supported a legislative mechanism to protect announced funding. Enacting protections for announced funding would provide a level of financial certainty that significantly exceeds the current convention-based arrangements. Protection of announced funding would enable the national broadcasters to more effectively plan long-term investment to support their strategic objectives, and would provide greater stability and independence to guard against political interference and arbitrary funding cuts.

Submissions discussed different legislative mechanisms that could provide protection for announced funding. Options included legislated requirements that ensure Parliamentary and public scrutiny of funding decisions through normal Parliamentary processes. Submissions also advocated for legislative amendments to prevent base funding within a 5-year term being reduced below the levels announced at the commencement of each 5-year term, and that each subsequent term should not result in funding being reduced below that of the previous term.

Submissions indicated a preference for funding arrangements to include a mechanism for the national broadcasters to seek additional funding during the funding period where circumstances warrant it. For example, submissions noted any legislative mechanism to protect announced funding should not preclude the government of the day from allocating additional funding within a 5-year funding term to address new policy objectives or unforeseeable challenges that impact the ability of the national broadcasters to operate.

Australian Government response

The Government recognises that funding decisions are a matter for the government of the day, particularly with respect to ensuring that decisions do not bind future governments in relation to expenditure. It is reasonable and appropriate that the national broadcasters retain the ability to bring forward funding proposals to Government at any time to deal with unforeseen and emerging pressures. These should be assessed by the Government on merit, and in line with whole-of-government Budget considerations.

The underlying policy rationale of moving to 5-year funding terms is to provide the broadcasters with greater certainty and stability. With this in mind, the Government will consider options for appropriate protections of announced funding within legislative frameworks.

Strengthening governance arrangements

Composition of the ABC and SBS Boards

Membership of the ABC and SBS Boards is set out in their respective enabling legislation. The *Australian Broadcasting Corporation Act 1982* (ABC Act) states that the ABC Board consists of the Chairperson, the Managing Director, a staff-elected Director, and between 4-6 non-executive Directors. The *Special Broadcasting Service Act 1991* (SBS Act) states that the SBS Board consists of the Chairperson, the Managing Director, and between 3-7 non-executive Directors. The ABC Board must include a staff-elected Director, whilst the SBS Board must include a Director who has an appropriate understanding of the interests of employees and at least one Director who is an Indigenous Australian person.

A small number of submissions proposed new specified positions on each of the Boards. For example, a staff-elected Director on the SBS Board, an Indigenous Director on the ABC Board, and an 'audience supported member' voted on by the public on the ABC Board. Some submissions discussed better representation of different states and territories on the ABC and SBS Boards. One submission suggested new appointments to the ABC and SBS Boards should not be permitted for 6-months either side of an election.

Australian Government response

In making recommendations to the Governor-General for appointments to the ABC and SBS Boards, the Government pays due regard to gender, diversity, and geographic balance, in the interests of both Boards reflecting the diversity of the Australian community.

The existing legislated membership (numbers and positions) remains appropriate for meeting the needs of the Boards.

In September 2024, the Minister made 3 new ministerial determinations related to the ABC and SBS Board appointment processes, replacing 3 equivalent instruments that were due to sunset on 1 April 2025. These revised determinations address several of the proposals raised in submissions to the review. The determinations seek to better align the selection criteria with the legislated Charters of the ABC and SBS, and reflect the changing needs of the national broadcasters.

[Australian Broadcasting Corporation \(Non-executive Director—Selection Criteria\) Determination 2024](#)

[Special Broadcasting Service Corporation \(Non-executive Director—Selection Criteria\) Determination 2024](#)

[Australian Broadcasting Corporation \(Definition of senior political staff member\) Instrument 2024](#)

Supporting informed and efficient operations of the Nomination Panel

Role of the Nomination Panel

An independent Nomination Panel is established under the ABC Act to conduct merit-based selection processes for the Chairperson and other non-executive Director appointments to the ABC and SBS Boards. The Nomination Panel does not play a role in the appointment of the ABC and SBS Managing Directors or the ABC staff-elected Director.

The Nomination Panel reports on the outcome of the selection process to the Minister for Communications (and the Prime Minister for ABC Chairperson appointments), who makes a recommendation to the Governor-General. The Governor-General is responsible for making Chairperson and non-executive Director appointments to the ABC and SBS Boards.

Submissions to the review did not raise concerns with the current legislated role of the Nomination Panel, with some stakeholders expressly stating that the Nomination Panel has been effective in its role and is an important mechanism to stop political interference.

Responsibility for Nomination Panel appointments

The ABC Act provides that Nomination Panel members are appointed by the Secretary of the Department of the Prime Minister and Cabinet (PM&C).

Submissions to the review considered who has responsibility for making Nomination Panel appointments, noting the intended ‘arms-length’ from government envisaged by the current legislative provisions. Some stakeholders suggested the existing arrangements should be maintained, and that the PM&C Secretary should continue making Nomination Panel appointments, noting the national significance of the public broadcasters. Other stakeholders proposed alternatives including that appointments to the Nomination Panel be made by an independent body, or by the Senate Standing Committees on Environment and Communications.

Australian Government response

The Government supports the appointment of members of the Nomination Panel being made at the highest levels of the Australian Public Service to protect against political interference. The Government will consider whether changes should be made to the existing framework to improve the effectiveness of the Nomination Panel appointment process and to ensure appropriate skill requirements are met.

Composition of the Nomination Panel

The Nomination Panel currently consists of a Chair and at least 2, and not more than 3 other members. The statutory role of the Nomination Panel requires members to convene intermittently ahead of planned and unplanned vacancies on the ABC or SBS Boards. Nomination Panel members have historically been high-profile individuals, who manage this role alongside a range of other commitments. This can create challenges for members convening in a timely manner to run the merit-based selection processes required under the ABC and SBS Acts.

Australian Government response

The Government notes that the existing legislative framework provides for acting appointments on the Nomination Panel to be made in certain circumstances. To support the Nomination Panel delivering its statutory functions in a timely and effective manner, the Government will consider whether there should be changes made to the current upper limit of members that can be permanently appointed.

Selection Criteria

There was broad consensus in submissions to establish selection criteria for appointments to the Nomination Panel. While views ranged on what the selection criteria should include, stakeholders generally agreed that criteria would provide greater assurance that appointees bring to the role an understanding of the ABC and SBS Boards, subject-matter expertise and other relevant experience.

Australian Government response

The Government will consider establishing selection criteria for appointments to the Nomination Panel to improve transparency in the appointment process.

Communication between key parties

As part of a selection process, the Nomination Panel is required to provide the Minister (and Prime Minister for the ABC Chairperson position) with a report nominating at least 3 candidates for each vacancy on the ABC and SBS Boards. The report must include a comparative assessment of those candidates against selection criteria determined by the Minister in legislative instruments. The Minister (or Prime Minister for the ABC Chairperson) also has the ability to select a candidate to recommend to the Governor-General, who was not put forward by the Nomination Panel (see section 24X of the ABC Act and section 43B of the SBS Act). In this scenario, the Minister (or Prime Minister for the ABC Chairperson) must table a statement of reasons for that appointment in both Houses of Parliament, including an assessment of the candidate against the selection criteria set out in the relevant ministerial determination.

Many submissions to the review proposed removing the provisions which allow the Government to recommend a candidate for appointment who was not shortlisted by the Nomination Panel, with some arguing that these provisions unduly risk politicisation of ABC and SBS Board appointments.

Some submissions also proposed amending subsection 24X(1) of the ABC Act, to create a framework around the Prime Minister's consultation with the Opposition Leader before recommending a candidate to the Governor-General for the ABC Chairperson position. This was due to concerns around political interference, and was also canvassed in the [2019 Senate report on the allegations of political interference in the ABC](#).

Submissions canvassed opportunities to improve the existing selection process. For example, increased and timely engagement between the Minister (and Prime Minister for the ABC Chairperson), the Boards' chairpersons and the Nomination Panel Chair would enable a greater understanding of the desired skills and experience ahead of each selection process. This could take the form of the respective board chairpersons sharing regularly updated board skills matrices with the Minister; the Minister and Board chairpersons discussing desirable skills and experience when commencing a selection process; and the Minister (without otherwise influencing the selection process) encouraging potential candidates to apply in the usual way to be assessed based on merit by the Nomination Panel. It was also suggested that a role be legislated for the respective ABC or SBS Managing Director in the board appointment process.

Australian Government response

The Government considers that the existing legislative framework provides for appropriate transparency and parliamentary scrutiny of the selection and appointment of candidates to the ABC and SBS Boards, including checks and balances for appointment of a candidate who is not shortlisted by the Nomination Panel.

The Government acknowledges the importance of regular communication between the Minister and respective Board chairpersons, and the Nomination Panel Chair to inform the selection of candidates for appointment. A number of the suggested improvements to communication between key parties are already occurring. For example, the Minister consults with the respective Board chairperson on appropriate skills and experience for an incoming appointee; and after receiving the Nomination Panel's report, the Minister meets with preferred candidates before making a recommendation. The Government will continue to embed practices and policy frameworks that support appropriate due diligence prior to recommending a candidate to the Governor-General for appointment.

Aligning directive and regulatory provisions

There are several areas of difference between the ABC Act and SBS Act on operational independence matters. These differences relate to provisions about compliance with ministerial directions, government policy orders, reporting requirements for corporate plans, and the removal of board members.

Feedback through the consultation process suggested there was no clear policy rationale for these statutory distinctions between the ABC and SBS, and supported greater consistency in the regulatory provisions.

Australian Government response

The Government will consider amendments to align relevant directive and regulatory provisions in the ABC and SBS Acts.