

**GOVERNMENT RESPONSE
INQUIRY INTO RECENT ABC PROGRAMMING DECISIONS**



Australian Government

Senate Committee on Environment and Communications

Inquiry into recent ABC programming decisions

Australian Government Response to the Committee's Report

October 2012

Introduction

The Senate Environment and Communications References Committee conducted an inquiry in 2011 into the recent programming decisions made by the Australian Broadcasting Corporation (ABC).

The Senate referred the matter of recent programming decisions by the ABC to the Senate Committee on 17 August 2011. The terms of reference for the inquiry were:

The decision by the television management of the Australian Broadcasting Corporation (ABC) to significantly cut the number and amount of ABC-produced programs, jobs (including through forced redundancies) and potentially affect resources, as announced on 2 August 2011, with particular reference to:

- (a) the implications of this decision on the ABC's ability to create, produce and own its television content, particularly in the capital cities of Brisbane, Adelaide, Perth and Hobart;
- (b) the implications of this decision on Australian film and television production in general and potential impact on quality and diversity of programs;
- (c) whether a reduction in ABC-produced programs is contrary to the aims of the National Regional Program Initiative;
- (d) the implications of these cuts on content ownership and intellectual property;
- (e) the impact of the ABC's decision to end internal production of *Bananas in Pyjamas* and to outsource the making of a '*Bananas in Pyjamas*' animation series to Southern Star Endemol Proprietary Limited;
- (f) the future potential implications of these cuts on ABC television's capacity to broadcast state league football and rugby; and
- (g) any other related matters.

The Committee received 336 submissions and two form letters from a wide range of interested individuals and organisations. A public hearing was held on 26 September 2011 in Canberra. On 13 October 2011 the Committee tabled its report to the President of the Senate. The Committee's report makes 10 recommendations. The Government's response to each of these recommendations is set out below.

The Australian Greens and Independent Senator Nick Xenophon have also made a number of recommendations. The Government's response to each of these is also set out below.

Background

The 2011-12 financial year represents the final year of the current ABC triennial funding agreement with the Government. In the 2009-10 Budget, the Government provided the ABC with an additional \$165.3 million in new funding over the 2009-10 to 2011-12 triennium. This is the biggest funding increase to the ABC since its incorporation in 1983.

The new funding also fulfilled the government's 2007 election commitment to allow the ABC to increase the level of Australian drama that it produces to 90 hours per year, similar to that of the commercial broadcasters. As a result, the ABC is well placed to produce more quality programs. This increase in funding to the ABC also provided an important economic stimulus to the Australian production sector.

While the Government provides an overall level of funding for the ABC, it has no power to direct the ABC in relation to programming matters. Parliament has guaranteed this independence to ensure that what is broadcast is free of political interference. Internal ABC programming decisions are the responsibility of the ABC Board and Executive.

Recommendations of the Senate Environment and Communications References Committee

Recommendation 1

3.50 *The committee recommends that the ABC ensure that it maintains an effective capacity to internally produce quality programming across the regions in addition to news, sport and current affairs. The committee notes that the increasing use of external producers has the capacity to diminish the ABC's independence and skill base.*

Australian Government Response:

The ABC is committed to maintaining a significant capacity to internally produce quality programming across the regions in addition to news, sport and current affairs. The ABC makes television, including news and current affairs, in every state and territory. In other parts of the country it makes programs, including current affairs, for national broadcast. The ABC has stated that it remains committed to retaining a regional presence through internal programming, for example:

- the continuation of factual initiatives in South Australia and Western Australia;
- additional funding for Q&A to ensure it can broadcast from every capital city and some regional areas;
- Anzac Day coverage will continue to be produced internally in each state and territory;
- news and current affairs will be the mainstay in Western Australia, Northern Territory, Australian Capital Territory and Queensland;
- South Australia will continue as a production hub via an ongoing prime time series, for example, *Poh's Kitchen*; and
- an internal production team will be maintained in Hobart for *Auction Room*. Subsequent program commissioning in Tasmania will depend upon audience response to the *Auction Room* series.

The ABC Charter states that the ABC is required to broadcast programs of wide appeal and specialised broadcasting programs. It currently runs a national slate with some local news and some local affairs. The ABC is in the process of determining the best way to manage the system to the maximum benefit for Australians and will adjust its programming accordingly.

The Government does not consider the mixed production model diminishes the ABC's independence or skills base. The mixed production model harnesses the skills and experience of both the independent and ABC production teams, and ensures viewers benefit from seeing more quality Australian productions.

The ABC has advised that internal production can be more cost efficient on a per episode basis due to the volume of content created, and for some program formats and genres (for example, studio based magazine style programs). However, the ABC has further advised that external production is able to deliver efficiencies where the total budgets are relatively high (for example, drama production) and where the ABC could not afford to fund them itself without significantly reducing broadcasting hours. External partnerships also allow the ABC to access (and foster) ideas and talent from outside the ABC. External productions therefore play an important role in ensuring the ABC is able to meet its Charter obligation to broadcast programs that contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity of, the Australian community.

3.51 *The committee calls on the ABC and the Minister for Broadband, Communications and the Digital Economy to identify and implement processes which ensure value for money, transparency and skill retention. In the context of the need to maintain the ABC's skills base, the committee calls on ABC management to immediately reassess the implications of any employment decision on its capacity to deliver quality programming across the network.*

Australian Government Response:

Achieving value for money is an important consideration in all Australian Government budget and triennial funding decisions for the ABC. The government does not support the imposition of additional reporting requirements or accountability measures in relation to the ABC's programming strategy. The ABC is accountable for the funding it receives through a comprehensive governance and reporting regime which ensures that it remains transparent and provides value for money. The ABC is subject to a range of existing accountability mechanisms, including its annual report, various forms of parliamentary scrutiny including Senate Estimates, independent audits and triennial cost and performance reports.

The ABC has advised that it has a thorough commissioning framework which has been established over a considerable time. Editorial managers, genre heads, commission editors and channel controllers develop proposals in liaison with executive producers. All programming decisions are then based on the merit of the individual program. This ensures value for money while enhancing ABC TV's capacity to deliver quality programming.

The process of project development requires proposals to go through a number of 'gates'. These include Budget Review, Resources Assessment and Proposal Review. Projects are also assessed for OH&S and insurance risk. Following development, genre heads propose projects to the Television Content Executive, which is chaired by the Director of Television and comprises the Controllers of ABC1, ABC2, ABC Children's, ABC Multiplatform, Head of Business and Operations, Head of Marketing and Head of Strategy and Governance. ABC's Content Executive then assesses projects against a range of criteria including financial, scheduling, editorial policy compliance and compliance with the Television Strategic Plan and the ABC Charter.

If a project is approved, it proceeds to the formal Commissioning Body. The Commissioning Body is chaired by the Head of Business Operations and comprises of representatives from Director of Television, Head of Strategy and Governance TV, Head of Business and Operations TV, Director of ABC Resources, Head of Business Affairs, Team Leader (Acquisitions and Production) ABC Legal, and Head of Financial Control. Other attendees may include a Group Audit Representative, Commissioning and Project Manager TV.

The ABC has advised that the highest levels of scrutiny are applied through the process to ensure transparency. In terms of the transparency of editorial decisions, the ABC's Editorial Policies have been reviewed and updated a number of times, most recently in 2011. Section 13 of the Editorial Policies deal with external funding and includes safeguards to protect the independence and integrity of the ABC. In particular, high levels of scrutiny and assessment are applied to all commissioning proposals. Decision-makers are required to apply detailed criteria, to know the source of external funds before arrangements are formalised, and to keep appropriate records.

The Government notes that employment decisions are a matter for the ABC Board and Executive.

Recommendation 2

- 3.69** *The committee recommends that ABC management sets out in detail where it sees its future as a broadcaster and a content producer, and particularly with reference to the ABC Charter responsibilities of balancing programs of wide appeal and specialist interest as well as how ABC programming reflects the cultural and regional diversity of the Australian community.*

Australian Government Response:

The ABC Board is responsible for compliance with the *Australian Broadcasting Corporation Act 1983* (the ABC Act), which includes the ABC Charter. The Charter stipulates that the responsibilities of the ABC are to provide programming that reflects the cultural diversity of the Australian community as well as balance programs of wide appeal and specialist interest.

The ABC Board must also prepare corporate plans for the ABC, including a Strategic Plan which addresses how they will meet their obligations under the ABC Act. The Strategic Plan states that the ABC will offer a wide choice of popular and niche content, including content that is uniquely Australian, it will deliver content that recognises the diverse needs and interests of audiences in different parts of Australia and around the world, and it will embrace diversity.

The ABC's Charter, Corporate and Strategic Plan are available at:
www.abc.net.au/corp/pubs/documents.htm

The Australian Government does not support the imposition of additional reporting requirements in relation to the ABC's programming strategy. As previously stated, internal ABC programming decisions are the responsibility of the ABC Board and Executive.

Recommendation 3

- 3.74** *The committee recommends that ABC management release a draft television production strategy for staff, community and private sector consultation, prior to its finalisation.*

Australian Government Response:

The ABC has publicly released its Television Production Strategy 2011-2013, having earlier provided the strategy paper internally to ABC staff in December 2011. The development of its television production strategy is a matter for the ABC Board and Executive.

Recommendation 4

- 3.75** *The committee recommends that the ABC consult with stakeholders prior to making significant changes to either internal creative and production structures or state-based activities.*

Australian Government Response:

The Australian Government considers that it is a matter for the ABC Board and Executive as to how they choose to manage change within their organisation. The ABC has advised that it is committed to consulting with stakeholders within the agreed consultation framework when considering production changes.

The ABC Enterprise Bargaining Agreement 2010-2013 (the Agreement) outlines the process for consultation with staff, when the ABC has made a formal proposal to introduce a major change to production, program, organisation, structure or technology, and where this is likely to have a

significant effect on the employees. This involves the ABC formally notifying all staff and unions covered by the Agreement and discussing how it will impact on them and the organisation. The ABC must give prompt and genuine consideration to matters raised about major workplace change.

In addition, the government is committed to restoring the position of a staff-elected director on the ABC Board. This position will enhance the ABC's corporate governance by providing a mechanism through which staffing issues and perspectives can be formally brought to the attention of the ABC Board. In the case of the ABC management consulting with stakeholders prior to making significant changes to either internal creative and production structures, the staff-elected director will be well placed to ensure that relevant input from staff on these issues can be effectively communicated to the Board. An amendment restoring the staff elected position to the ABC Board is included in the *National Broadcasting Legislation Amendment Bill 2010* which is due to be debated in the Senate.

Recommendation 5

3.76 *The committee draws the attention of ABC management to the ABC Charter obligations to 'encourage and promote arts, including musical, dramatic and other performing arts' and calls on ABC management to urgently publish a strategy outlining how it can meet this obligation given the planned disbanding of the ABC arts unit.*

Australian Government Response:

The ABC Board is responsible for compliance with ABC Act, which includes the ABC Charter. The Board must also prepare corporate plans for the ABC, including a Strategic Plan which addresses how they will meet their obligations under the ABC Act. Given the existing reporting arrangements that are in place, the government considers that it is not necessary that the ABC publish a separate strategy outlining how it can meet this obligation.

The ABC advises it will continue to promote the musical, dramatic and other performing arts in Australia as is required under its Charter.

The ABC must continually review its programming to ensure it keeps pace with audience tastes and viewing habits and to ensure appropriate engagement with relevant issues in each genre, including the arts.

ABC Television advises it is committed to maintaining its position as the premier commissioner and distributor of innovative and engaging arts content for the widest range of Australian audiences on the widest variety of platforms.

The ABC has advised that the major areas of the arts with which ABC Television Arts will engage are:

- performing arts including ballet, opera and theatre;
- literature – fiction, non-fiction and poetry;
- film and television including animation;
- digital and transmedia arts practice;
- design and architecture;
- contemporary and classical music; and
- visual arts and photography.

Recommendation 6

3.87 *The committee recommends that wherever appropriate the ABC include free archival use clauses in all future co-production contracts.*

Australian Government Response:

The Australian Government supports this recommendation as far as practicable by the ABC.

The ABC has advised that it currently archives final copies of internal, fully funded co-produced and mixed funded co-produced television programs. Clauses requiring that a copy of these programs be made available to the ABC for archiving purposes are already included in contracts with independent producers.

The ABC has also advised that pre purchased and acquired content is not generally archived by the ABC as these programs are not made by the ABC. However, Screen Australia requires that copies of pre-purchased Australian programs that it funds are lodged with the National Film and Sound Archive.

In addition, ancillary material that forms part of a co-production is not necessarily passed on to the ABC. The ABC needs to assess on a case-by-case basis its resourcing capacity to hold such items and the value of keeping them to the ABC and the Australian community.

The ABC has further advised that items archived by the ABC, depending on rights, are available upon request, however, a cost (and appropriate rights clearances) may be associated with access to archived material. The ABC has a policy of contributing archival material it owns to independent ABC productions or co-productions on a non-cash basis. That is, the value of the archive material forms part of the ABC's overall contribution to the production and may be counted as either part licence fee or equity.

Recommendation 7

3.99 *The committee recommends that the ABC publish annual targets of regional content on ABC television against which it reports in order to meet its Charter obligation to 'reflect the cultural diversity of the Australian community' and to promote ongoing internal program production in the BAPH states and regional Australia.*

Australian Government Response:

The Australian Government does not support this recommendation as it may interfere with the ABC's editorial independence and would not allow it flexibility in programming decisions.

Setting and reporting against targets for 'regional content' will not necessarily promote regional program production, as the production locale does not necessarily reflect the nature of the content. In addition, the fluid nature of television production does not lend itself to hard targets for 'regional content' and may produce inefficient outcomes.

As previously stated, the ABC is committed to maintaining internal production in regional areas, including the BAPH states, to provide local content including news, sport and current affairs. It is also committed to maintaining external program production through initiatives such as the factual agreements in Western Australia and South Australia.

The ABC Board is responsible for compliance with the ABC Act, which includes the ABC Charter. The Board must also prepare corporate plans for the ABC, including a Strategic Plan which addresses how they will meet their obligations under the ABC Act. Given the existing reporting arrangements

that are in place, the government considers that it is not necessary that the ABC publish annual targets of regional content on ABC television.

Recommendation 8

3.132 *The committee recommends that the ABC actively manage its production facility infrastructure, particularly in the BAPH states, so that it is utilised as effectively as possible.*

Australian Government Response:

The Australian Government considers that the management of production facility infrastructure is a matter for the ABC Board and Executive.

The ABC has advised that it actively manages its production infrastructure through comprehensive internal processes across Divisions to promote the most effective utilisation of its production assets as possible.

The ABC is accountable for the funding it receives through a comprehensive governance and reporting regime which ensures that it remains transparent and provides value for money.

Recommendation 9

3.133 *The committee recommends that the government take into account the findings of the Convergence Review about the structure of the media market and investment in Australian content by all broadcasters when considering the ABC's funding needs in the forthcoming triennial funding round.*

Australian Government Response:

The Convergence Review committee published its final report on 30 April 2012. The Government delayed consideration of the triennium funding process by one year so that the outcomes of the Convergence Review could be taken into consideration in this process. The Government will assess the recommendations of the Convergence Review and how they may affect the national broadcasters in preparing its response to that review.

Recommendation 10

3.148 *The committee recommends that as part of the triennial funding round, the government consider the ABC's capacity to maintain a critical mass of staff, skills, infrastructure and production in regional areas.*

Australian Government Response:

The Australian Government notes this recommendation. Funding requirements for the ABC will be considered in the context of the next triennial funding round.

As part of the next triennial funding round, the ABC is required to complete a review into the efficiency and effectiveness of the previous triennial funding agreement. The Government will use this review to assess how well the ABC has utilised its resources to deliver services in line with its Charter.

Recommendations of the Australian Greens

Recommendation 1

- 2.11** *The Australian Greens recommend that the ABC engage an external provider to conduct a performance and financial audit of the Television division's production commissioning model and to recommend ways to improve the transparency of the ABC's commissioning decisions, including an articulation of the willingness of ABC management to consider internal staff proposals for programming ideas.*

Australian Government Response:

The Australian Government considers this to be a matter for the ABC Board and Executive.

The ABC has advised that it will revise its current strategy for receiving and assessing projects put forward by ABC staff. Guidelines will be placed on the intranet, there will be a six-week response on submissions and a quarterly report will be provided to the Managing Director.

The ABC also notes that consistent with the ABC's commissioning framework, it assesses each idea for new programs submitted by team members on its merits. For example, the idea for the new program *Auction Room* was generated from within the *Collectors* production team.

Recommendation 2

- 3.5** *The Australian Greens recommend that ABC management reconsider its decision to axe its only TV arts magazine program and disband the television arts unit, and instead retain a team of specialist arts programmers for the creation and commissioning of quality arts content including critical, review type programming.*

Australian Government Response:

The Australian Government considers that programming decisions are a matter for the ABC Board and Executive.

As noted previously, the government provides an overall level of funding for the ABC, but has no power to direct the ABC in relation to programming matters. Parliament has guaranteed this independence to ensure that what is broadcast is free of political interference.

The ABC has advised that it is committed to fulfilling its responsibility as set out in the Charter to encourage and promote the musical, dramatic and other performing arts in Australia. The ABC is currently reviewing the arts unit, and will retain a smaller production team as a result. This production team will consist of an Executive Producer, a Production Manager, a Production Assistant, a Gateway Editor and a Creative Shooter/Editor.

These individuals will form a team to curate all the arts material from across the ABC, foster and manage the flow of incoming content from major stakeholders including galleries, individuals, ABC Open and ABC Regional. They will also be responsible for covering major events, festivals and creating a level of unique content for the Gateway. There will also be an additional Creative Shooter/Editor position in Sydney created to further cover the major art centres. These individuals will work full time on Arts.

Recommendation 3

- 3.6** *The Australian Greens recommends that the ABC adopt a mandated proportion of regional content on ABC television in order to meet its Charter obligation to 'reflect the cultural diversity of the Australian community'.*

Australian Government Response:

The Government considers that it would be inappropriate to mandate a proportion of regional content on ABC television, as it would encroach on the integrity and independence of the ABC. Forcing a mandated proportion of regional content could inhibit the ABC Board when making decisions about meeting its obligations as set out in the ABC Charter. The ABC Board is responsible for ensuring that the programming mix is effective and delivered efficiently.

The ABC has advised that it has employed specialist staff to work with internal staff and the independent production sector to determine an appropriate program mix. These specialists will ensure that the ABC is well placed to respond flexibly to a dynamic and competitive environment. The ABC has further advised that forcing the ABC to have a certain percentage of regional content may result in the ABC missing valuable opportunities in other areas, and a reduction in the overall quality of programming on the ABC.

Recommendations of Independent Senator Nick Xenophon

Recommendation 1

- 1.30** *The August 2, 2011 announcement of forced redundancies to be reversed and the level of ABC internal program production be restored and maintained at least at 2010 levels on an ongoing basis.*

Australian Government Response:

The Australian Government considers that staffing and programming decisions are a matter for the ABC Board and Executive.

This recommendation is, in part, addressed in the response to Recommendation 1 of the main report.

Recommendation 2

- 1.31** *The ABC engage an independent external provider to conduct a performance and financial audit of the Television division's production commissioning model and to recommend ways to improve the transparency of the ABC's commissioning decisions, including reference to the recent SAFC FACTory initiative and ScreenWest outsourcing arrangements.*

Australian Government Response:

The Australian Government does not support the imposition of additional reporting requirements or accountability measures in relation to the ABC's programming strategy. The ABC is accountable for the funding it receives through a comprehensive governance and reporting regime which ensures that it remains transparent and provides value for money. The ABC is subject to a range of existing accountability mechanisms, including its annual report, various forms of parliamentary scrutiny including Senate Estimates, independent audits and triennial cost and performance reports.

The ABC has advised that it has a thorough commissioning framework which has been established over a considerable time. Editorial managers, genre heads, commission editors and channel controllers develop proposals in liaison with executive producers. All programming decisions are then made based on the merit of the individual program. This ensures value for money while enhancing ABC TV's capacity to deliver quality programming.

Recommendation 3

- 1.32** *The committee recommends the Minister for Communications stipulates that as part of the ABC's next triennial funding allocation, the ABC quarantine funding for the National Interest Initiative (NII) and the Regional and Local Program Initiative (RLP) to promote ongoing internal program production in the BAPH states.*

Australian Government Response:

The Australian Government does not agree with this recommendation.

The government made the decision in the 2009-10 Budget that the funds for the National Interest Initiative (NII), also known as Regional and Local Programming (RLP) initiatives, be incorporated into the ABC's ongoing base funding in order to provide a greater level of certainty for the level of services achieved with this funding.

The ABC has advised that it continues to apply these funds to programming activities in line with the purpose for which they were originally provided. For example, in 2011-12, ABC TV committed \$7.25 million to the regional/rural programs through the National Interest Initiative funding, including:

- *Croc College; Croker Island; Country Town Rescue; Baymawarranga; Coniston; Edge of Nowhere; Homeward Bound, The Strange Calls; and Chateau Chunder.*
- *the following programs are currently in development: Under The Flight Path; Dream House; GR8; Jo B G Raff; Bubble Bath Bay; and Little Lunch.*