

The SBS logo consists of the letters 'SBS' in a bold, white, sans-serif font, positioned within a black, stylized graphic that resembles a feather or a flame.**SBS Corporation - Australia's multicultural broadcaster**

28 April 2005

Senator John Faulkner  
Australian Senate  
Parliament House ACT 2600

Dear Senator Faulkner

SBS thanks the Committee of Privileges for the opportunity to provide a submission in relation to the inquiry into unauthorised disclosure of parliamentary committee proceedings, documents and evidence.

**Context**

The Special Broadcasting Service Corporation is established under the *Special Broadcasting Service Act 1991*, with a Charter to provide multilingual and multicultural radio and television services that inform, educate and entertain all Australians, and, in doing so, reflect Australia's multicultural society. SBS broadcasts one analogue and six digital television services nationally, two radio services to State and Territory capital cities and some regional centres and provides online services at [www.sbs.com.au](http://www.sbs.com.au). As part of this service, SBS provides news and information to all Australians on matters of public interest.

SBS is not seeking to comment on the rules covering the disclosure of committee information by members of Parliament: this submission is confined to those aspects relevant to the wider publication of disclosed information to the general public, by the media.

**Submission**

SBS acknowledges that the rules governing contempt of Parliament need to address the sometimes competing interests of management of committee proceedings and the public interest in the free flow of information about those proceedings. However, given the seriousness of publication contempts, including the potential penalties, the rules should give appropriate weight to the nature of the materials disclosed and the public interest in knowing about and being free to debate important matters of parliamentary process.

Where committee materials have been disclosed to the media, SBS believes that the implied constitutional freedom of discussion on government and political matters, as identified by the High Court and applied in cases such as *Lange v ABC*, needs to be given primacy. Clearly, information arising from the deliberation and processes of parliamentary committees is of considerable and legitimate interest to the Australian public and SBS believes that the rules about what types of publication of committee materials are treated as prohibited acts should be developed to appropriately reflect this.

In this regard, SBS supports the propositions made in other media submissions to this inquiry, to the effect that:

- *Parties who make submissions to a parliamentary committee should be able to publish their submission without the permission of the committee.*

The Senate's published guidelines state that:

"6. A submission to a committee becomes a committee document, and must not be disclosed to any other person until it has been released ('published') by the committee..... The content of a submission may be published in another form or for another purpose before the submission is released by the committee, but this publication will not be protected by parliamentary privilege."

While this acknowledges that the views in a submission can be expressed in a different form or for another purpose, it seems incongruous that the publication of one form of expression – the precise words of the submission – could potentially be the subject of a breach of a Senate rule. It should certainly not be sufficient basis for a finding of contempt. Again, it is consistent with the overarching freedom of speech for political discussion that members of the public have the benefit of discussing and debating positions and facts asserted by a media organisation – or, indeed another member of the public – regardless of whether they have been expressed to a committee or elsewhere.

- *"Substantial interference" contempt should not be found where a final, but not publicly released committee report is published.* SBS supports the comments made in the John Fairfax Holdings submission and notes that this reflects the position taken by the Committee of Privileges finding regarding *The Age* in 2002.
- *Generally, contempt should not be found where material concerning a committee process has been disclosed to the media.* While we recognise the importance of Parliament having rules regulating the conduct of its processes, the public interest in having access to investigative information about those processes should also be given proper weight. Statements made during the parliamentary debate on this issue referred to concerns about disclosure of certain types of highly sensitive information. It is noted that, in many such cases, the media are already subject to a range of legal restrictions, such as those relating to confidential information and national security. For this reason, SBS believes that the act of publication of such information, where it relates to a matter of legitimate public interest, should not amount to contempt

SBS would welcome the opportunity to make further submissions on aspects of these issues at later stages of this review.

Yours sincerely

  
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