

## **GOVERNMENT RESPONSE TO THE FINAL REPORTS OF THE SENATE ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE**

The final report of the Senate Environment, Communications, Information Technology and the Arts References Committee Inquiry into ABC Online was tabled on 28 March 2001, after an Interim Report was tabled in April 2000. The Government indicated that it would address both reports in its response to the Final Report.

### **Interim Report by Chair**

**Recommendation 1:** The Australian Democrats recommend that the ABC Board consider pursuing an alternative agreement with Telstra Corporation solely for the sale and repurposing of ABC online content, subject to the strict application of ABC editorial policies and guidelines and a contractual undertaking by Telstra that ABC content is not to be materially altered.

**Recommendation 2:** The Australian Democrats recommend that all reference in the proposed agreement with Telstra to future advertising revenues be removed, and that the ABC Board policy decision prohibiting advertising on ABC online and around ABC content sold to third parties be maintained at least until after the completion of part (c) of the Committee's current inquiry has been completed.

**Recommendation 3:** The Australian Democrats recommend that, in order to ensure that internal ABC processes are free from potential pressures, no agreement for unspecified future co-productions with Telstra be made at this time. Co-productions could be explored as and when concrete proposals arise with a discrete commercial value. The Australian Democrats recommend that they be assessed closely in relation to the ABC editorial policies and guidelines and that their relevance to the ABC's charter also be considered. Under paragraph 25(1)(a) of the Australian Broadcasting Corporation Act 1983 (ABC Act) the ABC has the power to enter into contracts. The Government notes that the ABC-Telstra negotiations that formed the basis of the Committee's Inquiry did not lead to a contract between the ABC and Telstra.

**Recommendation 4:** The Australian Democrats recommend that, within the reasonable limits of available resources, the ABC seek to improve its monitoring of third party purchasers of ABC online content to ensure their fidelity to ABC editorial policies and guidelines. Where technological solutions may be available they should be explored. Under the provisions of the ABC Act, the management of the ABC is a matter for the Board and ABC Executive. The ABC has advised that mechanisms to monitor the compliance of third party sites with ABC policies have been in place for some years, and these have been strengthened following the discovery of minor breaches of policy.

**Recommendation 5:** The Australian Democrats recommend that reference to the cross-promotion of the two parties products in Telstra and ABC shops be removed from the proposed agreement. The Australian Democrats recommend that the ABC give further consideration to this proposal to ensure it does not breach ABC guidelines about the sale and promotion of other products.

**Recommendation 6:** The Australian Democrats recommend that reference to Telstra's EasyMail service be removed from the proposed agreement. The Australian Democrats recommend that the ABC give careful consideration to any proposal to link ABC Online to a third party's free e-mail service to ensure that it does not compromise the ABC's guidelines or integrity.

**Recommendation 7:** The Australian Democrats recommend that reference to future co-operation between the ABC and Telstra in the area of datacasting and multimedia be removed from the proposed agreement. The ABC may wish to give further careful consideration to this proposal to assess its potential advantages and disadvantages, and to ensure that the ABC's strategic flexibility is not constrained. The Government notes that the ABC-Telstra negotiations that formed the basis of the Committee's Inquiry did not lead to a contract between those parties.

**Recommendation 8:** The Australian Democrats recommend that, within the limits of commercial confidentiality, ABC management improve their consultation with the ABC Board and with staff over commercial arrangements that raise basic issues of the ABC's editorial independence, integrity, philosophy and future direction. Under the provisions of the ABC Act, the management of the ABC is a matter for the Board and ABC Executive. The ABC has advised that it has long been ABC practice to provide information to and consult with staff and other stakeholders on major policy proposals and changes, within the limits of commercial confidentiality.

**Recommendation 9:** The Australian Democrats recommend that the ABC, in close consultation with its staff, introduce new measures to protect staff who wish to raise concerns about the ABC's editorial integrity and independence in the evolving online environment. This might take the form of an independent committee with elected staff and union representation and the ABC might be required to provide a summary of complaints and findings in the ABC's Annual Report. Under the provisions of the ABC Act, the management of the ABC is a matter for the Board and ABC Executive. The Government notes that under section 12 of the ABC Act, the membership of the ABC Board includes a staff elected director.

**Recommendation 10:** The Australian Democrats recommend that the ABC ensure during contract negotiations that Telstra's service is covered by an adequate privacy policy, and that a clear undertaking to respect the privacy and confidentiality of users, over and above general references to privacy policies, be included in the final contract. Under the provisions of the ABC Act, the management of the ABC is a matter for the Board and ABC Executive. The ABC has advised that contract negotiations with Telstra on this matter were terminated in June 2000.

**Final Report:** The Government notes that the Committee's Final report states that "at this time, any extension to legislation to ensure that the ABC is able to effectively provide an independent, innovative and comprehensive service in the online delivery environment is not warranted." The Government supports the Committee's view on this matter.

**ALP Senators' Reports:** The ALP Senators' interim report deals primarily with issues that, under the provisions of the ABC Act, are a matter for the Board and ABC Executive. The interim ALP Senators' Report recognises this when it states that it is for "...the ABC Board to determine whether, and on what terms, it will enter an agreement with Telstra." The Government notes that the ABC-Telstra negotiations that formed the basis of the Committee's Inquiry have not led to a contract between those parties. The final minority report by Labor Senators expresses concerns regarding the potential for advertising on ABC Online and other services and calls for the ABC Act to be amended to include new digital services in the Act. The Government supports the Committee's view that an extension to legislation to cover the activities of ABC Online is not warranted. In relation to advertising, the Government has no current intention to amend the ABC Act to restrict the capacity of the ABC to earn additional revenue through online activities. It is a matter for the ABC Board to ensure that any activities undertaken by the ABC are consistent with the ABC Act and do not adversely affect the independence of the Corporation.

**Government Senators' Interim Report:** The Government supports the views contained in the Government Senators' Interim Report and, in particular, the view that decisions about ABC contracts are properly a matter for the ABC's management and Board. The ABC Act sets out the duty of the ABC Board to maintain the independence and integrity of the Corporation and to ensure that gathering and presentation by the Corporation of news information is accurate and impartial. It is the responsibility of the Board to ensure that arrangements entered into by the ABC conform with its Charter and policies.

**Additional Comments by Senator Bourne:** These additional comments restate the Democrats' view that the Act should be amended to provide legislative coverage for online services and the legislative prohibition of advertising should be extended to online services. The Government's response on these matters has been addressed above.