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## SENATE

ENVIRONMENT, COMMUNICATIONS, INFORMATION  
TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE

**Reference: Australian Broadcasting Corporation Amendment Bill 2006**

THURSDAY, 13 APRIL 2006

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**SENATE**  
**ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY**  
**AND THE ARTS LEGISLATION COMMITTEE**

**Thursday, 13 April 2006**

**Members:** Senator Eggleston (*Chair*), Senator Lundy (*Deputy Chair*), Senators Patterson, Ronaldson, Siewert and Wortley

**Participating members:** Senators Abetz, Adams, Allison, Bartlett, Boswell, Brandis, Bob Brown, George Campbell, Carr, Chapman, Colbeck, Conroy, Coonan, Crossin, Evans, Faulkner, Ferguson, Ferris, Fielding, Forshaw, Heffernan, Hogg, Humphries, Joyce, Lightfoot, Ludwig, Ian Macdonald, Marshall, Mason, McGauran, McLucas, Milne, Moore, Nettle, O'Brien, Ray, Siewert, Watson, Webber and Wong

**Senators in attendance:** Senators Conroy, Fierravanti-Wells, Ronaldson, Siewert, Wortley

**Terms of reference for the inquiry:**

Australian Broadcasting Corporation Amendment Bill 2006

**WITNESSES**

**BUETTEL, Mr Rohan, General Manager, Public Broadcasting, Department of Communications, Information Technology and the Arts..... 69**

**CASSIDY, Mr Darce, Immediate Past President, Friends of the ABC, South Australia Inc..... 43**

**DEMPSTER, Mr Quentin Earl, Private capacity..... 1**

**GARRETT, Ms Kirsten, Private capacity..... 1**

**GREENWELL, Ms Jill, President, Friends of the ABC (ACT and Region) ..... 43**

**HENSCHKE, Mr Ian Martin, former board director, Australian Broadcasting Corporation..... 1**

**KOVAL, Ms Ramona, Private capacity ..... 1**

**THOMSON, Mr Graeme, ABC Section Secretary, Community and Public Sector Union..... 57**

**WARREN, Mr Christopher, Federal Secretary, Media, Entertainment and Arts Alliance ..... 57**



**Committee met at 10.31 am****HENSCHKE, Mr Ian Martin, former board director, Australian Broadcasting Corporation****DEMPSTER, Mr Quentin Earl, Private capacity****GARRETT, Ms Kirsten, Private capacity****KOVAL, Ms Ramona, Private capacity**

**CHAIR (Senator Eggleston)**—I declare open this hearing of the Senate Environment, Communications, Information Technology and the Arts Legislation Committee, which is inquiring into the Australian Broadcasting Corporation Amendment Bill 2006. The Senate has referred the provisions of the bill to the committee, and the committee is due to report to the Senate by 2 May 2006. All proceedings today will be public proceedings, except where the committee agrees to a request to have evidence heard in camera or determines that certain evidence should be heard in camera.

Witnesses are advised that evidence to the committee is protected by parliamentary privilege. Any act by any person which operates to the disadvantage of a witness on account of evidence given before the committee is unlawful and maybe treated by the Senate as a contempt. The giving of false or misleading evidence to the committee may also be treated by the Senate as a contempt. If a witness objects to answering a question, the witness should state the ground on which objection is taken and the committee will determine whether it will insist on an answer having regard to the ground on which it is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may of course also be made at any other time.

I welcome current and former directors of the ABC board—Mr Ian Henschke, Mr Quentin Dempster, Ms Garrett and Ms Ramona Koval, who I understand is the current board member. The committee has received your submissions—submission No. 37 is from Mr Ian Henschke, submission No. 44 is from Mr Quentin Dempster, submission No. 28 is from Ms Kirsten Garrett and submission No. 43 is from Ms Ramona Koval. Do any of you wish to make any amendments or alterations to your respective submissions?

**Mr Dempster**—No.

**Mr Henschke**—No.

**CHAIR**—As I understand it, Mr Henschke will make the opening statement and Mr Dempster will speak on behalf of the other three directors. Would you like to proceed Mr Henschke?

**Mr Henschke**—Thank you for the honour and privilege of being able to appear before you today. I would like to look just at who, what and why, because it is very brief. Why does the ABC exist? In a Senate inquiry recently, we were told that the ABC does not exist for the benefit of any individual organisation or political party but for all Australians. The very fact of its independence should be its strength. I would also like to refer to what we are supposed to do with the ABC, which is from the act itself. Section 8(1) says that the board's duties are:

- (a) to ensure that the functions of the Corporation are performed efficiently and with the maximum benefit to the people of Australia;
- (b) to maintain the independence and integrity of the Corporation ...

My argument is, quite simply, that, if we are to look at the abolition of the staff elected director, we have to ask: will it make the ABC perform more efficiently, with maximum benefit to the people of Australia? I would say no. Will it maintain the independence and integrity of the corporation? I would say no. The reason I would say this is that Professor Ken Inglis, who is here today, who has written two books on the subject and who is probably one of the leading academic authorities on the organisation, said, 'The staff-elected director position, since it was created, has helped rid the organisation of the us-them conversations,' and also said:

... I think every staff-elected director has exercised more influence ... than any other single director apart from the chairman and deputy chair.

This relates especially to the most important decision of all: the appointment of a managing director. The ABC does not make widgets or bricks or items for sale; it is a broadcasting organisation, and the most important decision regards who runs the organisation. I was involved in the appointment of Russell Balding as managing director after the period of Jonathan Shier. It was a very important decision, and I believe that my input at that time was absolutely critical to the future of the organisation.

I have never breached any confidentially when I have been on the board. What is the problem that is there at the moment? If the problem is a concern about the constituency then not only the staff-elected director but any other board member should not act in any interest other than the best interest of the corporation. If you want to amend the act, amend the act so that you actually have a confidentially clause in there that the staff-elected director signs along with all the others, and still maintain the position.

What is it going to cost if you scrap the position? I go back to my original statement that it will not allow the board to perform efficiently with the maximum benefit to the people of Australia. You will not have someone on that board who has the skills of being a person who has come through the organisation. I will just raise a minor point as an anecdote. Someone on the board—I will not say who—asked me why the ABC still did not run races and why they did not have horseracing on the ABC. That was when they joined the board. They were a very good person, but they wanted to know that. I pointed out that Sky Channel and others did that and that the ABC had limited resources and we had dropped racing from the news some time ago. That person, by the way, is quite brilliant in their area but does not understand broadcasting. So if you take that staff-elected director out then you will have to employ a consultant or some other such person to provide that input. I think it would be a waste of money and it would not work as well.

I go back to the act again. If you want to maintain the independence and integrity of the corporation under the act and have it perform efficiently with the maximum benefit to the people of Australia then the staff-elected director's position is doing that. If there is a problem, address the problem; do not get rid of the position.

**CHAIR**—Thank you. Mr Dempster?

**Mr Dempster**—I will keep to the time limit if I can. The ABC is a flawed institution. We make mistakes. There can be factual error, inexperience or misinterpretation from time to time in a massive daily output of metropolitan and regional radio, News Radio, Classic FM, Triple J, Radio National, ABC Online and ABC television. Such is the sense of ownership of the ABC by all its audiences that they let us know in no uncertain terms of our limitations and inadequacies. This is a very helpful dynamic. During the inquiry into the ABC for the current government in 1996, Bob Mansfield declared:

Most private companies would envy the passion and loyalty that characterises the relationship of the ABC with its audience ...

It is clearly a special relationship. In the last 10 years, the ABC has been a media industry leader in originating and designing very cost-effective internet broadband content services to rave reviews from users. We are excited about the digital revolution and want to lead in free-to-air multichannelling, podcasting audio and video, click per view video, web TV and digital radio. We want to bridge to the digital future to grow and cost effectively reach new audiences. Surveys consistently show that the ABC is one of Australia's most trusted and respected institutions or corporations.

The ABC is a creature of this parliament. Under the Australian Broadcasting Corporation Act, program makers are committed to the act's charter obligations to inform, educate, entertain and enhance a sense of national identity. This is the philosophical driver. The ABC's public purpose has built the public's trust with the ABC over 74 years both as a commission and now as a corporation. We are a vital part of Australia's robust democracy.

Some critics have been urging the government to use its current window of opportunity, its numbers in the Senate, to destroy or crush the independent spirit which resides within the ABC, encouraged and fostered by its charter. Exactly what is it that must be destroyed? Is it the ABC's independence from the government of the day? The ABC Act and its board governance duties require that independence. Is the ABC too secular? The national public broadcaster, as part of its charter obligations to hear all voices in our society, has the broadest range of religious, search for meaning and spiritual programs of any media. There is programming diversity—religion, science, children's, rural and regional, arts, education, news, current affairs, documentary, drama and comedy—guaranteed by the non-commercial nature of the ABC charter. This diversity, this independence could be at risk in the debate about the abolition of the staff-elected director position on the ABC board, particularly with commercial vested interests seeking to use, buy or exploit the ABC's brand credibility and valuable content.

The ABC has evolved from what is called the Reithian model in Britain. Lord Reith, the founder of the BBC insisted on middle-class standards of public proficiency deeply embedded in the quest for a respectable use of the media in order to produce national benefits such as coherence and quality. Is it that which must be destroyed in these so-called 'culture wars'? Sir Charles Curran, Director-General of the BBC, some time after Reith, said that critical to the essence of public broadcasting was that it must not be vitiated by commercial or political interests.

If carried, the amendment to the ABC Act, currently before the parliament, would leave the ABC exposed to a much higher risk of political manipulation and commercial exploitation.

The BBC does not have a staff-elected director, that is true, but the BBC now has the Nolan rules of merit selection of its board of governors. The BBC has a substantial and sustainable source of non-commercial revenue and a critical mass of exportable programming. The ABC staff-elected director is the one voice that has been crucial to exposing to the board attempts to tie the ABC to commercial arrangements which would inevitably corrupt its public purpose. There is a tension surrounding the position but we submit it is a healthy, transparent and dynamic tension which has enhanced the public trust, the perception and reality of ABC independence and integrity. The public can see us agonising over the difficult issues we face. There is no conflict of interest. The record shows the staff-elected director, on many occasions, has had to act against the narrow self-interests of staff to protect the ABC's reputation.

The position of staff-elected director has prevailed in the act since the creation of the corporation in 1983. It is meant to bring practical broadcasting expertise and knowledge into the boardroom discussion of policy and operational procedures. While it has done that over the last 23 years, it has also evolved as structurally integral to the protection of the ABC's independence and integrity. This can be demonstrated through many of the written submissions before you. But it was demonstrated most notably in the staff-elected director's exposure of backdoor sponsorship of infotainment programs on ABC television in the 1990s where a board appointed inquiry found breaches of the ABC Act and the board's editorial policies.

Structural protection was evident in the boardroom debate in the early 1990s as the ABC entered a fully commercial partnership with John Fairfax Holdings Pty Ltd and the US based Cox Communications in a joint pay TV venture. The staff-elected director's input assisted in the development of operational procedures to protect free-to-air resources. It was evident again in 2000 when the ABC proposed a commercial partnership with Telstra to eventually take all of the ABC's programming output on its broadband portal. Protection of the ABC's independence as part of sectoral diversity was the guiding principle. Far from being a representative of self-interested employees, the staff-elected director has had to act against those interests with the consequent loss of jobs and job opportunities.

In 2006 the ABC now awaits its fate with the coming May budget and the government's priorities. The effect of this amendment would be to remove the one director independent of the government of the day and the one voice structurally guaranteed to bring to the board table in-depth knowledge of public broadcasting, its principles and practices and the protection and advancement of the ABC's public purpose. Thank you.

**CHAIR**—Thank you. We will now begin questions. We have about 50 minutes, so we will divide the time between the parties: around 20 minutes for the major parties, and we will see how that goes, and 10 minutes for the Greens, which are a minor party. We will begin with the ALP.

**Senator CONROY**—In your opening statement you covered many of the issues that I wanted to ask you about. Could you explain to the committee how active the staff appointee is on matters to do with staff pay and conditions? Is there a focus on that? Have you brought those sorts of issues to the board at any stage?

**Mr Dempster**—You are not the shop steward for any of the in-house unions. That is clearly understood. I think you can see from the submissions that that is not the way it works. You are there for policy development and operational matters. Ramona Koval, who has been there for the last four years, and Ian have more recent experience than me, from 1992 to 1996, and Kirsten's experience ranges from 1996-2000. Ramona could answer that question.

**Ms Koval**—I have never brought such a matter to the board. The board is for policy directions. The board properly has to leave management issues and any negotiations over enterprise agreements with the managing director and the people responsible for that in the organisation.

**Mr Henschke**—The real issue is that the board director is there to act in the interests of the ABC as a whole. If you lose sight of that then you should not be a director. It does not matter whether you are the staff director or appointed by the government. If you are backed by a union you should leave that baggage at the door and if you are backed by a political party you should leave that baggage at the door. The best and finest of the directors that I have worked with did that. I can assure you that you would not be able to tell a Labor appointed or a Liberal appointed director when they act in the best interests, because their main interest is the ABC, and the same goes for the staff-elected director.

**Senator CONROY**—Thank you for that. You have all served on the board for some time. Do you believe that there is any need to make changes to the corporate governance practices at the ABC?

**Mr Dempster**—Many of us gave evidence to the Senate ECITA committee inquiry which led to above-board methods of appointment to the ABC board. This raises the question of the Nolan rules that have been adopted in the UK. I referred to that in my opening remarks. I suppose that where this debate goes is to the questions of independence and merit selection for the ABC board. To some extent, we have seen public confidence in the ABC being diminished through party-political stacking, as it is called, or party-political influence in some board appointments. That controversialises the ABC and it raises some awkward perceptions that are not in the best interests of the ABC. As far as governance procedures are concerned, we have a debate now about what we mean by genuine independence of directors. One could argue: why was there not a genuinely independent director on the board of AWB? That might have assisted Australia. And people have said: what about WorldCom, One.Tel or Enron? It goes to the question of the genuine independence of directors who are trying to look after the interests of shareholders. In the ABC's case, they look after the interests of the ABC as a whole in its place in the media industry and as part of Australian culture.

**Mr Henschke**—At the time when I was on the board there was a major audit—a major inquiry—into governance of the ABC. Apart from a few minor matters, the ABC came through with very good reports from the audit committee of this particular parliament. Could you be more specific?

**Senator CONROY**—I am interested that Mr Dempster mentioned the Nolan rules. Are they something that—

**Mr Henschke**—The point is that, when the first board of the corporation was formed in 1983, Senator John Button at the time called for a list to be put for an all-party committee.

That was how the first board functioned. One of the people who was appointed on that particular list was Bob Raymond, one of the leading figures in television production in Australia who had worked for Channel 7. Those people who can remember back that far might have known him as the founder of *Four Corners*. Bob Raymond was a magnificent program maker. He was on that first board. I cannot think of anyone of that ilk who has been appointed to the board since that time, so I can see great benefit in having a John Button like board.

**Ms Garrett**—I would like to endorse what Quentin has said in reference to the Nolan rules. In my experience, from the four years that I was there, as other new board members came on, some of them would arrive either completely ignorant of the media in general and the ABC in particular, and state that up-front, or come in with a very clear agenda, which they would state up-front. I found myself, in my naivety at the time, quite shocked by that, because I thought it was very clear what we were there for—to defend the independence and integrity of the ABC. Why were you there if you had those agendas or that lack of knowledge about the organisation?

**Senator CONROY**—That leads me to my next question. Both Mr Henschke and Mr Dempster alluded to this. What attributes does a staff elected director bring to the board that the government appointees do not? I think you mentioned the question of experience, and you gave an excellent example of that. I was wondering whether you could expand on that a little bit.

**Ms Garrett**—Are you addressing that to me?

**Senator CONROY**—To all four of you.

**Mr Henschke**—I think the most crucial thing is as I said before: we are not making bricks or car parts; we are dealing with an organisation that has to cover all of Australia plus Radio Australia plus now an international service—ABC Asia-Pacific. It is a very complex organisation. If you had 10 board meetings a year you would literally have to employ a consultant to come in and give a full weekend briefing at somewhere like Peppers at Terrigal. You would not even get an inkling of what the organisation is about. It would be the same as if I were appointed to the Medical Board of South Australia tomorrow and I was supposed to understand the health system. I would not have that knowledge. But if they wanted to defer to me on media issues, I would.

All I am saying is that the staff elected director has that experience and can help the other board members make decisions. It is fair enough to have someone expert in finance or the law, because I am not from those areas. But you need someone expert in broadcasting and also expert in understanding the needs and the work of the staff. The managing director could come in from outside the organisation, as did Mr Shier. He did not have a very good understanding of the staff; he had not been living in the country. He axed *Media Watch*. He axed *Quantum*. I was told, when I was on the board: this is a staff revolt because for once in their lives they are going to be told what is going to be on television. I asked, ‘Why do we have a pile this high of people who want to see science on television?’ The person on the top of the pile happened to be the Australian of the Year Gustav Nossel. Mr Shier did not understand the whole history of *Quantum* and science broadcasting in Australia. So you really have to take your mind back to that era. There were people protesting and marching because

of that lack of understanding. The one person who actually understood broadcasting—he or she, in many cases in the past—was a conduit for the public interest.

This goes back to that original philosophy: we are to perform efficiently with a maximum benefit to the people of Australia. If you get rid of the staff elected director, is that board going to perform to the maximum benefit of the people of Australia and perform efficiently? I think you will answer that question no. I want one or two Liberal senators to actually consider that question in their hearts. Can they really vote to abolish this knowing that it will weaken the ABC board?

**Ms Koval**—The staff elected director is the one who brings to the board the knowledge of how to make a program, how to do an interview, how the selection of news is done, the order of news, the time pressures upon people who are supposed to deliver to a certain deadline and the collation of information. That simple thing about how to make a program is often very useful because questions are raised about things that people see and hear on the ABC platforms. Often the staff elected director is the only one who can explain why a certain thing was done in a certain way.

**Mr Dempster**—When I was on the board and the debate was in relation to our partnership with Fairfax and Cox Communications for a 24-hour new channel, the input of the staff elected director on that occasion was on the development of operational procedures, because the Senate was certainly concerned and the parliament was concerned about the bleeding of free-to-air resources to our commercial entity. The management of the pay TV venture came up with a whole lot of guidelines to reassure the public of Australia, with the staff elected director's input, that there would be no raiding, if you like, of the resources that were taxpayer funded. There is nothing in the act to stop the ABC getting into bed with Fairfax, News Corporation, Yahoo, Google or anybody else who is looking at our content.

One of the reasons I raise this is: what is coming in the future for the ABC? We are excited by digital, but a lot of people are also excited by our content and want to exploit it for commercial reasons. When Michael Kroger was on the board in 2000-01 and saw the success of the ABC internet services, with his merchant banker head on he said, 'That is worth half a billion. We can sell half of that for \$250 million.' So it becomes a debate about what is the public purpose. The staff elected director brings to the table, as well as all the things that Ian and Ramona have said about the practical application of it, this argument about the operational procedures of marrying these two things.

**Mr Henschke**—I would like to point out one other matter here that is also absolutely crucial—that is, the staff elected director can often add input to areas that are in the general interest of Australia as a nation from a positive view. The reason I mention this is that when I was on the board the first thing that I put forward as staff elected director was that we should be rebroadcasting Radio Australia throughout the region, because we could draw on that signal. That was in the front of my mind; it was not in the front of the minds of the appointed people on the board. In fact someone said, 'If we can't get enough money to run Australia's own broadcasting why should we be putting an interest into the region?' I remind you that this discussion took place in July 2000. This was before September 11, before Aceh, before the tsunami—before all the events that have recently taken place. This was because I had heard from Radio Australia, and I had been to the region and found that no-one was actually hearing

us. We got funding as a result to do that, and I think that has been of great benefit to the nation. So a staff elected director often brings to the table not just concerns about commercialisation but also whether the organisation is following its charter.

**Senator CONROY**—Unfortunately some people have very short memories. In your opening, Mr Dempster, you did mention these things but I wonder if you would expand on a couple of issues, such as the ABC-Telstra deal, and what was involved in that, and the commercialisation issue. Could you just refresh people's memories of what those debates were about?

**Mr Dempster**—Kirsten Garrett is here, and from 1996 to 2000 she was involved in the Telstra debate.

**Ms Garrett**—Do you want me to speak to that?

**Senator CONROY**—Yes, please.

**Ms Garrett**—My role in that debate, once it became public that the deal existed and indeed that there were copies of the deal out there in the community, was to be very much on top of the issue and to debate the issue publicly in the media. The debates went on inside the boardroom.

**Senator CONROY**—What was the deal? Would you start with that.

**Ms Garrett**—It was a deal that the ABC would go into a partnership with Telstra in exchange for some millions of dollars a year, where Telstra—this is shorthand now—would, in effect, be able to cherry pick from the ABC what it wanted and would also be able to influence the ABC in what it produced. There would be coproductions which would go out on Telstra's future broadband site. That deal was rotten to the core. It was heavily weighted in favour of Telstra, both financially and in terms of who could say what the ABC produced. Because of my knowledge of broadcasting and how it worked in terms of the teams of people inside the ABC who make programs, I was able to say how that influence would work on the studio floor, so to speak. The debates raged for many months, as you probably know, and there was a Senate inquiry into it. Is that what you wanted to know?

**Senator CONROY**—That is right. Ultimately, was the deal overturned?

**Ms Garrett**—Yes, the deal was eventually overturned after Mr Shier came to the board—for different reasons.

**Senator RONALDSON**—Did Mr Shier change it after he came in?

**Ms Garrett**—No, he did not change it. He continued negotiations with Telstra and there was some glitch and Telstra walked away.

**Mr Dempster**—I mentioned the denouement in my submission. The managing director subsequently declared, after an external consultant's report, that the obligations which would have been imposed on the ABC by Telstra—the cost of servicing the deal and the fact that it did not sufficiently recognise the value of the ABC's breadth of content—were, in the end, the critical issues for the ABC, and Telstra withdrew from the deal. So that was one of the demonstrable examples of the value to the corporation and to its policy development of the staff-elected director.

The other thing, Senator Conroy, was the extremely difficult issue of backdoor sponsorship in the 1990s. That cost many careers and job opportunities in the ABC. It was very distressing for a lot of people who had to stand up against influence. We were strapped for cash. The managing director, David Hill, would say, ‘What are you on about, Quentin? There is work there for television journalists and producers. What are you talking about?’ The argument was about letting external funders have an influence on the content of the programs when our board guidelines said we had editorial control; we controlled it. But other people, through the influence of funding—which we were desperate for—were the ones influencing the content of the programs.

The infotainment strand was compromised and was found to be so by our supporter at that time, Senator Alston. When he was the shadow minister for communications he found—and was assisted by the ABC staff in that exposure—that the ABC’s guidelines were deficient. The ABC, of course, moved to fix them. I am trying to demonstrate that if the staff-elected director was there for the self-interest of the staff then the staff-elected director would be part of the cover-up of illegalities and breaches of the ABC Act, and that did not happen. The staff-elected director rose above that to protect the integrity of the corporation.

**Mr Henschke**—I think this is crucial at the moment in the discussion because the managing director’s position is vacant and there will be a managing director appointed who will come in from outside. Quentin was referring to David Hill, who did not come from a broadcasting background and who took over as managing director after being chairman. Jonathan Shier came from a marketing background and from overseas experience, and came in over the top. We do not live in the days of Sir Charles Moses, when you had someone who came up through the whole ranks of the organisation, who had a passionate commitment to public broadcasting and then ran the organisation. Russell Balding was probably an exception and he also came from the Department of Main Roads.

So what I am saying is that you will not have an organisation in the future—because of the way organisations are run these days—where you are necessarily going to have someone coming up through the ranks. It is more likely that you will have someone coming in from outside, so you will actually have a weakening again of the ability of the ABC to function by not having someone at board level with years and years of experience in the organisation. At the moment the chairman is the person who has the most experience of the organisation, and it looks like he may be departing soon, so it will be a very different board in a month or two—if this goes through—without a staff-elected director on that board. That is why I say again: think very carefully about this amendment. It is a crucial amendment to the future of the ABC and far more crucial than people outside watching on would ever believe unless they have been inside that boardroom. That is why I thank you for asking us to give our insights.

**Senator WORTLEY**—I would like to thank you, as staff-elected representatives or directors on the board, for your submissions today. I have a number of questions. I will direct them to one person but if anyone else would like to contribute, that would be great. Mr Henschke, in your submission you state:

The Staff Elected Director has an extraordinary and special insight into the workings of a very complex organisation and of ways of making it work more efficiently.

Could you explain what you mean by that statement?

**Mr Henschke**—We have had a number of proposals that have been put forward to make the organisation work more efficiently in recent times. For example, we have talked about single camera crews and the idea of gathering news with one person, rather than two. If you did that across the board, all the way through the organisation, which may be tempting for someone, you would expose yourself to severe problems—the possibility of danger for the staff. For example, one payout where someone is injured in an accident may cost millions of dollars to the organisation. What the staff director will often say is: ‘It is all very well to bring this change of work practice, but have you considered that in a dangerous situation where there is only one person and there is no-one to help them—another pair of eyes or ears or whatever—you could expose yourself to severe danger?’

**Senator RONALDSON**—It is a staff related matter.

**Mr Henschke**—It is a staff related matter, and it could be a work practice that is going to be brought in by the organisation. I remember particularly, because it came up while I was on the board, that someone had an experience at Channel 9. I think Mr Kroger said, ‘All the commercial stations only operate with one person.’ It is not true, because I have worked for Channel 9 and Channel 7. When you go in to a bikies’ den to bust the story for *Today Tonight* or whatever, you have a sound recordist, a cameraman and a reporter, because they are watching out to see whether you are in any danger. They will not send you out as a single person crew to a dangerous situation. We have recently had fires in which people could have been killed. It is the practice to send two people out to a fire to cover those things. That is a simple example, but you can see that one death or whatever would be millions of dollars to an organisation. If you do not have someone at the board level saying: ‘Hang on a minute. Let’s think this through from a staff point of view,’ then that is it. There are many other examples, but that is just a simple one that came up while I was there.

**Senator WORTLEY**—In your submission you also state:

By abolishing this position you will weaken the strength of the Board.

Could you explain how the removal of the staff-elected director position will weaken the strength of the board?

**Mr Henschke**—When I was on the board, we had Maurice Newman, who was the former head of the Stock Exchange and the former head of Deutsche Bank, and had extraordinary skills in finance. He asked questions on how much money the ABC was carrying in foreign currency; he raised issues like that. He would have made, in a couple of suggestions, huge savings to the organisation because of his particular skills. So you have a financial expert who can make something like that. That is one strength. Over on the other side, you have a staff-elected director, who has the strength of the understanding of the organisation. I gave the example earlier that you might decide that all crews in the ABC will be single person camera crews because you think it is an efficient thing to do, and you might bulldoze that through in an industrial way without thinking it through. You will weaken the organisation because there will be points where it will be so dangerous that you will not do it.

The staff-elected director also understands, for example, how the whole of the organisation works. Many of us have come through from other areas. I have worked in regional Australia, in children’s television—areas like that. There was a decision recently to abolish *Behind the*

*News*. You might have heard of that decision on the kids' news program. I was not on the board at the time, but I can tell you that when it was considered while I was there, I said that the children's education section was one of the most crucial of the ABC. I spoke up for that. If there is not a voice to speak up for that then you end up bringing in decisions that you have to go back on. The abolition of local sport, the abolition of *Quantum* and the abolition of *Media Watch* were all done while I was on the board, and they were all reversed.

**Ms Garrett**—Could I add to your question and put a slightly different perspective on it. On the board there is management in the form of the managing director—and when I was there there was also the executive, usually; they were certainly called in—and the various board members and the staff elected director. The staff elected director adds to the dynamics and the amount of information in general and the thoughts and thinking through of many important and difficult decisions. Without the staff elected director there, you have management who have to back each other up and be united on something and present a united front obviously. The staff elected director, in one sense, is the only truly independent person. I was not looking to the managers for approval and I was not looking to who appointed me for approval, as I do not think any staff elected directors do. So, in one sense, I think the staff elected director is the most free and independent person and is very valuable. Other board members often spoke of the value and management also spoke of the value.

**Mr Dempster**—Just to pick up on Ian's point about single person crews. On the face of it, it looks like a staff issue but what I got from his input just then was that, at a board level, it is about the liabilities of the corporation in the event of bad risk management. That is the input which could be brought in: whether the ABC has high insurance premiums for its occupational health and safety and whether we could do preventative strategies. As crews go out, as any employee goes out into the field—as our foreign correspondents go into Iraq, Afghanistan or anywhere or into any danger zone in the world—what should be done for their protection and also the ABC's cost protection? Insuring people who go out into the field costs the corporation a lot of money. It is that issue that I think Ian has put his finger on.

**CHAIR**—Ms Koval has to leave by 11.30, so we might go to the government members now for questions.

**Senator WORTLEY**—Could I just ask one question of Ms Koval before she has to leave?

**CHAIR**—Yes.

**Senator WORTLEY**—Thank you. In your submission you stated:

Some media reports have cited my inability to 'sign up' to ABC Board Protocols as evidence of conflict of interest or lack of Board functionality.

And you go on to state:

In October 2002 I informed the Chairman of my unwillingness to support a number of proposals in the Board Director's Handbook ...

I am wondering if you could elaborate on that.

**Ms Koval**—There certainly has been no lack of board functionality since I have been on the board. For nearly four years the board has functioned perfectly well. The day to day issues that the board has considered have been managed in the board room. There has been no

problem at all. In October 2002, I informed the chairman of my inability to support a number of proposals that were put before the board. I assured the chairman that I fully intended to act in accordance with my legal obligations under the Corporations Law and the ABC act and I have always acted in accordance with my legal obligations under those instruments. I do not know whether you want to go through the details.

**Senator WORTLEY**—Yes, if you could just elaborate on what the proposals were and how you felt they impacted?

**Senator RONALDSON**—Chair, there are 15 minutes left between two of us with this witness. This is most unreasonable.

**Senator WORTLEY**—Perhaps you could answer that quickly, Ms Koval.

**CHAIR**—Senator Wortley, you are well over time. We will let Ms Koval answer the question, but then we have let the other side ask their questions.

**Ms Koval**—The main issue was that my legal advice—and I have always sought legal advice, senior counsel, before I have acted in any way—was, contrary to the overriding duty to act in good faith and in the best interests of the corporation, that I would be allowing my independence to be overshadowed by a majority decision of the board if I let other board members' opinions of things counteract my own opinion on any particular issue. So, as an independent board director, I was advised by senior counsel that it was not correct for me to sign up—I was not asked to sign anything; nobody has been asked to sign anything—or rather to agree to allow my opinion to be subsumed by the collective opinion of the board. So that was really the issue.

**CHAIR**—Ms Koval, is it possible for you to delay your departure a little because your evidence is quite important to this inquiry?

**Ms Koval**—I have two flights. One of them is at 12.45 pm. If I can get to the airport and take that flight, that would be fantastic. I have another flight after that.

**CHAIR**—It is not very far to the airport from here.

**Senator CONROY**—We can book you a cab.

**Ms Koval**—If you can pre-book me a cab, that would be fantastic.

**CHAIR**—We might, therefore, go over a little bit with this session so that we can ask you some questions. I will now go to the government side for questions. I would like to ask an opening question. One of the key issues that has been raised is knowledge of broadcasting. It is implied that the only way the board will have anybody on it with knowledge of broadcasting is by having a staff director. I put it to you that that is not in fact the case at all, that knowledge of broadcasting can be brought to the board by bringing in a person from the broadcasting industry who need not necessarily be a member of the staff. Would you agree or disagree with that?

**Mr Henschke**—I agree with that. There is knowledge of broadcasting. Mr Michael Kroger, for example, had worked with Kerry Packer's Nine organisation. So there was knowledge of broadcasting there. The knowledge of broadcasting that I am talking about is the knowledge of broadcasting of the ABC, which is a different organisation. I have worked for commercials and worked for the ABC. They are very different organisations.

**CHAIR**—But the technicalities of program production, producing the news, making documentaries and covering sport cannot be different between channels 9, 7 and 10 and the ABC.

**Mr Henschke**—Quentin Dempster pointed it out very clearly that there is a difference. For example, I have been told by the sales department that we are doing a special on carpet cleaning with a particular company and it might be time to do something about bugs and dust mites as a story. That is what happens at Channel 7. You will be told that it is about time we did a story on that particular issue because one of the carpet-cleaning companies has taken out a big contract with us.

**Senator RONALDSON**—So you are never told that you have to do a story on something.

**Mr Henschke**—I am not told—

**Senator RONALDSON**—So, no-one within the ABC is ever told they have to do a story on something. Is that what you are saying—because that is the analogy?

**Mr Henschke**—For example, we would have a story conference about news and current affairs. I might be told that we are doing a story on the election coming up because—

**Senator RONALDSON**—That is a nonsense example. I think you are treating the committee with contempt by making that comment.

**CHAIR**—If I might interrupt, that is an editorial matter. It is not knowledge of broadcasting, putting together a program and the technical side—whether it is making a program about carpet fleas or an election. Nevertheless, the technicalities, the knowledge of broadcasting—putting a story together, editing it and broadcasting it—do not change. You are talking about editorial issues rather than what I would have thought knowledge of broadcasting meant. Knowledge of broadcasting to me means the technical side of it.

**Mr Henschke**—The critical matter is that this organisation is not the same as Channel 7 or Channel 9 and it never will be. That is why it is called a public broadcaster that has no commercial content.

**CHAIR**—I think you are mixing up the ethos with the production and the mechanics of broadcasting.

**Mr Henschke**—I agree wholeheartedly that you can produce television programs and bring that knowledge to the board. I accept that perfectly well. In fact, Bob Raymond, who was on the board as a member, had produced for commercial television and was a very valuable of the ABC board.

**CHAIR**—If you follow that line, you can say that the ethos of Channel 10 is different to the ethos of Channel 9 or Channel Seven, for example. They all have a different kind of flavour. The ABC certainly has its flavour, which is different to the others. But essentially it is still broadcasting, and the question of ethos is a very different matter. I would have thought that when it came to the basic, fundamental issues of broadcasting, editing and producing programs you do not necessarily need to have a staff member there; you simply need to have somebody who is experienced in the industry.

**Ms Garrett**—Could I say something in response to that question?

**Senator FIERRAVANTI-WELLS**—Just following on from Senator Eggleston’s question, are you saying that, when you look at the composition of the boards that have been there for the last 10 years, the only broadcasting input that has been given has been from the staff elected director? One only has to look at the CVs of the various directors who have been appointed to see the broad range of broadcasting experience that is there—in all its facets. Perhaps you would like to comment on that?

**CHAIR**—Senator Fierravanti-Wells, we might come back to Ms Garrett.

**Ms Garrett**—Almost the only one with a particular perspective on broadcasting in public broadcasters. I will give you an example—

**Senator FIERRAVANTI-WELLS**—So you are qualifying it with ‘public broadcasting’ now?

**Ms Garrett**—Yes.

**Senator FIERRAVANTI-WELLS**—I see.

**Ms Garrett**—Public broadcasting is different—

**Senator FIERRAVANTI-WELLS**—So you have to have experience with public broadcasting?

**CHAIR**—Let us let Ms Garrett respond, both to my question and to yours.

**Ms Garrett**—I can illustrate with a particular issue. Outsourcing came up—the idea that the ABC did not need to make its own programs. This was at a time when they were going to shut down the Frenchs Forest drama studios and sell them off because drama and other things that the ABC did could be outsourced. The board was brought a set of figures that had been garnered from the commercial independent program makers out there which said, ‘Look, we can do it very cheaply and the ABC is very expensive.’ I looked at those figures. They did not feel right to me. I went away and researched them and the figures were wrong. No other board member researched them. The figures did not stand up. The ABC was cheaper and outsourcing was more expensive, and continues to be so. Nevertheless, Frenchs Forest was sold and the ABC now makes very little—to our cost, because it is more expensive.

**CHAIR**—Is that your answer to my question?

**Ms Garrett**—I think so.

**CHAIR**—All right, then.

**Senator RONALDSON**—I have a number of questions. Mr Henschke, do I take it that you consider the confidentiality of the board to be fundamental to the structure and operation of the board?

**Mr Henschke**—When I was—

**Senator RONALDSON**—Yes or no.

**Mr Henschke**—The confidentiality of boardroom discussions is crucial to the functioning of the board.

**Senator RONALDSON**—And that includes the ABC board?

**Mr Henschke**—That includes the ABC board.

**Senator RONALDSON**—You raise in your submission that you think that there should be some amendments to the act to address confidentiality issues. I take it from that that you believe that there are issues to do with confidentiality with that board and that the position needs to be clarified. What are the issues to do with confidentiality—

**Senator WORTLEY**—Senator Ronaldson, I would like to make a correction there. I think Mr Henschke says ‘if there is a concern about confidentiality’.

**Senator RONALDSON**—With the greatest respect, I am asking the questions.

**CHAIR**—Senator Ronaldson can ask his question.

**Mr Henschke**—I am interested in you saying this, because when I was on the board I saw my role as being to act in the interests of the ABC as a whole, and I believe that I never breached confidentiality. That is the way I assumed that particular role. I believe that a board properly functions when a decision is made and that is it. If you want to go and talk to staff afterwards and say, ‘I had problems with it,’ that is fine. But ultimately you are part of a board that has to function effectively.

**Senator RONALDSON**—Indeed. If a board was so concerned about the potential lack of confidentiality that they had to produce a protocol to ensure that confidentiality, how functional would you think that board was?

*Senator Conroy interjecting—*

**CHAIR**—Senator Conroy, please let Senator Ronaldson have his question.

**Senator RONALDSON**—Yes. I did not interrupt once. Please give me the same opportunity.

**Mr Henschke**—There is nothing wrong with having a protocol at all. If I had been in a position where I had had a good look at it—I have not seen the protocol that was there—

**Mr RANDALL**—First of all, would you be concerned that a board was so concerned about confidentiality issues that it had to produce a protocol?

**Mr Henschke**—Yes.

**Mr RANDALL**—Would you then be concerned if that matter—indeed, a matter that was as a result of an Australian National Audit Office recommendation, which is my understanding—had not been raised and addressed by the board? And would you be concerned if someone on the board were not prepared to sign an agreement that included confidentiality?

**Senator CONROY**—Are you a lawyer, Mr Henschke?

**Mr Henschke**—I am not a lawyer.

**Mr RANDALL**—Let the gentleman answer the question. The record says the answer was yes.

**Mr Henschke**—I am not a lawyer but I am—

**Mr RANDALL**—If you want to stay here until four o’clock tonight, that is okay, but I want answers to the questions I have got.

**Senator FIERRAVANTI-WELLS**—We will.

**Mr Henschke**—What I am saying to you is that—

**Senator RONALDSON**—Your response was yes, before you were interrupted.

**Mr Henschke**—Yes.

**Senator RONALDSON**—So it does cause you concern. I notice that you are not part of the joint submission.

**Mr Henschke**—That is correct.

**Senator RONALDSON**—You are all ex-SEDs.

**Mr Henschke**—Yes.

**Senator RONALDSON**—Why are there three and yourself?

**Mr Henschke**—I suppose because they chose to do it that way, and I chose to do it this way. There is no particular reason.

**Senator RONALDSON**—I think Ms Koval stood against you and she was elected? Is that right?

**Mr Henschke**—Yes.

**Senator RONALDSON**—And you had been there for a couple of years?

**Mr Henschke**—Yes, a couple of years.

**Senator RONALDSON**—During that campaign, were the matters raised against you that you were seen to be too independent of staff and that you were not communicating sufficiently with staff?

**Mr Henschke**—No. That may have been said by someone, but in fact I communicated with staff.

**Senator RONALDSON**—Was that the allegation against you?

**Mr Henschke**—The thing was that I was based in Adelaide and it was probably more difficult for me to get around. If you know the ABC, it has most of its employees in Sydney and then Melbourne, and Adelaide is down the list.

**Senator RONALDSON**—So, if you are based in Adelaide, you do not understand broadcasting?

**Mr Henschke**—No. I think if you are based in Adelaide you probably understand broadcasting very well.

**Senator RONALDSON**—Do you believe that the role of a SED is a joint one between acting in the interests of the staff and acting as a board member, or is the role solely as a member of the board?

**Mr Henschke**—When I was on the board, I saw my role as one of bringing the concerns of staff to the board, but my No. 1 role was to act as a board member in the interests of the corporation. The corporation always came first.

**Senator RONALDSON**—Under the act, you would be aware that it is heavily balanced in favour of independence. I think section 8 refers to independence. Section 78 refers to the corporation not being subject to the direction by or on behalf of the Commonwealth

government of the time. Are there people on the board currently who you believe are not independent?

**Mr Henschke**—I do not know the make-up of the present board. I am just trying to think of the ones who are there.

**Senator RONALDSON**—Do you view them as not being independent?

**Mr Henschke**—I regard the people I know from my time as being independent—in other words, the board members that I dealt with directly. I do not know the board members who are there now.

**Senator RONALDSON**—Mr Dempster, do you view the current board as being independent within the definition of the act?

**Mr Dempster**—There is no evidence to indicate otherwise. I am not on the board at the moment, but the point I have made in submissions—

**Senator RONALDSON**—You have answered my question—

**Mr Dempster**—to the above board inquiry—

**Senator RONALDSON**—Thank you, Mr Dempster. You have answered my question.

**Mr Dempster**—was the party-political problem of—

**Senator CONROY**—You are allowed to answer the questions the way you like to—

**Senator RONALDSON**—The question has been asked.

**Mr Dempster**—There has been party-political influence in the appointment of boards. That is why, I suppose, there has been a debate that has led to this. It has been a deficiency in government's attitude to the ABC.

**Senator RONALDSON**—So, despite there being government appointments, your view is that the current board members are independent? Is that your answer?

**Mr Dempster**—I do not know. I have no evidence.

**Senator RONALDSON**—So you have gone from 'yes' to 'don't know that'?

**Mr Dempster**—I am saying there is no evidence.

**Senator RONALDSON**—Exactly. You said the primary purpose of the said position is to have expertise in broadcasting. Where is the authority for that?

**Mr Dempster**—No. If you have seen my submission, what I was trying to indicate is that, from the creation of the position in the ABC Act, the position has evolved into being structurally integral to the protection of the ABC's independence. We give the examples. Each staff-elected director who made submissions to you has given examples of how that position has evolved. It might have come from the seventies, when there was some semblance of workplace democracy, but it has gone beyond that. With the ABC being made a corporation, with the right to borrow and with the right to enter into commercial partnerships, and also having a public purpose charter, there was a dilemma, if you like, particularly when the corporation was under very great difficulty as far its revenues were concerned. Boards can be enticed. I have tried to give you examples, such as when Michael Kroger said, 'Look, you're

doing so well with online. That's worth half a billion. We can get \$250 million for it.' But then the argument naturally goes to: what is our public purpose?

The BBC, in response to its funding from the licence payers, puts its material on broadband and other platforms for nothing. I can just imagine an argument going on over the next few years: with the ABC board being strapped for cash, they will say, 'We can get much more money by podcasting the *Science Show*, *Background Briefing*, Ramona Koval's *The Book Show* or Ian Henshke's *Stateline*. We can get much more money if we go into a deal with a digital platform and with subscribers going to those platforms. The ABC can make money in that way.' I can just imagine that the arguments will be: but what is the public purpose; the taxpayers have paid for this material; it has been the tradition of the ABC and its public purpose. And people like me and the people who want public broadcasting to survive in Australia will say, 'We do not want to work for Telstra or other broadband portals. We want to maintain the public purpose of the ABC.'

**Senator RONALDSON**—It is all fascinating. Could I just get onto the next question. What has underpinned all the submissions—certainly from the three people on that side of the debate—is that, fundamentally, this position is about expertise in broadcasting. There is absolutely nothing—

**Mr Dempster**—No, Senator. Please, you—

**Senator RONALDSON**—I will read you a quote:

While the primary purpose was to bring to the board table knowledge and expertise of broadcasting—

They are your words. The simple fact is that neither Michael Duffy, the minister at the time, in the explanatory memorandum or in his second reading speech, made any reference at all to expertise in this area. I ask you the next question: why is it so important for the ABC to have the staff-elected position but it is not for SBS? What is the difference between the organisations that it is so imperative to have it for the ABC but not imperative for SBS?

**Mr Dempster**—I think it is imperative for SBS to have one. If you want to argue about the genuine independence of directors and their responsibilities to their shareholders—and in this case to the parliament through the act—we should have that argument. As a result of this dispute or this debate, other people are looking at what is in fact world's best practice as far as independence of directors is concerned.

**Senator RONALDSON**—That is a very good point. I think my colleagues will talk about Uhrig in a second. I have just two more questions in relation to SBS. How has the lack of a staff-elected director affected the independence and the good governance of SBS? If you say it is so important, how has it impacted SBS?

**Mr Dempster**—If SBS had a staff elected director I believe there would be a necessary debate and discussion about movements within SBS to break into programs and put advertising in between them. At the moment the SBS Act says you must have advertising after programs. SBS could maximise their revenue by breaking into programs and having 10 minutes of television and then an ad. Of course they could maximise their revenue, particularly in prime time, when you can get an audience. A staff elected director there obviously would raise those public purpose issues that come with a marriage between a public purpose and a commercial arrangement.

**Senator RONALDSON**—Has that been raised?

**Mr Dempster**—That would be one issue that certainly would be part of the—

**Senator RONALDSON**—That cannot be raised in the public domain?

**Mr Dempster**—It can be.

**Senator RONALDSON**—It cannot be raised with the directors at the moment?

**Mr Dempster**—It can be, but the consequences—

**CHAIR**—Or with the board as it is.

**Mr Dempster**—The other aspect I suppose that I have learnt through this process is that if you have a commercial operation it is the commercial imperative which will drive the programming. As public broadcasters we have a great privilege, and the act gives us that privilege, of discussing good ideas with the management and the board. Public broadcasting should be about innovative ideas rather than bankable ideas that can have a commercial return.

**Senator RONALDSON**—Do you think at the moment the SBS has problems with programming and broadcasting?

**Mr Dempster**—I like SBS. It has some very good programming—news and current affairs, documentaries and other things—and it is complementary in many of its aspects to the ABC. But with a hunt for revenue it can be diverted from its public purpose. The schedule can be cleared for soccer or other things that we all like, but its public purpose can be moved with—

**Senator RONALDSON**—You do not like the soccer on it?

**Mr Dempster**—I love the soccer. I love sport.

**Senator RONALDSON**—So what is your point?

**Mr Dempster**—In Canada I think there was one indication there where there was a major constitutional crisis but the CBC had to run the football in prime time because they had a contractual arrangement to run it. The constitutional crisis got put off to 11 o'clock at night.

**Senator RONALDSON**—The bottom line is that the absence of an SED at SBS has not impacted negatively on broadcasting or on programming—has it?

**Mr Dempster**—Yes, I think it has. I think SBS as a public broadcaster should have this structure and other private sector firms could have this structure, and I understand they do in some overseas countries, because of this issue of bringing different voices and independent voices to a board which has a range of expertise.

**Senator RONALDSON**—You say there are no issues with programming and broadcasting at the moment but you still think that you need someone there in any event. Is that what you are saying?

**Mr Dempster**—There are issues with programming and public purpose, yes.

**Senator RONALDSON**—I think that is a good opening line for my colleague.

**Senator FIERRAVANTI-WELLS**—I wanted to take you to this question, since you were the last to make this comment. Have you had the opportunity to look at the submission that was put by the National Institute for Governance?

**Mr Dempster**—No. They are confidential to you.

**CHAIR**—They are not; they are on the web.

**Senator FIERRAVANTI-WELLS**—They are available on the website.

**Mr Dempster**—I beg your pardon. I withdraw and apologise.

**CHAIR**—We are terribly transparent.

**Senator FIERRAVANTI-WELLS**—Yes, we are, and it has been there for some time.

**Mr Dempster**—How long has it been there?

**CHAIR**—Since last week.

**Senator FIERRAVANTI-WELLS**—I would suggest that you, Mr Dempster, and in fact all four of you, take the opportunity to have a look at that. I will quote two pieces from that because we are talking about governance.

**Mr Henschke**—I have read it.

**Senator FIERRAVANTI-WELLS**—Professor Bartos basically comments that the position that has been taken by the government is very much along the lines of governance directions pursued by the Commonwealth government following its acceptance of the Uhrig report, which you are all no doubt familiar with.

**Mr Dempster**—We have read the reference, yes.

**Senator FIERRAVANTI-WELLS**—It is consistent with the current corporate governance approach found in most Australian companies and increasingly in public sector bodies.

**Senator CONROY**—Uhrig is in no way consistent with the government's policy.

**CHAIR**—Senator Fierravanti-Wells is asking a question.

**Senator FIERRAVANTI-WELLS**—Senate Conroy, I appreciate that—

**Senator CONROY**—I just do not want you to mislead the witnesses. I am just trying to help.

**Senator FIERRAVANTI-WELLS**—I am just quoting from Professor Bartos's submission.

**CHAIR**—Let us address the witnesses and not cross fire across the chamber.

**Senator FIERRAVANTI-WELLS**—I listened to you in silence and I would appreciate it if you would listen to me in silence. Professor Bartos then goes on to quote a portion of the Uhrig report, which says:

The Review does not support representational appointments to governing boards as representational appointments can fail to produce independent and objective views. There is the potential for these appointments to be primarily concerned with the interests of those they represent, rather than the success of the entity they are responsible for governing.

He goes on to say that the report itself adds:

While it is possible to manage conflicts of interest, the preferred position is to not create circumstances where they arise.

Professor Bartos goes on to make the point that:

... the Uhrig report is an accurate reflection of commonly accepted practice in Australian corporate governance. In this country we have applied a model of governance that does not favour representative appointments. In my own work on public sector governance ... I also note the difficulties of representative appointments. ("It can be difficult for a person appointed because of a link to a particular industry, community or lobby group to divorce themselves from the political role of representing that group to the public sector body to which they have been appointed. It will, however, be to the detriment of the good governance of that organisation ...").

I put that on the table, because Professor Bartos is an eminent person in this area.

**Senator CONROY**—Your government sacked him—just for the record.

**CHAIR**—Keep going.

**Senator FIERRAVANTI-WELLS**—Given what he has said, I am wondering whether you would like to comment.

**Mr Henschke**—I would like to comment.

**Senator FIERRAVANTI-WELLS**—Also, Uhrig did not exclude the ABC and it did not exclude the position of SED.

**Mr Henschke**—I have read that and it goes on to say that there are positions in other areas, mainly in Europe. It does actually say that, so it is not an unusual position. I think it goes on to say that we are following more of the American model. I would point out that—

**Senator RONALDSON**—The SBS model?

**Mr Henschke**—No.

**Senator FIERRAVANTI-WELLS**—New Zealand television?

**Mr Henschke**—We are not discussing here whether you can or cannot have a staff elected director. The question is whether it actually makes the organisation perform more efficiently with the maximum benefit to the people of Australia and help maintain independence.

**Senator FIERRAVANTI-WELLS**—Surely a comparison closer to home with organisations such as SBS and TV New Zealand—

**Mr Henschke**—Can I bring up—

**Senator FIERRAVANTI-WELLS**—Mr Henschke, I am asking you the question. Please do me the courtesy of listening to my question and then answering it. We are trying to make a parallel here. We have SBS, which is a broadcasting corporation in Australia, and we have Television New Zealand, which is closer to home. They do not have a staff-appointed director; they function properly. What makes the ABC so different from them? That is my point—and that is the difficulty I have, because nothing you have said this morning has convinced me that the ABC is in any different position from that of SBS, Television New Zealand or any other broadcasting corporation that does not have a staff-appointed director.

**Ms Garrett**—In my opinion, SBS and the New Zealand Broadcasting Corporation should have a staff-elected director. In my experience—

**Senator FIERRAVANTI-WELLS**—That may be your opinion, Ms Garrett, but the point is: how can you show this body—

**Ms Garrett**—I want to finish.

**Senator CONROY**—Can you let her finish her answer.

**CHAIR**—Let the witness answer her question.

**Ms Garrett**—In my experience with the board—and I was deputy for many years as well as being on the board—I never experienced a conflict of interest. Once I was in that boardroom, I knew exactly what I had to do and there was never any conflict of interest. I cannot speak for the others, but I am sure they will—

**Senator FIERRAVANTI-WELLS**—The point I am making is that you are trying to distinguish the ABC by trying to say to this committee—

**Ms Garrett**—No, I am not.

**Senator FIERRAVANTI-WELLS**—The point I am making is that we have other broadcasters closer to home that are operating and functioning without a staff-appointed director. In fairness to this committee, I think you need to show what makes the ABC so different.

**Ms Garrett**—I will go a little further. The New Zealand Broadcasting Corporation is now gutted. It is so close to a commercial model that it is not funny. I do not know what happens at SBS. I do not know what decisions have been made there that might have been made better. If there was a staff-elected director there—I simply cannot answer that. But, in principle, I think it is a very good idea. In principle, I think there is no conflict of interest. In principle, if a person has integrity, then there is no problem with it. They are answerable to the law and everything else just like all the other directors.

**Senator RONALDSON**—But surely if you do not know whether it would make a difference at SBS, that begs the question that clearly there is not an issue because it has not been brought to people's attention.

**Ms Garrett**—If you would have me back in one month, I will research it and come back with an answer, but I am not privy to what goes on in SBS boards.

**Mr Henschke**—There is also one difference between SBS and the ABC. I think there are about 200 staff including advertising. The ABC has four and a half thousand staff and it is an international organisation. There is a vast difference between the two. You are comparing a very small semi-commercial organisation with a very large public broadcaster. They are not apples and apples.

**Senator RONALDSON**—So you consider SBS to be a semi-commercial organisation?

**Mr Henschke**—It is. SBS receives a large proportion of its funding from advertising. The ABC receives \$750 million of taxpayers' funding and the act says that we are to perform efficiently to the maximum benefit of the people of Australia.

**Senator RONALDSON**—I suspect you might get a letter from SBS after that comment because that is certainly not the way it thinks.

**Senator EGGLESTON**—Ms Koval has to go soon.

**Senator RONALDSON**—I have some questions for Ms Koval.

**CHAIR**—We must be very quick because she has a flight in an hour. I want to say in response to that last comment from Mr Henschke that surely it is the charters of the organisations which determine what they do. They are charged to provide the kinds of services that they provide. It is not really an issue of having a staff member there as the guardian of the charter. The whole board is the guardian of the charter.

**Mr Henschke**—That is true. The question is whether one of those board members, which has historically been there for almost a quarter of a century, has actually provided a more efficient and more beneficial organisation. I am saying that if you wish to investigate that with the previous board members who have been there and ask them, you can ask the people that have been there.

**Senator FIERRAVANTI-WELLS**—Mr Henschke, it begs the question, from listening to you this morning, it seems that the only person who effectively contributes to the ABC is the staff—

**Mr Henschke**—I never said that.

**Senator FIERRAVANTI-WELLS**—That is the inference that I certainly draw. But for the staff-appointed director, nothing seems to be functioning at the ABC. I have two questions of Ms Koval before she goes.

**CHAIR**—Can we be very brief because Senator Siewert has questions as well. I think we have to ask Ms Koval how long she is prepared to remain.

**Ms Koval**—My flight is at 12.45 and I have another flight afterward. I do not live in Canberra so I am not sure about how long it takes to get to the airport.

**CHAIR**—Please be very brief.

**Senator FIERRAVANTI-WELLS**—Ms Koval, it is clear from your submission that you frequently have recourse to senior counsel. One, who pays for senior counsel and, two, in briefing senior counsel, surely you must be disclosing information that you have obtained through your board deliberations?

**Senator CONROY**—You asked a question of privilege—

**Senator FIERRAVANTI-WELLS**—I am entitled. Ms Koval has in her submission, if you have read it properly, said that she frequently has recourse to senior counsel. Reiterated today—

**Senator CONROY**—And she is entitled to confidentiality between her and her legal advisor.

**CHAIR**—Let Ms Koval answer the question. I think we have the gist of it. Ms Koval, would you care to answer that question if you wish to.

**Ms Koval**—The first part of the question was who pays?

**Senator FIERRAVANTI-WELLS**—I am saying it is clear from your submission that you frequently have recourse—

**Ms Koval**—Not frequently. I do not think it says frequently.

**Senator FIERRAVANTI-WELLS**—Perhaps you ought to have worded it better.

**Ms Koval**—Where does it say frequently?

**Senator FIERRAVANTI-WELLS**—It says:

When in ... doubt, I have sought the advice of senior counsel, and have followed that advice.

**Ms Koval**—When in doubt does not imply frequently, does it?

**Senator FIERRAVANTI-WELLS**—You have also indicated today that you do go. First of all, how often do you go off to senior counsel?

**Senator CONROY**—I thought you said you had read it properly?

**Senator FIERRAVANTI-WELLS**—I am quoting from it.

**Ms Koval**—Do you want to know how often I go to senior counsel and who pays for the senior counsel?

**Senator FIERRAVANTI-WELLS**—That is what I would like to know.

**Ms Koval**—Let me think how often. There is not a regular meeting. When it occurs to me that I need expert advice on a particular issue, which is rarely, I have sought advice from senior counsel which is my right to do so as an independent director of the corporation.

**Senator CONROY**—Absolutely.

**Ms Koval**—That is the first answer.

**Senator FIERRAVANTI-WELLS**—Okay. Who pays for it? You do.

**Ms Koval**—Who pays for it?

**Senator FIERRAVANTI-WELLS**—It is a pretty simple question, Ms Koval.

**Ms Koval**—The board does not pay for it.

**Senator FIERRAVANTI-WELLS**—No, I am just asking. Do you pay for it?

**Ms Koval**—I do not pay for it because it is given pro bono.

**Senator FIERRAVANTI-WELLS**—I see. Okay.

**CHAIR**—We will let Senator Siewert ask her questions. We do have a tight time line. We may have to consider putting questions on notice.

**Senator SIEWERT**—One of the many issues that has come up is this issue about representation or being an elected member. Do you consider that you are an elected member and that it is different from being a representative of staff?

**Ms Koval**—I can answer that. I consider myself an independent director of the corporation. I sit with all the other independent directors of the corporation. My method of arriving at the table is that I am elected by the staff. Their methods of arriving at the table are that seven of them are appointed by the minister and one of them, the managing director, is appointed by the board as a whole. So we get to the table in these different ways and once we are at the table we are equivalent to each other. We are not representing anybody or anything. We are there as independent directors. This assumption that there is conflict of interest because of our different methods of arriving is a furphy.

**Senator SIEWERT**—It may be that staff see you as a representative rather than as an elected member who is then independent. How do you deal with that, if staff do come and say, ‘we think you did the wrong thing,’ or ‘we want to know blah, blah’?

**Ms Koval**—I have often been called on by staff over the four years. I have conversations about the issue that the staff member may have. Ninety-nine per cent of the time I would say to them that it is not a board issue; it is a management issue or a union issue and I ask them to take it up with their manager or union. I say that it is not the kind of issue that I as a board member should properly be discussing or dealing with because it is in the realm of the management of the corporation. Of course, the board of the corporation should not try to manage the corporation.

**Senator SIEWERT**—Would you expect that other people on the board would also have members of the community talking to them the same way that you have members of the ABC community talking to you? Would you expect that to happen to other directors?

**Ms Koval**—I expect that would be the case.

**Senator SIEWERT**—I have been on a number of state and federal government committees and there is always a process of registering conflict of interest if you feel you have a conflict of interest. I presume that the board of the ABC operates in exactly the same way. Is that correct?

**Mr Henschke**—It is absolutely correct. While I was on the board I raised matters of conflict of interest when they came up. If any member objected you either absented yourself or they would absent themselves. If you raised the matter and it was discussed then they would absent themselves from that discussion.

**Mr Dempster**—The act requires a pecuniary interest declaration.

**Senator SIEWERT**—That is what I was presuming—if a matter came up where you felt there was a conflict of interest you or any other member would register that conflict. Has that worked effectively?

**Mr Henschke**—It has worked effectively. In fact, as a staff representative I raised on one occasion a potential conflict of interest and the particular board member simply left the room.

**Mr Dempster**—I recall David Hill having to leave the room on multiple occasions when he was chairman of North Sydney Rugby League Club and we were negotiating the contract for the broadcast of rugby league.

**CHAIR**—Ms Koval has to leave at 12. We would like the other staff directors to remain, if they would. You are obviously the key witnesses today.

**Mr Henschke**—We are happy to stay.

**CHAIR**—We will forego a lunch break and have sandwiches here.

**Mr Henschke**—On that other matter about the functioning of the boards and committees, I also note that there are boards that are now including members of the broader community. The recent overhaul of the medical board in South Australia made sure that there was a community representative on it because prior to that it was not functioning properly. I also

note that the document that was read out did not point to the fact that some of the largest corporations in the world—

**Senator RONALDSON**—Mr Chairman, I wonder whether it might be better for Senator Siewert to direct questions to Ms Koval first and then we can come back to the other directors.

**Senator SIEWERT**—I want to explore this issue of public broadcasting and the difference between public broadcasting and commercial broadcasting. You have not spoken much about that particular issue. Do you have any points you want to make about that? What is the difference and why is it so important? What can a person elected by the staff bring to the board?

**CHAIR**—Why is a staff member essential to the concept of public broadcasting being preserved? Is that what you mean?

**Senator SIEWERT**—Yes, and why is it different? I really want to explore that. It seems to me that that is the crux of what we are talking about. My understanding of where you are coming from is that it is different; therefore, the approach that is needed has to be different.

**Ms Koval**—From a corporate point of view it is advisable for all corporations, whether they are in the public sector or the private sector, to have on their boards somebody with the experience of working inside the corporation. That is my view of the presence of somebody elected by the staff on the board.

**Senator SIEWERT**—What do you see as the essential difference between public broadcasting and any other form of broadcasting? I do appreciate the difference you have just noted in your other answer.

**Ms Koval**—Our responsibilities under the charter are different from the responsibilities under the creation of a commercial licence. I think that we are mindful of our obligations under that charter. It is the way we work. Every decision we make as broadcasters are different kinds of decisions because we are mindful of our obligation to be independent, to be free of bias, to maintain the integrity and the independence of the corporation. Under the act, we are aware of those editorial guidelines, which are very extensive and very thorough. We make decisions about our day to day work with this network of ideas on top of our every action, which go to the act. That is the difference. I have worked for a few months in a commercial broadcasting company and, like Ian, I have seen the very different approach of those organisations to the same thing: to broadcasting.

**Senator SIEWERT**—I want to explore some other issues, but I think Senator Ronaldson has some questions.

**Senator RONALDSON**—Ms Koval, was your decision to regularly liaise with staff in writing something that you initiated yourself?

**Ms Koval**—Actually, Mr Henschke put out bulletins, I believe. Ian, you had the occasion to do that. It was my decision, given the idea of a public organisation like the ABC and the need for transparency, and I wanted to do as much as I could without breaching confidentiality to inform the staff about what my position had been on various board

decisions and on issues that I brought to the board that had been brought to me. As Ian mentioned, he brought an issue of Radio Australia and rebroadcasting.

**Senator RONALDSON**—You went back to them with a broad range of issues that had been discussed at the board, not just matters that they raised with you. You reported back on a broad range of issues.

**Ms Koval**—No, that is not right.

**Senator RONALDSON**—That is what you said.

**Ms Koval**—No, I did not say that. I think you will find that whenever I made a report to the staff, it was prefaced by this—shall I read it to you or have you read my submission?

**Senator FIERRAVANTI-WELLS**—Yes, we have read your submission.

**Ms Koval**—You will see in it that the board proceedings are confidential.

**Senator RONALDSON**—I understand that.

**Ms Koval**—So of course I only made references to the issues that I brought to the board that I thought were important and my views about decisions of the board that had been made, once they had been made and once they had been communicated publicly.

**Senator RONALDSON**—I understand. My question was: when communicating with the staff, did you communicate on a broad range of issues or just issues that had been raised by staff?

**Ms Koval**—On a broad range of issues.

**Senator RONALDSON**—I think that your reports contain the words ‘a summary of the representations I made as director on your behalf’. So it was not just matters that were raised by them; it was a broad range of matters. In your communication you have indicated that those broad communications, not just the staff related ones, were made ‘on your behalf’—in other words, on behalf of the staff, as the staff elected—

**Ms Koval**—No. That is not right.

**Senator RONALDSON**—How else can you interpret those words?

**Ms Koval**—I interpret this as: there were some issues that were brought to me by the staff and I then considered whether these were issues properly to be raised at the board or not, and, if they were, I would raise them. There were other issues of general broadcasting policy—some of the issues that Mr Dempster has raised.

**Senator RONALDSON**—Which were raised on their behalf.

**Senator FIERRAVANTI-WELLS**—At the most recent meetings of the board. That is what you have written.

**Ms Koval**—On their behalf, just the issues that they had raised—

**Senator RONALDSON**—No. I asked you the question, Ms Koval, of whether it was a broad—

**Ms Koval**—What do you mean?

**Senator RONALDSON**—I think you know exactly what I mean.

**Ms Koval**—I do not know what you mean. I have explained that—

**CHAIR**—We are running out of time very rapidly, Ms Koval, in terms of your—

**Ms Koval**—As a board director, I am entitled to have views about everything to do with the ABC—

**Senator RONALDSON**—Absolutely. I could not agree more.

**Ms Koval**—and about broadcasting, about the media.

**Senator RONALDSON**—But you report back to staff on the broadest range of issues on their behalf. Can I ask you one more very quick question: why did you not deem it appropriate to sign that protocol when it was clearly evident—I think Mr Dempster referred to board issues and governance issues with Mr Newman's retirement; Mr Newman retired because of issues of confidentiality and other matters. Why did you not sign that protocol when it could have put to bed this whole confidentiality issue?

**Ms Koval**—Without wishing to breach board confidentiality, as you understand, let me just say this: I negotiated the governance agreement for one year, backwards and forwards with different kinds of versions of things, and I was perfectly happy to agree to a board governance agreement but not the one that was presented to me finally.

**Senator RONALDSON**—Which part didn't you like?

**Ms Koval**—I think I have detailed that in my submission.

**Senator RONALDSON**—Well, you tell me.

**CHAIR**—We are really running out of time.

**Senator RONALDSON**—Which part didn't you like?

**CHAIR**—It is very much now your decision how much longer you stay, Ms Koval.

**Senator RONALDSON**—Was it in relation to confidentiality?

**Ms Koval**—No, not at all.

**Senator RONALDSON**—So which part?

**Ms Koval**—It was about independence. It was about having my decisions and opinions subsumed to the opinions of the rest of the board—so that went to independence, which is an absolute core issue as far as a director of a corporation is concerned. I did not want to be in breach of the law, frankly.

**Senator RONALDSON**—And the only place that is referred to, where you can argue that, is in relation to '2. What is expected of directors'. That is the only reference to the matters you have referred to:

Each Director has a duty not to use information obtained as Director for the benefit of themselves or any person or persons linked to them. The Board agrees that information obtained as a result of Board membership should not be released except as decided by the Board as a whole. Board agendas, papers, minutes and discussions are confidential to the Board.

If a Board member acts in breach of the duty stated in this paragraph, the Board reserves its right to seek ... legal or equitable relief as it thinks fit ...

**Ms Koval**—I do not understand what you are reading from.

**Senator RONALDSON**—Did you not see the ABC board protocol? Did you not read that?

**Ms Koval**—I did not know that is what you were reading from, sir.

**Senator RONALDSON**—Have you or have you not seen a board protocol with those matters raised in it?

**Ms Koval**—I did not know that you were reading from that document. Now that I know—

**Senator RONALDSON**—Ms Koval—

**Ms Koval**—Excuse me, sir; I am just trying to answer you.

**CHAIR**—Please let Ms Koval answer.

**Ms Koval**—I was not sure what you were reading from. I have seen that document.

**Senator CONROY**—Is that a confidential document?

**Senator RONALDSON**—You refused to sign—

**CHAIR**—Wait a minute, Senator Conroy.

**Ms Koval**—I think it is on the website.

**CHAIR**—Please let Ms Koval finish because the time is short, if she is going to catch her plane.

**Senator RONALDSON**—Well, I would love an answer to the question.

**CHAIR**—So please answer. Please proceed.

**Ms Koval**—Sorry, what was the question? With all the argy-bargy, I missed the point.

**Senator RONALDSON**—The point was, Ms Koval: what is objectionable about signing a protocol which binds the board to confidentiality? What is your issue with that?

**Ms Koval**—That was not the issue. I think I answered that before.

**Senator RONALDSON**—What was the issue then?

**Ms Koval**—I think I said before that the issue went to the independence of the board member. I was advised by senior counsel that it would not be legal for me to sign that.

**Senator RONALDSON**—Which part of the protocol did that refer to?

**Ms Koval**—I do not have the protocol in front of me, so I cannot answer. I can back to you if you like. I could take that on notice.

**CHAIR**—If you would, that would be very helpful to the committee, Ms Koval.

**Senator RONALDSON**—You do not remember which aspect of this protocol, which you wrote about and which was in the press, you objected to on the basis of—

**Ms Koval**—I do not know which version you are talking about. There were many protocols which I was negotiating. I was very happy to sign to a protocol that I could sign if I felt that it was not illegal for me to sign it. I did not want to sign away my rights as an independent director.

**CHAIR**—Ms Koval, it is now five past 12. I will leave you to make the decision about remaining or leaving. If you wish to answer questions on notice then—

**Ms Koval**—I am happy to answer questions on notice.

**CHAIR**—That would be helpful.

**Ms Koval**—Thank you very much, senators.

**CHAIR**—Thank you, Ms Koval. We will continue with the other former staff directors.

**Senator SIEWERT**—I would like to continue the question I was asking and get other people's opinions on the issue of public broadcasting and why it is different and why we are talking about, in a sense, a special entity. Does anybody else have any comments that they would like to add on that?

**Mr Henschke**—I think the ABC is a different organisation. I go back to the point of the number of people who work there. It is one of the largest organisations of its type left in the world of public broadcasting, outside the BBC. As a result, it is very complex. It is a changing world in the media. The creation of this particular position may well have been an accident of history, but now that it is actually there, and we have seen it in operation, there is obviously a problem on this side over here relating to that particular matter. I am saying that what you have to weigh up is that what the staff-elected director brings to the board is so valuable that to dispense with it is to damage the organisation.

I could give a number of examples. A classic public broadcasting one is that there are certain things that the public broadcaster does that may not be sexy topics in terms of broadcasting. I go back to children's programming. I go back to regional Australian programming: *Landline* and the other country programs that are produced and the regional radio stations. Those issues are often away from the main issues of what goes on in a boardroom. The staff-elected director can come in and say, 'I have real concerns about how well we are covering Australia, how well we are actually doing the job.' That is not just interest from the staff; it is interest in what they are doing, which is to provide a public service.

To give you an example: there is a cyclone in Queensland at the moment. If I were staff-elected director and there were people up there with real concerns about how they were able to provide a proper service to the people of North Queensland, the staff would let me know. I would then go to the board and say, 'I think the board really needs to look at how it covers natural disasters. This is a corporate issue we need to be aware of.' You would bring that there. The other directors, for all their skills, fly in for a board meeting once a month. The staff-elected director lives, breathes and sleeps the organisation, often for 10, 20 years. In Kirsten's case—how many years now have you been there?

**Ms Garrett**—Well, I was only on the board itself for—

**Mr Henschke**—I am talking about as a staff member.

**Ms Garrett**—I have been involved for 12 years.

**Mr Henschke**—But I am saying that the experience that you brought by the time you became staff-elected director was probably 25 years. If you weigh what you are getting there on balance with the negatives on the other side, I think it far outweighs it. Another example of

where public broadcasting is different is that many people who work in the ABC see it as a lifetime career. Therefore, those people have a great commitment to the organisation. That is why it is different. You can get more money working for a commercial station—plenty more money. People do not do that because they are committed to public service, and that is what you bring to the table as well.

**Senator SIEWERT**—Does anybody else want to add to that?

**Mr Dempster**—No, I think you get the essence.

**Senator SIEWERT**—I do not know if you have read Senator Minchin's second reading speech.

**Mr Dempster**—I have read it.

**Senator SIEWERT**—In that he said:

The position of a staff-elected Director is not consistent with modern principles of corporate governance and a tension relating to the position on the ABC Board has existed for many years.

He goes on to talk about the tension that is manifested in the potential conflict between the duties under the act and those of a representative staff member elected by the staff. Have you felt tensions? Are there tensions there?

**Ms Garrett**—Certainly there were many tensions. There were tensions between other directors and there were very often tensions with me, but that was good; it was normal. There are tensions in my nine to five job as well. In life it is not a bad thing. What is wrong with a tension? It is normal in a democracy where there is free speech and freedom of opinion.

**Senator SIEWERT**—The issue then becomes: what happens if the tensions are unresolved or not dealt with? So how were those tensions dealt with, and was there a positive outcome?

**Mr Dempster**—They are dealt with by good board management—interaction between the directors, both within the formal setting of the board and in informal settings so that you can build a relationship with your fellow directors and can work out where each is coming from, as would happen on any corporate board or committee where there is some degree of cohesion. It also involves a good amount of leadership from the chairman of the board to give everybody their say and, as in any committee work, as you are aware, to come to a consensus at the end of it. It is part of that interaction. We have all experienced that very positively in our periods on the ABC board.

**Ms Garrett**—The other thing is that sometimes it would not resolve positively. You had your say and argued your point, but you did not win it. That would happen often.

**Senator SIEWERT**—Having been on a number of boards and things, I know that there are tensions. You would think that on any good decision-making body there are people coming from different perspectives. I am talking about the tension Senator Minchin mentioned that is caused by the fact that the staff board member is considered a representative—I am saying 'representative' advisedly—and the tensions that that supposedly caused in decision making and your ability to function on that board.

**Mr Henschke**—It never affected me at all.

**Ms Garrett**—I am sorry; I misunderstood. I guess it did affect me in some ways, in that I very often felt that they would try to marginalise me as I put in my position. It was patently clear that they wanted me to go onto the industrial relations subcommittee, which I did not want to do. They would say: ‘But you’re elected by the staff. You should be on that. That’s industrial relations.’ I just said: ‘I am not here to do the union’s work. I am not here because of industrial relations issues. It is not a prime area of my interest.’ So in that sense, I guess that was a tension, but it was not a huge thing.

**Mr Dempster**—This is why I say the position has evolved since the 1983 act. Tom Molombo’s submission and memoir gives his experience, as the creator of the position legislatively, that it is not necessarily there as a representation position. This is my thumbed copy of the ABC Act from when I was on the board in 1983. You immediately go to the guidelines for the governance of this organisation and the duties of the director. You go to those and say, ‘They are my duties.’

**Mr Henschke**—The tensions that I felt were often from the staff towards me, not from the other board members. The staff expected you to be able to do things that you cannot do. That is the tension that is there. I ground two of my back teeth down at night during that period with nocturnal grinding because I was under so much tension from the staff. I got through that once I had assistance from other board members. There are other people on the board who are there to work with you. I saw it as being not a confrontational position at all; I saw it as being a position where you work with the board to get the best outcome for the organisation. I can assure you that I did not have recourse to go and get legal advice while I was there. It is the individual who makes the position and you should not dispense with a position like this because you have a problem with an individual.

**Senator CONROY**—I want to follow up on some of these issues around tensions on the board. Did you see an article in the *Bulletin* recently—I think it was 23 March—entitled ‘Payback time’? I want to get your views on a couple of points that were raised in the article. It was an article mainly about the ABC and about the current chair. The article makes this point in referring to Mr McDonald:

But he no longer enjoys the faith of all on the ABC’s board. Next to no one in federal cabinet—with the likely exception of Howard—is willing to support the third term he is said to seek.

The article goes on:

“The board is so ineffective under his leadership that it’s ceasing to function,” one board member says.

That sounds like there are some fairly severe tensions on the board at the moment. Are you familiar with the sorts of tensions being referred to?

**Mr Dempster**—Only what we have read in the *Bulletin*.

**Mr Henschke**—The board members that—

**Senator CONROY**—This is a quote from a board member.

**Mr Henschke**—I know. The board members that were there when I was there would never have said that, at all, and I found that during the time I was on the board—does it say a ‘former’ board member or—

**Senator CONROY**—No, it says, ‘one board member’.

**Mr Henschke**—It does not say whether it is present, though, does it?

**Senator CONROY**—I would not refer to you as a ‘board member’, Mr Henschke; I would refer to you as a ‘former board member’.

**Mr Henschke**—If the story is accurate it may be possible that there is one board member who does not like the present chairman. That is possible.

**Senator CONROY**—The suggestion is that it is much worse than one board member. It says:

But he no longer enjoys the faith of all on the ABC’s board.

It sounds like it is more than one.

**Mr Henschke**—If you have unanimous support you have the support of everyone. If you do not have the support of one person you do not have the support of all. It could be that one person is disgruntled and it has been turned into a story for the *Bulletin*. No-one has put their name to it. There were lots of stories that came out while I was on the board during the Shier era which had no validity whatsoever.

**Senator CONROY**—Thanks for that. The article goes on to say:

The words of a senior Liberal, meanwhile, crystallise McDonald’s predicament. “It’s clear that McDonald would like another term as chairman,” the Liberal says. “But he would have no supporters at all in federal cabinet except John Howard. He is hated and detested. As far as Liberals go, the major cultural war of the last 20 years has been against the left of the ABC. And John Howard has failed to fight it. Donald McDonald has become our equivalent of John Kerr, and John Howard should have known he’d turn on us.”

They are pretty strong words. Does anyone have any idea why the chairman would be ‘hated and detested’ by Liberals?

**Senator RONALDSON**—Mr Chairman, none of these witnesses can answer that question.

**Senator CONROY**—They may have a unique insight.

**Senator RONALDSON**—Senator Conroy has had his fun and got it on the record.

**Senator CONROY**—You are not quoted in here, are you? This is not either of you, is it?

**Senator RONALDSON**—This is totally unrelated.

**Senator CONROY**—Can we have a show and tell here?

**Senator RONALDSON**—These people cannot possibly comment. You have got it on the record; you have had your fun. Let us move on.

**CHAIR**—Senator Conroy, you have to ask questions which are within the reasonable knowledge of the witnesses.

**Mr Henschke**—I can assure you that the chairman, as did the staff elected director, always acted in the best interests of the ABC as a whole. He performed his duties efficiently, to the maximum benefit of the people of Australia, and he helped maintain the independence and integrity of the corporation. That was what I saw the chairman do while I was on the board, and I saw the boards duties as being that. I bring the discussion back to the question: if there

is a problem over confidentiality with the staff elected director's position, I would say, 'Create an amendment to the ABC Act that fixes that, but don't get rid of the position.'

**Senator CONROY**—This tension alluded to here has nothing to do with the staff representative.

**Mr Henschke**—I know, but I thought this inquiry was about the amendment to the act related to the staff elected director's position. I am saying that we need to be aware that that is what—

**CHAIR**—Mr Henschke, you are quite correct; that is what the inquiry is about. Relevance is an issue, Senator Conroy.

**Senator CONROY**—I think that it has actually ranged quite widely, but I will defer to my Donald McDonald hating colleagues—so it is over to you.

**CHAIR**—We would like you to confine your questions to the issue that we are here to investigate.

**Mr Henschke**—I think it is a very important question that we should focus on: to decide whether it is possible to keep the staff elected position for all the benefits that it has provided over the last 25 years.

**CHAIR**—Have you finished, Senator Conroy?

**Senator CONROY**—I am passing over. I am not saying I am finished, but I am passing over.

**Senator FIERRAVANTI-WELLS**—Mr Dempster, earlier we spoke about independence, and you spoke much about the need to maintain independence. Taking you to the legislation and to section 76 of the act, if you look at that section you can see that it talks about the power of the minister to give direction to the corporation. I think if you look at that provision you will find that it says, 'Except as provided by this section or as expressly provided by provision of another act, the corporation is not subject to the direction by or on behalf of the government of the Commonwealth.' So I think that when you look at that section the power of the minister to give directions is very limited, and I think you would have to agree with me that the corporation is not subject to that direction. It is an independent corporation. I hear what you say, but I think the legislation does cover that situation. I want to put your comments in the context of the wording of the legislation.

**Mr Dempster**—The act does say that. The point at issue is our historic concerns about party political influence on board appointments. It does not happen on every occasion, but there is a significant public issue about the potential for politicising the ABC through patronage appointments. It makes the role of the staff elected director, as a structural protection and a voice on the board for issues going to independence and integrity, a really good and strong part of this act. The fact that it has prevailed for 23 years since the creation of the corporation, when we moved from being a commission to being a corporation, is a significant thing. I do not think it should be pushed over lightly. We have tried to demonstrate through the submissions how it has worked for the benefit of the parliament and its act. We are creatures of your act of parliament.

**Senator FIERRAVANTI-WELLS**—You made some other comments that only a staff elected director brings the insight to the ABC board from the experience of working at the ABC, or words to that effect.

**Mr Dempster**—Yes.

**Senator FIERRAVANTI-WELLS**—That is the comment that you make, so do you believe that the position of the staff elected director to the board brings to the board this intimate and unique knowledge of the workings of the ABC? That is the gist of what you are saying.

**Mr Dempster**—It can do, yes.

**Senator FIERRAVANTI-WELLS**—You are a senior journalist of long standing at the ABC so you would be very familiar with the editorial policies and new style guide, would you not, Mr Dempster?

**Mr Dempster**—They are currently being redrafted, so I am familiar with them on a working basis and I can refer to them if I need to in my individual programming work, or I can upwardly refer if I have a problem, which is an operational rule for staff.

**Senator FIERRAVANTI-WELLS**—I am just taking you through this to illustrate a point, which you will realise in a moment. You do read the news management memos that are distributed in the ABC?

**Mr Dempster**—Not every one, but I try to keep abreast of them.

**Senator FIERRAVANTI-WELLS**—So if Mr Cameron writes a memo to the staff, you would read it?

**Mr Dempster**—I certainly read John Cameron's memos, yes.

**Senator FIERRAVANTI-WELLS**—You are aware from the various documentation of the ABC of the directions for news and current affairs staff across the programs in relation to the 'our' rule, are you not?

**Mr Dempster**—Our?

**Senator FIERRAVANTI-WELLS**—Yes. Under your news and current affairs style—

**Mr Dempster**—I have been found guilty of this.

**Senator FIERRAVANTI-WELLS**—Mr Dempster, you have indeed been found to be extremely guilty on this point. This is the point that I am trying to illustrate. You are a senior journalist. You are aware of what goes around the ABC in terms of memos. Has Mr Cameron spoken to you about that?

**Mr Dempster**—Yes, he has.

**Senator FIERRAVANTI-WELLS**—So he spoke to you and you were found at one stage to have broken that rule 69 times over the last two years.

**Mr Dempster**—You have done a transcript search. Yes.

**Senator FIERRAVANTI-WELLS**—Yes. And you realise that it was raised at estimates hearings recently?

**Mr Dempster**—I do.

**Senator FIERRAVANTI-WELLS**—And, since estimates, there have been further breaches of that.

**Mr Dempster**—Before I plead guilty to that, you would have to—

**Senator FIERRAVANTI-WELLS**—Believe me, Mr Dempster—

**Mr Dempster**—You have done a transcript search.

**Senator FIERRAVANTI-WELLS**—The point I am—

**Senator CONROY**—Is this relevant to—

**Senator FIERRAVANTI-WELLS**—It is relevant, Senator Conroy, because it is—

**CHAIR**—Could you get to the point, Senator?

**Senator FIERRAVANTI-WELLS**—Mr Dempster, the point I am making is simply this: you and your colleagues have sat here this morning and told us that, as staff-appointed directors, you bring a unique knowledge about the workings of the corporation. This is basic stuff that your first-year cadets know and it is repeated through estimates and a whole lot of other things. Mr Dempster, I am just using you as the example because you—

**Senator CONROY**—Is this a question?

**Senator FIERRAVANTI-WELLS**—It is. If you are prepared to make these sorts of basic breaches, what sort of unique and intimate knowledge do you bring of the corporation?

**Mr Dempster**—I would be prepared to take that on notice and go through a transcript download of the use of ‘our’ by me and—

**Senator FIERRAVANTI-WELLS**—Mr Cameron has admitted to this in estimates. I am just telling you that.

**Mr Dempster**—When you say, ‘Our program has been investigating this for some time,’ or ‘As our program has said over a number of years, looking at the policy of the Iemma government,’ or, ‘Our—

**Senator CONROY**—He is willing to justify what he has been—

**Senator FIERRAVANTI-WELLS**—No—Senator Conroy, the point I am making is that—

**CHAIR**—I presume it is about knowledge of the workings of the ABC.

**Senator FIERRAVANTI-WELLS**—These witnesses have told us that they bring an intimate knowledge of the workings of the corporation. If they themselves cannot abide—

**Senator CONROY**—You are attacking Mr Dempster’s professionalism at the moment. It is not actually anything to do with the position.

**Senator FIERRAVANTI-WELLS**—The point is that this is basic knowledge about the workings of the ABC.

**Senator CONROY**—You are attacking the individual. This is not about the position.

**Senator FIERRAVANTI-WELLS**—But I am using the situation to make my very point.

**Mr Henschke**—On that point, I would like to come back to this: the problem with having a staff-elected director is the issue and that is why the government is amending the act. And we have to ask: what will it cost us if you scrap the position? You are making the point that Mr Dempster breached a minor rule like that. I am saying that the big picture we should be looking at today is whether a staff-elected director position, in its essence, is a good position for the ABC.

**Senator FIERRAVANTI-WELLS**—Mr Henschke, I expect that a staff-elected director not only understands but also follows the style guides and the editorial policies that the board set out for all staff of the corporation to abide by.

**Mr Dempster**—We strive to do that.

**Senator FIERRAVANTI-WELLS**—That may be the case, but it is not always happening, and indeed it happens—

**Senator CONROY**—It is nice to be in the presence of perfection.

**Mr Henschke**—Mr Dempster was also a staff-elected director some 10 years ago.

**Senator FIERRAVANTI-WELLS**—I appreciate that, and that is the point. Mr Dempster, I am sorry to use you as the example, but, as I read in the press that you—or, for that matter, other journalists who have made continual breaches—are vying for this position, the point I am making is, given this sort of track record, what faith can we have that the staff-elected director will at least bring basic knowledge of the workings of the corporation? It defies the point that you and Mr Dempster have actually made this morning.

**Mr Dempster**—We have tried to demonstrate that.

**Senator FIERRAVANTI-WELLS**—Thank you, but I have just made the point. That is all I have.

**CHAIR**—We feel that we should go a little bit further because you are the main witnesses today, but we want to conclude this at a quarter to one and then we will proceed to the Friends of the ABC.

**Senator SIEWERT**—I want to go back to the issue I was talking about before, which is the relationship with the staff and whether you are elected or whether you are representative. Mr Henschke, you referred to the fact that the tension you felt, and which I understand you said you dealt with, was related to the staff's expectations. Have the staff's expectations and the view of the position evolved with the position? I realise the position has come and gone but it has now been there for a while. Do they now understand that it is an elected position, that you are independent and it is not a representative role?

**Mr Henschke**—I think that the staff understood it—those that took the time to do so. But I also understand that there are even people who get onto the board of the ABC who do not understand what the position is. I think it is a bit like a lot of things in life: people need more education. Many of the staff thought that I was there as some sort of Mr Fixit for every problem. I also think that some people who came to the board saw the role to fix some problems with ABC bias or other matters that they had where people were in their ears about things.

**Senator SIEWERT**—I presume you mean other board members and not just the staff.

**Mr Henschke**—Other board members would bring issues to the board table which were not appropriate for board discussion in the same way as staff would bring issues to me which were not appropriate for board discussion. That is why I would defer to people with experience like Mr McDonald, who would say: ‘This is not a policy issue. This is not a strategic issue. This is not a corporate issue.’ I think there should be awareness that once you accept the board position and grow into the position it becomes very important both for the people who are appointed to the board and for the staff director. I do not believe that any of the board directors who understood the position ever acted in interests that were against the ABC as a whole. They understood their roles. I think some people brought political baggage and I think that caused tensions while I was on the board.

**Senator SIEWERT**—We were talking about tensions before. I was specifically asking about this position, but the point is that there are other tensions as well with baggage, or whatever you term it as, which other people bring.

**Mr Henschke**—Yes. If I went in and started mouthing off about the staff, I would be just as marginalised as another board member who came in and mouthed off about bias or a breach of editorial policy that they had seen on a program, which happened two weeks ago at 11 minutes to midnight. We would say: ‘Look. We’re here to discuss whether we sign this \$55 million digital contract today, not to argue about what you heard at 6 o’clock on Sunday morning in a news bulletin while you were driving to golf.’ The real issue is that it is a very important organisation, which is such an integral part of the Australian community, and we have to decide today whether this position is of benefit to that organisation and to the people of Australia. The argument that we are putting forward is that it is.

**Senator WORTLEY**—This is more of a general question to bring us back to probably why we are here today. What loss will there be to the ABC board, the ABC and the public if the staff elected director’s position is abolished? We have had a lot of points that have come from different directions, but I would like to focus on what the loss will mean.

**Mr Dempster**—What we have all tried to concentrate on here is the way the role has evolved in terms of being structurally integral to the protection of the ABC’s independence and integrity. We have given examples: commercial arrangements with pay television, the Telstra broadband portal and looking to the future. The public may wake up one day and find that all the ABC’s content has been sold to another player in the media if we have an ABC without a staff elected director. What is happening with the digital revolution is that people who create content create something of great market value, and it can be exploited because people can access it through the expanding digital platforms. It is so exciting—we do not know where this is going to take broadcasting and cybercasting in the world.

For us, the issue is the engagement with commercial arrangements. It is not just the ABC shops and ABC enterprises. I have been a supporter of ABC enterprises because we have created orchestral CDs; we have created products. The taxpayers have already invested in the creation of these products which we put to air and which we can sell. There is a taxpayer return for that. That is a reasonable thing for the ABC under the act, which established it as a corporation, to be able to do. That is a very valuable enterprise of great value to the corporation. The profits from ABC enterprises come back to the ABC in program making. I wish there were more; I wish there were another vehicle for greater value return for the

taxpayer investment in the ABC. What is happening with digital is that the original content is valuable and it can be exploited.

I do not know where you stand, Senator, but I am of the view that, if the taxpayers have invested in this huge amount of daily content—specialist programs, general programming, comprehensive program genres—I think we ought to be able to put it out to them using these platforms for nothing. That is where I come from as a supporter of public broadcasting. The taxpayers have invested in this; it is their material. It is of great educational, information and entertainment value, and they should be able to access it through the digital platforms for nothing. We need to be funded for the technical requirements. The beauty of digital is that it can be so cost-effective in reaching and growing new audiences for the public broadcaster, for the public purpose.

I can just see—and this is what I am most fearful of in the loss of this position—that the public of Australia will wake up and find that they cannot access ABC material on the ABC portal, that they have to go off to a service provider or a search engine and pay a subscription or some right of entry at a commercial rate to get access to it, and the ABC will get money back. I can just imagine the arguments that will go on not only in the board but out in the public. People will say, ‘Hang on; we paid for this stuff. We paid for these creative program makers to produce this material and now we can’t access it with all the range of digital platforms that are going to be available.’ I have not had a chance to research what the BBC has done in this, but my understanding is that they have put their entire archive up on their portal.

**Senator WORTLEY**—Is it your view—

*Senator Ronaldson interjecting—*

**Senator WORTLEY**—I am asking the questions.

**Mr Dempster**—You have asked me what the danger is in the loss of the staff-elected director position and that is how I am trying to answer it. I believe that is the danger in the loss of the staff-elected director position, because the public and the organisation will not debate these things. Of course, a board strapped for cash will say, ‘We’ve got \$30 million from this operator’—

**Senator RONALDSON**—You are being hypothetical.

**Mr Dempster**—It is not hypothetical, Senator, with respect.

**CHAIR**—You are making a lot of assumptions.

**Mr Dempster**—It has already happened with the Telstra deal in 2000 and a board saying, ‘We’ve got \$20 million from this partnership; let’s sign it up.’

**Senator RONALDSON**—It was the board that decided not to proceed.

**Senator WORTLEY**—Is it your view that this decision is being made partly with that in mind.

**Mr Dempster**—Of course, that is my fear—from the time I was on the board and wrote about this and expressed it as a long-term fear about the destruction of public broadcasting in Australia. BBC survives because it has a base load of licence fees paid by the British public.

That is highly accepted. We have a great media industry in Australia in the sense that we have viable commercial operators. The ABC has a certain share—I wish it was more, but we are a mainstream broadcaster—of 16 to 17 per cent audience share in television and up to 22 per cent across all our radio platforms, a substantial influence in Online and, as Ian reminded me, Radio Australia. We are already there as a mainstream broadcaster. That could be easily damaged because our purpose is pushed off into the pursuit of commercial revenues, and that changes the whole nature of the commissioning of programs, why we do things. Boards and management strapped for cash will say, ‘How can we make some more money out of some other good line of business?’

**CHAIR**—Thank you. That view is predicated on the view that the staff member, again, is the guarantor of the charter of the ABC, and that is simply not the case.

**Mr Dempster**—It is one factor. I appreciate what you are saying.

**CHAIR**—You are making very large assumptions there, I think.

**Senator RONALDSON**—Given that there has already been acknowledgment that, despite all this business about the Howard government, the point is that the directors are acting independently—which Mr Dempster very kindly acknowledged about two hours ago. I have a couple of questions.

**CHAIR**—We must finish by quarter to—

**Senator RONALDSON**—Yes.

**CHAIR**—I am just pointing it out.

**Senator RONALDSON**—Mr Henschke, you were talking before about the cyclone and the matters that could be referred. These are staff management issues, aren't they? Aren't there processes within the organisation which will allow staff management issues to come through staff to directors and from directors to the board et cetera? Why is that the responsibility of the SED?

**Mr Henschke**—What I am saying is that you are a conduit for these issues. When you go to a board meeting, you can get a director who may well have an idea to come up and stand in front of you at a meeting. I will just very briefly say that the ABC now has a situation where the board has meetings where directors come into the room and put forward their positions. In other words, the director of drama, the director of news and current affairs and the head of production resources will come to the board and put forward their ideas. If you have a staff-elected director who is there but is getting input from another area—in other words, the people on the ground—they can ask a question about that to that particular person when they are in front of the board doing their presentation.

**Senator RONALDSON**—This is the inherent conflict when indeed you have someone. With the greatest respect, you have a bit on this side and a bit on that side. You are talking about—

**Mr Henschke**—When I was on the board, for example, so was Leith Bouilly who was from a rural Queensland background. Leith Bouilly would ask questions of people about how well they were covering the regions of Australia. You may remember that during the time that I was there the board ended up getting reasonable initiatives money to cover—

**Senator RONALDSON**—Who was he asking the questions of?

**Mr Henschke**—I am not going to go into the details, but we would be questioning whether we were doing a good enough job outside of the capital cities in Australia. That was something the board was concerned about in representing the interests of all Australians.

**Mr Dempster**—I think at a board level the issue that Ian raises is the board's procedures—the operational procedures of the corporation oversighted by the board on national emergencies. The ABC would come to the board with information papers about national emergency procedures. If there is a terrorist attack on Australian soil, the ABC has national emergency procedures to swing into to inform the public about what is going on.

**Senator RONALDSON**—We are running out of time. I have a final question. Mr Dempster, when you talk about vital structural protection of the ABC's independence and integrity, and the position has evolved into that, I suspect you are telling this committee that, having acknowledged that the so-called independent, politically appointed directors are doing their jobs by acting independently as they are required to under the act—you cannot speak for Ms Koval—you and Ms Koval believe yourselves to be actually independent of the independent board and that is what this is all about.

**Senator CONROY**—That is outrageous!

**Senator RONALDSON**—It is a legitimate question which requires an answer.

**CHAIR**—Let us let Mr Dempster answer, and perhaps the others too.

**Mr Dempster**—That is not so. I think my submission attempts to demonstrate the management of the tension and to demonstrate that it is a dynamic tension in a robust governance of the corporation.

**Senator RONALDSON**—Indeed, I put to you that Ms Koval's failure to sign that protocol, her reluctance to answer questions about that today and the fact that after the questioning of my colleague she is off getting independent legal advice is a further example of the fact that she viewed this as an independent position from an independent board.

**Mr Dempster**—Speaking for myself, I deny that. You are subject to the provisions of the act just as everybody else is. Ramona Koval has explained her position in her submission.

**Mr Henschke**—Because there is limited time left, I would like to say that the question we are talking about today is: what is the problem? Senator Coonan said there was concern over the constituency. If that is the problem for the Senate and for the parliament, we should fix that problem. I do not think it is a big problem, because I was able to function on the board and work well with the other board members. I think there is no problem in having that and having a good working relationship. What does it cost if we get rid of the position? Is it going to damage or improve the organisation and its running? The view that is being put is that it is not proper modern corporate governance to do it. There is dispute on that. Even within that document that you tabled today, there is a question that this does actually work. We are talking about—

**Senator RONALDSON**—There is no question in the Uhrig report. Are you suggesting that Uhrig said—

**Mr Henschke**—The Bartos report says that there are organisations that do have staff-elected directors overseas and that these function. We are not saying that you cannot have this; we are just saying that this is under discussion.

**Senator RONALDSON**—With the greatest respect, Uhrig has said that it is totally appropriate in the Australian context. Professor Bartos has said from his inquiries into the public sector that it is totally inappropriate. If the example you are giving is of the Mercedes of this world as opposed to an SBS or a Television New Zealand of this world, you are entitled to that opinion, but I tell you that I passionately disagree with you.

**Mr Henschke**—I would really like to see you talk to the people that have been involved in the board of the ABC and then make a decision.

**CHAIR**—I thank you all. I thank the former staff members for appearing. I think this has been a fairly full examination of your point of view. We have gone over an hour over time.

**Proceedings suspended from 12.47 pm to 1.07 pm**

**GREENWELL, Ms Jill, President, Friends of the ABC (ACT and Region)**

**CASSIDY, Mr Darce, Immediate Past President, Friends of the ABC, South Australia Inc.**

**CHAIR**—I welcome the Friends of the ABC from the ACT and region and the Friends of the ABC from South Australia, Mr Darce Cassidy and Ms Jill Greenwell. You probably heard the opening statement which I read at the beginning of proceedings. I will add that the committee has received your submission, Ms Greenwell, as submission 15 and your submission, Mr Cassidy, as submission 27. Do you wish to make any amendments or alterations to your respective submissions?

**Ms Greenwell**—I do not.

**Mr Cassidy**—No, I do not.

**CHAIR**—Do either of you wish to make an opening statement?

**Ms Greenwell**—Yes. I will start, and Mr Cassidy will follow. Thank you very much for the opportunity for the Friends of the ABC to be witnesses. I would like to address the question of conflict of interest because of the importance attached to it in both the explanatory memorandum and the second reading speech. I would like to make four points. Firstly, the staff elected director is not on the board as a union delegate. He or she does not put the industrial interests of staff to the board. In fact, the managing director does. So there is no conflict of interest.

My second point is that it is because of the distinctive legislated functions of this particular corporation that a staff director is essential. What distinguishes the ABC from its commercial counterparts, and what the board must ensure, is the quality and range of its programming. The commercial networks must deliver audiences to advertisers. They are not independent of the imperative of financial success.

There is a huge difference in producing programs when the emphasis is on the program rather than on the size of the audience. New programs can be given time to take off, documentaries can be researched thoroughly and interviews can set the pace for community discussion. These are just a few examples of what is not just possible but required by the public broadcaster. So I would submit that ABC staff have a vested interest in maintaining this public broadcaster ethos and that their nominated director brings to the board a perspective essential to the board's duty to see that the distinctive functions of the corporation are carried out.

My third point is that there are other agencies, including Australian government institutions, which have staff elected directors. Importantly, what those agencies have in common with the ABC is that their product too is intellectual property, dependent on the creative energy of their staff. The Australian Film, Television and Radio School is one example. The Australian National University, in the ACT, is another. In these instances, it is also not for industrial reasons but in the interests of the overall objectives of the institution that staff elected directors, and students to some cases, participate in the top policy-making body. In the private sector, also, it is not unheard of to have a staff elected director on the board. One example in Canberra is the Canberra Girls Grammar School, which has a staff elected director on the board.

My fourth point is related to the reliance in both the explanatory memorandum and the second reading speech upon the reference in the Uhrig review to representational appointments. I would contend that this reliance is misplaced. In the case of the public sector, Uhrig spelt out that by ‘representational appointments’ he meant those ‘where a departmental staff member is appointed on the basis of representing the government’s interests or having a ‘quasi’ supervision approach’.

So that is something like having the head of Treasury on the board of the Reserve Bank. It is nothing to do with the sort of role of a stakeholder representative, as the staff elected director is, on the board. Finally, there is no connection at all between the words ‘representational’ and ‘election’. The two words sound synonymous, but Uhrig’s use of the term ‘representational’ is not at all the same as ‘by means of election’.

**CHAIR**—Thank you, Ms Greenwell. Mr Cassidy, would you like to make an opening statement?

**Mr Cassidy**—Thank you. My colleague has covered the basis of both our submissions, I think, but I would like to comment briefly on an issue that arose earlier in this hearing, which relates to SBS and whether there should be a staff elected member on that board. I have some experience because I have worked for SBS, and I also have significant experience in the area of ethnic broadcasting in my role, until recently, as executive director of the National Ethnic and Multicultural Broadcasters Council.

Within ethnic communities generally there has been a great deal of concern in recent times about the direction of the SBS, and the direction of SBS since it took up advertising. These issues have been expressed by the chairman of the Federation of Ethnic Communities Councils of Australia. They have been expressed by former directors of SBS, including Mr George Zangalis, who was for a long time an SBS director. As we have seen from the evidence given by the staff elected directors, one of the main contributions to the independence of the ABC has been to protect its independence and its integrity from being distorted by reliance on advertising and by commercial influence. I would suggest that, had we had a similar situation in SBS, we might well have avoided some of the pitfalls that have befallen the SBS since it started to take advertising.

Specifically, what has happened since advertising began on SBS is that programs in languages other than English have been moved out of prime time. The advertising, which originally began on SBS as being very discreet and polite, has become more intrusive and raucous. In fact, recently this year the *Financial Review* quoted the SBS marketing manager as saying, ‘There was a time when we wouldn’t have in-your-face advertising, but the commercial reality is that we now have to have it.’ Any close inspection of the SBS will see the increasingly intrusive amount of advertising, including the raucous nature of the advertising.

**Senator RONALDSON**—Implicit in this is your assumption that a staff elected director would have changed the outcome. That is an opinion.

**CHAIR**—Senator Ronaldson, I think you can come back to that as a question. Mr Cassidy is making an opening statement.

**Mr Cassidy**—It is an opinion but it is based on the performance and the history of the actions of the staff elected director in the ABC. We all heard evidence earlier as to the actions that several of the directors have taken to minimise commercial influence. I suggest that if we had had a staff elected director on the SBS they would be very likely to have acted in a similar way to the representatives on the ABC.

**Senator WORTLEY**—Have there been times when the person in the staff elected position, because of their broadcasting knowledge, made significant information available to other board members that they may have otherwise missed because they did not know the questions that they should be asking? I refer you to your submission with regard to some of those.

**Mr Cassidy**—Yes. There is one particular issue where I think this stands out. This was the decision as to where in Melbourne the headquarters of the ABC should be. The then management of the ABC had proposed to put the ABC headquarters at Burwood East, many miles from the centre of Melbourne. That was an occasion where the staff dictated that that was where they wanted to go to because many of them lived in that area and it was more convenient. It was the view of the then staff elected director, Tom Molomby, that that was inappropriate in the interests of the corporation as a whole because, if you are to be an effective broadcaster, you must be accessible to the public and to the kinds of people that you are likely to interview, and Burwood East was not accessible.

It was largely because of this practical understanding of the realities of broadcasting that he was instrumental in persuading the board to overrule the management proposal to build at Burwood East and move the building into the city. I suspect that, had it not been for that particular knowledge, the board would not have been equipped, as boards must be, to critically evaluate the management proposal. It is very important as a matter of governance that the board stand separate from the management and critically review management proposals. If you do not have the expertise and the knowledge on a board to be able to do that, a board is not able to function effectively.

**Senator WORTLEY**—In this case the person who had the knowledge and expertise was the staff elected director.

**Mr Cassidy**—Yes. I would like to quote from Senator Alston, when he wrote in the 1995 Senate review of the—

**Senator CONROY**—It is a disreputable source, but go ahead.

**Mr Cassidy**—In the report that he wrote he said:

The ... ABC is required to make decisions with long-term implications in a time of overwhelmingly rapid transformation of broadcasting technology. The Board's task may have been made more difficult by the fact that many of its members have little specialist knowledge of either the broadcasting industry or the new technologies. Without such expertise, it is inevitable that a part-time board will be essentially reactive to senior management suggestions and initiatives ...

I suggest that the action of Mr Molomby in this case and the action of other staff elected directors in the other case has been a valuable addition to the board in giving at least an element of that expertise among the board members.

**Senator WORTLEY**—In your submission you also refer to the track record of staff elected directors. Can you elaborate on that? You have given that example. Are there other examples that you can give us?

**Mr Cassidy**—Yes. There can be no clearer threat to the independence of a board or an organisation than a foreign government attempting to tell a board or a broadcasting organisation what to broadcast or not what to broadcast. This of course relates to the attempt by the government of Papua New Guinea to intimidate the ABC board into censoring an interview that had been done in New Guinea by a *Four Corners* reporter, Allan Hogan. The senior staff at the ABC at the time wanted to give in. They wanted to suppress this particular interview because they feared that their correspondent in Port Moresby would be expelled if they broadcast it. The proposal by the management was in effect to betray the independence of the ABC.

Tom Molomby, the staff elected member, was critical in the decision to overrule the management and to uphold the independence of the ABC. That board decision to overturn the management was carried by a majority of one. It was carried against the diehard opposition of some ABC staff, including the then managing director, who threatened to resign if the management proposal was overturned, and including threats from other senior managers at the ABC. The board, by a majority of four to three, voted to uphold the independence of the ABC. Had Molomby not been there, that board vote would have been tied.

**Senator WORTLEY**—Mr Cassidy, in addition to your position with Friends of the ABC, I understand that you come to this meeting with some knowledge of the ABC other than just from that position. Could you expand on that?

**Mr Cassidy**—I worked for the ABC for 33 years. My last position was as managing director's representative for South Australia—in colloquial terms, a state manager.

**Senator RONALDSON**—The Uhrig report did not exclude the ABC or SEDs from its deliberations, did it?

**Mr Cassidy**—The Uhrig report did not consider the ABC, but I think my colleague can answer.

**Senator RONALDSON**—It did not exclude it, did it?

**Ms Greenwell**—It did not include it.

**Senator FIERRAVANTI-WELLS**—That does not mean you can jump to that conclusion.

**Ms Greenwell**—The reason that the Uhrig review was set up was particularly to look at the supervisory and regulatory or service-providing corporations—I think at the time there were about 160. It was particularly to look at those. It was in the wake of the HIH collapse, it was looking at APRA, for example, and it was also after complaints that the Taxation Office had been favouring big business. So it was looking particularly at the regulatory and the service-providing corporations, as distinct from the ABC, which must be one of the oldest federal statutory bodies which is not quite *sui generis* but is in the same category, let's say, as the Australian National University which is creating a product through its human resources. It is not regulating and it is not providing a service.

**Mr Cassidy**—If I could add to that, Mr Uhrig wrote in his review:

The review took a practical rather than theoretical approach ... The core of the review and its conclusions, however, stem from the outcome of consultations with key participants ...

In other words, Uhrig relies on the practical discussion with the participants in his review. He did not consult the ABC. He did not receive any submissions from the ABC. Nor did he consult with or consider any of the other government authorities which have staff elected members on their boards or members representing other groups of stakeholders. Therefore, Uhrig's conclusions could not have applied to the ABC or to those other organisations because he did not investigate them.

**Senator FIERRAVANTI-WELLS**—Yes, I know, but I think that your quotes from Uhrig have been very selective, Mr Cassidy—and misleading, I must say. It is true that, whilst Uhrig did not specifically mention staff elected directors when he talked about the problems with representative directors, he did not specifically exclude the staff elected director. I think you are really drawing a long bow to jump to that conclusion, as you and others have done in the submissions. You are being very particular here, but I think you were present when we were talking about other bodies. We do have SBS. We have New Zealand TV. These are similar bodies. I ask you the same question: why should the ABC be different to other comparable bodies such as SBS and New Zealand TV? What makes this position so special?

**Mr Cassidy**—I would be delighted to answer that. The particular distinction between SBS and TV New Zealand is that TV New Zealand is pretty well a wholly commercial operation. It is not government funded. In fact, it pays the New Zealand government a dividend. TV New Zealand is virtually indistinguishable. I just came back from some time in New Zealand. It is virtually indistinguishable—

**Senator FIERRAVANTI-WELLS**—But they are public broadcasters. We are trying to compare apples with apples here. You obviously have a lot of experience. We are comparing with apples with apples.

**Mr Cassidy**—I would say that TV New Zealand is not a public broadcaster; it is a commercial broadcaster that happens to be owned by the government in much the same way that Telstra is, in the majority, government owned.

**Senator FIERRAVANTI-WELLS**—What about SBS then?

**Mr Cassidy**—SBS is, I would suggest, a hybrid organisation because it does have some public broadcasting attributes—

**Senator FIERRAVANTI-WELLS**—Some public broadcasting attributes.

**Mr Cassidy**—SBS has changed significantly since advertising was introduced. I have referred before to changes in programming, where SBS has begun to desert its core audience of people of ethnic background. There have been complaints from ethnic representatives about SBS deserting its target audience. It has begun to desert its target audience because it knows it will gain more advertising revenue by going to the broader audience, and that is why its band—

**Senator FIERRAVANTI-WELLS**—If you are going to go down the route of complaints, you, as Friends of the ABC, might like to comment on the 40,000 complaints that the ABC

gets in any case. I do not particularly want to go down that route, but, if that is the route that you choose to go down, we are very happy to take you down there.

**Ms Greenwell**—Could I just say something, following on from the comparison with SBS. As a viewer of SBS, it seems like a public broadcaster, with a somewhat different emphasis and certainly a different scope to the ABC. But I think it is wonderful that you should ask: why not have a staff-elected director for SBS? We are here to support the retention of that position on the ABC and, personally, I would be delighted if SBS also had one. I cannot answer why they do not, but I think it is a pity that they do not.

**CHAIR**—Would it not make more sense to have a consumer representative than a staff representative on these boards?

**Ms Greenwell**—That thought had occurred to me, because I suppose a stakeholder representative, which you can find in government agencies and in private ones as well, would have its equivalent in a consumer representative. But I would say that, for practical purposes, that would be extremely difficult. How on earth would you elect one? The existence of the ABC Advisory Council is possibly one way around that.

**CHAIR**—You make a lot of assumptions, as the previously witnesses did, about the role of a staff board member and preserving the ethos of the ABC, but the ABC and the SBS both have charters and are required to provide a certain service. Don't you think it is a bit pretentious to say that the presence of a single staff person would preserve the ethos of the charter, notwithstanding the fact that there are eight other members of the ABC board who are equally committed, one must presume, to honouring that charter? We are hearing a lot about advertising, for example. That does not necessarily follow in any logical way that I can see.

**Ms Greenwell**—I will answer your question. I do not think it is presumptuous to say that the staff of the ABC have a direct interest in seeing that the charter of the ABC is carried out.

**CHAIR**—It is not just a direct interest; it is a predominant, overwhelming interest. That is what we are hearing. They become the guarantor in the face of all the other members of the board who have lost their way in the wilderness.

**Ms Greenwell**—No, I would not say that the staff director is the only person who will act in the interests of the ABC as a whole, but I can be quite confident that the staff-elected director is the one person who has an overwhelming interest in seeing that the ABC's public broadcasting standards are maintained. As for the other directors, I do not know and nobody in the public can possibly have any idea because of the way that those members are appointed. But that is a bit separate. I would not claim that the staff-elected director is the sole repository of the meeting of the charter requirements of the ABC.

**CHAIR**—But you were saying that this is the one person who you can you sure would protect the concept of the public broadcaster's role. Again, I do not think that necessarily follows. The staff director could have a highly vested interest in some matter which perhaps was contrary to what we see as the role of a public broadcaster.

**Senator FIERRAVANTI-WELLS**—Your comment obviously implies that the reason you are so confident is that they have been elected by the staff and therefore they owe their obligation first and foremost to the staff. In the end, how can you sit there and say that somebody who has been elected purely to represent the staff—and you were here when Ms

Koval gave her evidence about reporting back on behalf of the staff—acts independently and in the best interests of the board of the ABC? Surely their primary interest is to the people who elected them.

**Ms Greenwell**—No, I do not think that election comes into it at all.

**Senator FIERRAVANTI-WELLS**—You mean their sole responsibility is to the board?

**Ms Greenwell**—Once they are on the board, yes.

**Senator FIERRAVANTI-WELLS**—That is your view, is it?

**Ms Greenwell**—It is not my view; it is a requirement of the CAC Act that they must take on the view of the board as a whole. You asked how I could be sure that staff would act in the interests of the ABC. I am sure because of the distinctive quality of programming which they produce. I gave a couple of examples. Somebody who is presenting documentary programs on the ABC is allowed to finish them without the pressure of submitting a program within a certain time because of sponsors. There are pressures, and they include finances of course, but there is scope. I have heard it said publicly by the producers of documentaries on the ABC that there is a particular quality and it does go to the credibility of the program production, which is possible when you are looking for the quality of the program and you are not delivering audiences to advertisers who are checking off the budget line.

That is one example. Another is those people who are actually required under the editorial policies of the ABC to set the pace for community discussion. People who work in an organisation where that is a requirement as distinct from delivering audiences to the advertisers have a different ethos, and that is why I would depend on them to keep that ethos in mind when broader policy matters like the budget or the editorial policy documents come before the board.

**Senator FIERRAVANTI-WELLS**—It gets back to the point, like the evidence that we heard this morning, that basically it is really just the staff elected director and that without them the ABC would not properly function.

**Mr Cassidy**—No, that is certainly not the position of my organisation. To respond to Senator Eggleston's question of how we can be sure that the staff elected member will always protect the integrity of the ABC, we cannot always be sure. We are not saying that they are the sole defender of the integrity of the corporation; what we are pointing to is the track record of those staff elected directors. From the evidence they have given to various Senate inquiries, it has been clear that they have taken a key role. I have spoken of the roles of Mr Molomby; other witnesses have spoken about the roles of the staff elected director. We can see from their track record that, as a rule, they have done that. Yes, it is theoretically possible that some other staff elected director could be a dud, but the historical evidence is that they have all worked very firmly to protect the integrity of the ABC.

**Senator FIERRAVANTI-WELLS**—I want to take you to page 7 of your submission, where an assertion is made:

Without the staff elected director the ABC would have spent seventy-one of its seventy-four years without anyone with broadcasting experience on its board.

Do you agree with that?

**Mr Cassidy**—Yes.

**Senator FIERRAVANTI-WELLS**—The position of the staff elected director has only existed from 1974 to 1975 and from 1983 to 2006. For the other 50 years of its existence, the ABC surely functioned just fine without a staff elected director with broadcasting experience.

**Mr Cassidy**—I would dispute the fact that the ABC functioned fine in those early years.

**Senator FIERRAVANTI-WELLS**—So what you are saying is that only during the years when there was a staff elected—

**Senator CONROY**—Can you finish the question?

**Senator FIERRAVANTI-WELLS**—I am asking him to answer two questions.

**Senator CONROY**—And he was giving you the answer.

**Senator FIERRAVANTI-WELLS**—So what you are saying is that it is only during the period when the staff elected director—

**Senator CONROY**—He is entitled to finish his answer.

**CHAIR**—He is entitled to answer, yes. Please proceed, Mr Cassidy.

**Mr Cassidy**—No, what I was saying was that in the period before there was a staff elected director on the board there were some very serious deficiencies in the ABC. I worked for the ABC for many of those years and I am very aware that on many occasions the board was very remote and very often did not act as an effective critical evaluator of management decisions. When the first staff elected director was elected to the board, his election slogan was: ‘The board only knows what it’s told. Make sure that the person who’s telling the board things’—meaning the new staff elected director—‘knows something about what they’re saying.’ That has been the critical role of the staff elected director: to add to the board’s ability and the board’s duty to critically evaluate management proposals.

**Senator FIERRAVANTI-WELLS**—What about those 50 years when there was no staff elected director? That is a pretty bold statement; in fact, I think it is a ridiculous statement to make.

**Mr Cassidy**—I was simply saying—

**Senator FIERRAVANTI-WELLS**—Does that mean that for the years that there was no staff elected director the ABC did not function? That is what you have written.

**Mr Cassidy**—No, that is not what I wrote at all.

**Senator FIERRAVANTI-WELLS**—It is. It says—

**Mr Cassidy**—I said that the ABC did not function when it did not have a staff elected director?

**Senator FIERRAVANTI-WELLS**—You said that without the staff elected director the ABC would have spent 71 of its 74 years without anyone without broadcasting experience on the board.

**Mr Cassidy**—That is right. So I was not saying the board was not functioning.

**Senator FIERRAVANTI-WELLS**—So what you mean—

**Mr Cassidy**—Can I finish, please? I said that without the staff elected director there would only have been three years—during the appointment of Robert Raymond—when the ABC would otherwise have had someone with broadcasting experience on the board. I did not say the ABC did not function; I did not say it was a hopeless mess, but what I am suggesting is that the ABC's governance has been improved by having the experience and contribution of the people who have been there.

**Senator FIERRAVANTI-WELLS**—Then you made a comment that it is really only a staff elected director who can bring forward the points of view of the staff. Is that the effect of what you just said?

**Mr Cassidy**—No. It is not only that. In fact, it is the duty and the role of the managing director—as the current acting managing director, Murray Green, has pointed out in his statement—to do that. Indeed, many of the other board members will know staff and be aware of the views of staff members. Certainly the chairman spends a lot of time in the ABC and mixes with the staff. From time to time, other board members do the same, as is appropriate. So it is not exclusively the staff elected director. But they do bring a special point of view.

**Senator SIEWERT**—I think you were here when I raised the issue that Senator Minchin in his second reading speech raised about tensions between whether the person is an elected or representative member. What is your understanding of these tensions? Do you think they are real or perceived? I do not know how much close contact you have with the staff of the ABC anymore. Do you think they view that position as elected or representative?

**Mr Cassidy**—My experience—and I have known all of the staff elected directors personally—is that they have always seen their position as being a director of the organisation who owes their responsibility to the organisation. However, as Mr Henschke testified, there are those in the staff who think perhaps that the staff elected director is meant to be there to represent them, and they will sometimes go to the staff elected director and seek to put pressure on them.

I think it is also a common public perception that members who are appointed by the government are there to do the government's bidding. There are plenty of examples of members appointed by the government of the day who have shown their independence, but that does not alter the fact that there may be people in government who expect them to follow their policy and that there is a widespread perception of that among the public and indeed among politicians. Every party represented in the parliament, as I indicated in my submission, has accused their opponents of stacking the ABC board.

**Senator RONALDSON**—Is there no more or less a perception that the staff elected director might be obligated to put forward the views of staff?

**Senator CONROY**—I thought we had put that to bed.

**Mr Cassidy**—I think there is a perception in both cases. But just as there are examples of government appointed directors—

**Senator CONROY**—Doing the bidding of government. Good God!

**Mr Cassidy**—doing the bidding of government, there are examples of them refusing to do the bidding of government. In fact, Professor Inglis—

**Senator CONROY**—Poor Donald!

**Senator RONALDSON**—Which of the current board are not independent?

**Mr Cassidy**—To my knowledge, they are all independent. I really do not know the details, so I would not want to suggest that any member of the current board has not acted properly.

**Senator SIEWERT**—I think you are trying to make a point about perception.

**Mr Cassidy**—It was a point of perception. In fact, the point I was trying to make is that, despite the fact that there is often a perception that government appointed board members are government stooges, there is evidence of numerous occasions on which they have clearly shown that they have acted independently. A particular occasion quoted by Professor Inglis is when the board appointed by the Menzies government—I cannot remember the details, but I am sure Professor Inglis could help us—clearly acted in a way that was independent of the government and against the wishes of the government. So, although there is that widespread perception, there is also evidence that government appointed members and staff elected members have attempted to act independently—as is their duty.

**Senator RONALDSON**—Absolutely.

**Senator SIEWERT**—You have touched on this in your submission and just now, but can you articulate why you think the ABC, as a public broadcaster, is different from the other commercial forms of broadcasting. Why do you think this position is so important in that context?

**Mr Cassidy**—If we look at examples of staff elected people on boards, it is common in cultural institutions. It is the case in the ABC, the Australian National University and the film and television school. In fact, it is normally the case in universities. I think the reason why in the Australian tradition and indeed in the British tradition generally there has been a tendency for membership of boards of cultural institutions is that they are very much part of passing on the culture and opinion formation. It would not be appropriate for the government to directly decide what is taught in universities or what is broadcast on the ABC. That is why there has historically been a tendency to have, in addition to government members, other people and a diversity of views on the boards of these cultural institutions. It is an important part of our democracy.

**Senator RONALDSON**—Do you think the current board is committed to maintaining the ABC's independence from government and other areas?

**Mr Cassidy**—I have seen no evidence to the contrary.

**Senator RONALDSON**—So we can assume that they are?

**Mr Cassidy**—We assume that they are because there is no evidence to the contrary.

**Senator RONALDSON**—I presume you believe Friends of the ABC campaign manager Glennys Stradijot is wrong when she says on the ABC board that the public has only the staff-elected director committed to maintaining ABC's independence from government and commercial influence.

**Mr Cassidy**—Yes, I think she is quite wrong in that statement.

**Senator FIERRAVANTI-WELLS**—I want to take you back to the rationale of setting up the original ABC Act. Having read your submission, I want you to go back to the original ABC Act. It really does not specify a role for the staff-appointed director; it simply sets out that there shall be a staff-elected director. Would you agree? I am not sure if you were here when we talked about the second reading speech of the original legislation, it says:

In other respects the staff elected director will have the same powers and functions as the other non-executive directors.

Do you agree that the act does not set that out, other than the establishment of the legislation? When your submission infers some form of intimate inside knowledge or some specific role outside the ambit, I think surely you are wrong, because it is not the ambit of what the legislation says.

**Mr Cassidy**—You are quite right in what the act says. My colleague will comment further.

**Ms Greenwell**—This rather importantly points out that the staff-elected director has no responsibility to the board and to the corporation distinctive in any legislative or protocol form from other directors. In fact, he is not there to represent a staff view on things which have an impact on staff.

**Senator FIERRAVANTI-WELLS**—But how does that sit with your earlier assertions that that is really the only person that you can rely upon as taking forward words to the effect of the interests of the staff? The two comments do not sit. I think there is an inconsistency in your approach.

**Ms Greenwell**—With respect, I think that they do. As a matter of good governance—and the Uhrig review mentioned it—you need a broad range of expertise and wisdom on the board. Having somebody from the staff committed to the charter obligations of the ABC enhances the ability of the board to carry out its job.

**Senator FIERRAVANTI-WELLS**—I take you to this comment. I do not know if you were here when Ms Koval gave this evidence or when we made reference to her statement and the assertion she made. She said:

This Report contains a summary of the representations I made as Director on your behalf at the most recent meetings of the ABC Board.

Under questioning from Senator Ronaldson, it is very clear that her position on the ABC board is on behalf of the staff. How does this sit with your situation?

**Ms Greenwell**—I am not going to comment.

**Senator FIERRAVANTI-WELLS**—Well I am asking you to comment. You are the Friends of the ABC. You have come to give evidence here and have commented on a whole range of issues. In fairness to this committee, I think you should comment on that.

**Ms Greenwell**—Yes, but I am not Ramona Koval, so I am not going to speak for her. What I will say for Friends of the ABC is that we expect that all directors conform to rules of confidentiality.

**Senator FIERRAVANTI-WELLS**—So you would say that, when she makes a comment that she is acting on behalf of staff, that is wrong and that that is not your interpretation of what she as the staff-appointed director should be doing?

**Ms Greenwell**—She did not say that to me. I have not seen all of the statement, and I am not going to comment.

**Senator FIERRAVANTI-WELLS**—I will read this to you. This is in her submission. She states:

This Report contains a summary of the representations I made as Director on your behalf at the most recent meetings of the ABC Board.

It is pretty simple English. She is going to the board on behalf of staff. Do you agree that that is a proper role for a staff-elected director of the ABC?

**Ms Greenwell**—I think that she is there to put the staff perspective on the things which the board is considering.

**Senator FIERRAVANTI-WELLS**—Does that mean that you agree that she is not there on behalf of the staff and that she should be there as a board director and not on behalf of the staff?

**Ms Greenwell**—I think that perhaps we are arguing here about what is putting the point of view or perspective of the staff as distinct from what is speaking on behalf of them.

**Senator RONALDSON**—I specifically asked this question before I asked the last question of Ms Koval. I asked her whether these were staff related matters or whether they were matters outside the staff. She said they were in the broader aspect, but not just staff related. As my colleague said, when she is referring to matters she raised on their behalf, it was not staff related matters or just matters that had been raised with her by staff; it was well outside that. What is your response now to the question from my colleague? Should those comments be made, and is the representation of her doing this on behalf of the staff appropriate or inappropriate?

**Ms Greenwell**—I think it is appropriate for her to report back on a wide range of matters and for her to report on those things where she put a staff perspective.

**Senator RONALDSON**—But she made representations on their behalf in relation to non-staff related matters. She made representations on their behalf outside strict staff matters.

**Ms Greenwell**—I did not think that the word was that she made representations and I feel very uncomfortable here—

**Senator RONALDSON**—You have just had the quote. Do you want me to read it to you again?

**Ms Greenwell**—I feel very uncomfortable here about answering—

**Senator RONALDSON**—Of course you do!

**Ms Greenwell**—I am sorry, Senator. What I am uncomfortable about is speaking for Ramona Koval.

**Senator FIERRAVANTI-WELLS**—We are not asking you to speak for Ramona Koval.

**Ms Greenwell**—I feel as though you are, I am sorry.

**Senator FIERRAVANTI-WELLS**—We are asking you to comment or agree or disagree.

**Mr Cassidy**—I wonder if I could comment on this.

**Senator FIERRAVANTI-WELLS**—No, we want Ms Greenwell to answer. You have come here; you are making comments on a whole lot of other issues. You answer Senator Ronaldson's question.

**Ms Greenwell**—I feel as if you are making me speak on Ramona Koval's behalf, and I cannot do that.

**Senator FIERRAVANTI-WELLS**—Senator Ronaldson will no doubt repeat it for you. Is it worth it?

**CHAIR**—No. The witness has said they are not going to answer, so we will leave it.

**Senator WORTLEY**—In your view, with the removal of the staff-elected director position, what would be the effect on the board, the impact on the ABC and the ramification for the public? I do not mind who answers this one.

**Mr Cassidy**—I will answer briefly. I would like to refer to something that is in the submission of the Friends of the ABC South Australia. We do not believe that it is the role of the person elected by the staff to speak on behalf of the staff or to represent the staff. They are there as a director of the board with exactly the same roles and duties as all the other directors. They may bring a special insight as a result of their professional experience, but they are not there as representatives or speaking on behalf of staff.

Turning to the senator's question about what we would miss if we did not have a staff-elected director, there is an issue of expertise or experience, which a number of people have spoken about so I will not say any more about that. The other vital part of their role is that they are the only person there whose appointment is not in the gift of the government of the day. That is an important guarantee of diversity. I would like to quote from Professor Meredith Edwards, who is a director of the Institute for Governance and Deputy Vice-Chancellor of the University of Canberra. She, together with Professor Bartos, has been involved in a detailed ARC funded study of corporate governance. She has some relevant comments about this in an article she wrote recently. She says:

What inhibits good governance in the public sector is the perception that directors [who are appointed by the minister] are doing what the minister wants rather than what is good governance.

She goes on to quote Henry Bosch, past head of the National Companies and Securities Commission, who has been a member of 10 or so Public Service boards. He says:

The quality of directors on government boards is almost universally lower than that is the case on equivalent private sector boards. And that is because I think ministers get involved in the selection.

Professor Edwards goes on to comment:

Of concern is a serious lack of transparency and accountability and hence integrity in the process—that is, the process of appointments to boards. The appointment of the board members by the minister is particularly opaque, but the appointment of the staff-elected director is particularly transparent.

**Senator FIERRAVANTI-WELLS**—I do not know if you have seen a statement by Mr McDonald dated 24 March 2006. He makes this comment:

Staff issues will not be neglected in the absence of a staff-elected director. The interests of staff and our audiences will continue to be among the main concerns of the ABC Board.

The independence of the ABC is secured by the legislation which will continue to guide the Board in the discharge of its duties.

Do you agree with that comment by Mr McDonald?

**Mr Cassidy**—Yes, I do. It has always been the case that staff matters are represented through the managing director, as the current acting managing director has confirmed. The concerns that we have—and indeed which a previous Senate inquiry had—relate to the method of appointment of the other members of the board and the very issues raised by the study of corporate governance that Professor Meredith Edwards is currently engaged in.

**Senator FIERRAVANTI-WELLS**—Yes. I am not sure if you were here for the evidence this morning. Her boss said Professor Edwards works at the National Institute for Governance. You would be aware that the institute made a submission to this inquiry. Have you had the opportunity to read it?

**Mr Cassidy**—The institute did not. Professor Bartos did, and he is not her boss. As I understand it, they are colleagues.

**Senator FIERRAVANTI-WELLS**—I see.

**CHAIR**—I believe there is no submission. It is from Professor Bartos, not from the institute.

**Senator FIERRAVANTI-WELLS**—No. You made a comment that this is the only director on the board who is not there by gift of government. The managing director is elected by the board.

**Mr Cassidy**—Correct. I apologise for that omission.

**CHAIR**—That is the end of this segment, so I thank you for appearing. It has been very useful evidence.

[1.57 pm]

**THOMSON, Mr Graeme, ABC Section Secretary, Community and Public Sector Union**

**WARREN, Mr Christopher, Federal Secretary, Media, Entertainment and Arts Alliance**

**CHAIR**—Thank you for appearing today. I presume you heard the opening statement. We welcome you here today. The committee has received your submissions. Mr Thomson, we have numbered your submission No. 50 and, Mr Warren, we have numbered your submission No. 51. Do you wish to make any amendments or alterations to your submissions?

**Mr Warren**—No.

**Mr Thomson**—No, Chair.

**CHAIR**—Do you wish to make an opening statement?

**Mr Warren**—If I could briefly comment, there is no doubt, in our view, that after the issue of adequate funding for the ABC, it is the composition of the corporation's board that is the matter of greatest public debate and often concern expressed by people who work for the ABC and people who are viewers and consumers of the ABC. I think that is because the current method of board appointment is seen as being opaque, open to manipulation and certainly open to perceptions of abuse.

I think it has to be recognised that there are widespread public concerns that it is through board appointments that government attempts to control the direction of the ABC. There is no doubt that, notwithstanding that, there have been appointed by governments over the years some great directors or indeed, before 1984, great commissioners who were appointed to the board. It is in that context that we say the position of staff-elected director takes on such significance that we believe the government has missed a great opportunity to address the broader problems of board appointment at the ABC and is instead focused on the one part of the board structure that does not need alteration or tampering with.

Indeed, for all the reasons from the evidence that has already been given to you here, the director selected by the staff, in comparison to the director selected by the government, brings a unique perspective that has been essential to the good corporate governance of the ABC and, for all those reasons, should not be altered at this stage. Further than that, the government, or this committee and the Senate, should properly revisit the broader issues of how we ensure that the method of appointment or selection of directors of public broadcasters, and indeed all the great cultural and creative institutions of Australia, is by means that are transparent, that have a degree of public involvement and public trust and also the involvement of some of the other key stakeholders in these institutions, who are the staff.

**CHAIR**—Thank you. Do you wish to make an opening statement, Mr Thomson?

**Mr Thomson**—No. I am happy to rely on Mr Warren's statement.

**Senator WORTLEY**—I have a number of questions and, rather than direct them to the unions individually, I will direct them generally and whoever wants to answer can do so. The first one is that a staff-elected director position is not common in other Commonwealth authorities. In your view, what is so different or special about the ABC that it warrants a staff-elected director?

**Mr Warren**—With respect, I must say that I do not accept your starting point that it is not common. Certainly, it would be wrong to say that it is uncommon. For example, a previous witness has talked about universities, where it is commonplace. It is also commonplace in orchestras, for example. Most Australian orchestras have them. In other cultural institutions, in the film industry, staff-elected directors have only recently been removed.

Having said that, why is it important for the ABC? I believe it is important for the ABC because it is the only system of transparency that provides a particular public broadcasting input into the ABC that is guaranteed to be provided because of what I would even say is the dysfunctionality of the method of appointment of the remaining directors. If you look at the method of appointment or selection of directors around the world for public broadcasters—as distinct from state broadcasters—the ABC has, with the exception of the staff-elected director, one of the most opaque methods, if not the most opaque method, and one with the least degree of community involvement of any public broadcaster. In that context, the staff-elected director has to be seen as a countervailing method, in the sense that it is a transparent system of appointment that guarantees, as it must, that the person who is chosen will be one who has a deep knowledge and understanding of broadcasting and specifically of public broadcasting.

**Mr Thomson**—I would like to add a few comments.

**Senator RONALDSON**—Where is it articulated that they have to have broadcasting experience?

**Mr Warren**—They have to work for the ABC, which is a broadcaster.

**Senator RONALDSON**—If they work for them, is that sufficient to substantiate their position as someone with broadcasting expertise?

**Mr Warren**—I assume the ABC is not employing people and giving them no broadcasting training and knowledge. As a matter of practice, all the people who have been elected since—

**Senator RONALDSON**—They could be a cameraman. It could be someone operating a camera.

**Mr Warren**—The problem with that would be—

**Senator RONALDSON**—No problem at all. But does that mean they are a broadcaster with broadcasting experience?

**Mr Warren**—Of course it means they are a broadcaster.

**Senator WORTLEY**—What expectations do the unions have of the staff-elected director? Do you expect them to take your industrial issues to the board?

**Mr Thomson**—The position of the unions on this is crystal clear. The staff-elected director is not a representative of staff. We as unions are very familiar with demarcations and understanding where demarcations lie.

**CHAIR**—Demarcations?

**Mr Thomson**—Demarcation disputes, yes. To the extent that the staff-elected director would seek to usurp the proper role of the trade unions, it would suggest—at least, in our minds—that we would not be able to support the staff-elected director. The truth is that the

staff-elected director is not a staff representative—that is the role of the elected trade unions and the organisation. We believe that quite distinct and complementary roles are performed.

**Mr Warren**—I will add to that. I have been the key person from our organisation dealing with the ABC for about 20 years now, so I have dealt with all the staff-elected directors; I have known all the staff-elected directors. Most of them have been members of our union as well as members of—

**Mr Thomson**—They have often been. Most of them have been joint members.

**Mr Warren**—I have never had any indication from any of them that they see their role as spokesperson for or advocate of the staff of the ABC. They have certainly never given me any indication that they see their role as supplanting the role that we play through our democratic internal structures within the ABC in taking up matters of concern to staff.

**Mr Thomson**—That is not to say that some of our members do not misconstrue that distinction. It would be silly for me to suggest otherwise. Some of our members see the role of the staff-elected director as a staff representative. What I can say—and I have been working in and around ABC unions now for about 15 years—is that, over that period, there are a number of people who knock on our door and phone us up and say that it has been suggested that they contact their trade union when they in fact have knocked on the door of the staff-elected director. The staff-elected director, according to them, has suggested that they either talk to management or talk to the union if they have a grievance. So there are a number of grievances that come through to us that have been referred specifically—at least, where the staff-elected director has given advice to our members to come to the unions.

**Senator WORTLEY**—In your submissions you argue that the staff-elected director position improves the governance of the ABC. Can you give some examples of how the ABC would be worse off now if there had not been a staff-elected director—now or in the future?

**Mr Thomson**—One of the clearest examples is the Telstra deal from 2000-01. I came only halfway through the proceedings today, but I think reference has already been made to that. It is my view and the view of many of our members that, had it not been for the staff-elected director raising discussion, raising debate about the move that, from what I can understand, was being contemplated by other members of the board—that is, basically flogging off ABC content for, I think, the sum of \$13 million—the ABC would have found itself in a very difficult position now, where its programming material could have been on many occasions influenced and affected by the interests of Telstra. I was here at the Senate references committee that looked at the Telstra deal. The phrase that the Telstra spokesperson came up with at the hearing here still rings in my ears. When asked why they wanted to buy ABC's content, there was a comment to the effect, 'Because we're buying its integrity.'

The problem is that the integrity of the ABC once sold would have diminished the ABC big time. I believe that the Telstra example is one of the best and clearest examples of where the staff elected director has been able to convince or at least talk to other directors about the issues and has allowed for these issues to enter public debate. I think we ended up getting a much better position out of the ABC as a final result.

**Mr Warren**—I can give you an example, perhaps to my detriment. In the mid-nineties, the ABC sought to enter into a joint venture with the Fairfax group and the Cox group in the

United States to establish a news pay television channel. I must say that that was a venture that was not opposed by our union, because we had people employed in that venture. The staff elected director took a different view, which was actually in the interests not of the staff but, in his view, of the board and of his responsibilities in his role as a board member. That is, I think, a very clean case where one of the two unions did not agree with him and a group of people did not agree with him but where he had responsibilities as a board director and, as part of that, responsibility to the charter of the ABC. That meant that he took a particular decision which meant that the ABC did not go down that line. I think that really shows the integrity of the position in this context.

**Senator WORTLEY**—Thank you. How would you describe the broadcasting expertise of current members of the board?

**Mr Thomson**—If you were to go through the list of current board members, you would find I think that only one person on the board could claim to have a close relationship with broadcasting or to have at least worked in some semblance in the industry, and that would be Janet Albrechtsen. I think, though, that no reasonable claim could really be made that she has ever worked in the day-to-day craft of journalism. She is a columnist. She has never actually worked in the process of the collection and daily dissemination of news product. Beyond that I do not believe any of the members of the board could claim current broadcasting experience. I find it quite odd, though, that in an attempt to justify the appointment of Dr Ron Brunton the closest that the minister could come was to suggest—and I have forgotten the precise wording but I think the spin went along these lines—‘Dr Ron Brunton had written on topics that the ABC had occasionally broadcast.’ I think it is a fair stretch of the imagination to cast Dr Brunton as somebody with broadcasting experience.

**Senator RONALDSON**—More or less so than a cameraman?

**Mr Thomson**—I am not aware that any cameraman has ever made it to the position of staff elected director.

**Senator RONALDSON**—No, but Mr Warren said that by dint of their employment with the ABC they automatically have broadcasting experience. What is the—

**Mr Thomson**—I do not doubt that for a minute, but I think—

**Senator RONALDSON**—So you don’t?

**Mr Thomson**—Sorry? Do they have broadcasting experience? Yes, I think they do. If you were to seriously ask anybody in the ABC whether a camera operator or somebody in the mail room—and these are all roles that we value—

**Senator RONALDSON**—Absolutely.

**Mr Thomson**—and these are roles that we fully represent in the CPSU—or the person working as a finance clerk would ever get that position, they would say that they are not defined as being out of the running but that but anybody who has been around the ABC would realise very quickly that these people would not get the support of their colleagues to be elected into that position.

**Senator RONALDSON**—But, Mr Thomson, I am sorry. With the greatest respect, that is not what Mr Warren said when we were discussing this.

**Mr Thomson**—It is what I am saying.

**Senator RONALDSON**—Okay. You disagree with Mr Warren.

**Mr Warren**—It actually was what I said.

**Senator RONALDSON**—You go back and check the record, Mr Warren. But, if you want to clarify it, that is fine.

**Mr Warren**—Clearly what I said before was that in practice—and this is exactly the point that Mr Thomson just made—the people who get appointed are people who have the respect of their peers, by definition. That has meant, universally, since 1984 and indeed in the brief period in the 1970s, that the person who has been elected has not only had broadcasting experience but also been what you would seem to characterise—and I apologise for putting words in your mouth—as a big ‘B’ broadcaster. I am not sure I agree with Graeme that a camera person would be ruled out. I am surprised that you seem to be suggesting that camera people lack the skills to really understand broadcasting and represent broadcasters.

**Senator RONALDSON**—You are being a bit cheeky, Mr Warren. Just get on with it.

**CHAIR**—In practice—since we are talking about it—if there really were an issue somehow specifically related to the context of broadcasting, the managing director would bring in somebody to advise the board about an issue that might arise. Surely that is the mechanism through which knowledge of broadcasting and some specific aspect of broadcasting would be dealt with by the board. They would not expect some staff member to be across every aspect of broadcasting. So if there were an issue the managing director, quite properly, would perhaps bring in expert advice.

**Mr Warren**—It is not just a matter of being across broadcasting; it is a matter of being across public broadcasting.

**CHAIR**—Yes, but there are eight other members of the board. That gets back to this argument that we have heard several times today: the staff member of the board in some way acts as a guarantor of the ethos of the charter and nobody else has the same commitment to the concept of public broadcasting. I think that is a very presumptuous argument to be putting.

**Mr Warren**—I did not say that.

**CHAIR**—But that is the implication of what you said.

**Mr Warren**—I do not think it is. To be blunt, I think the current method of appointment of board members by government is a dysfunctional method. I do not apologise for holding that view. I think that is a pretty widely held view in the Australian community.

**CHAIR**—It happens in a number of other boards—let me say that.

**Mr Warren**—I do not disagree with you on that at all.

**Senator FIERRAVANTI-WELLS**—What is your broad knowledge of how hundreds of boards around Australia are appointed? How many boards have you served on?

**Mr Warren**—I have served on a number of boards.

**Senator FIERRAVANTI-WELLS**—One? Two?

**Senator WORTLEY**—Senator, if I may, I was actually asking the questions.

**CHAIR**—We are just clarifying, but if you wish to continue.

**Senator WORTLEY**—I would like to continue, if I could. We heard reference today, and in some of the submissions, to the staff elected directors having knowledge of public broadcasting and the value of that to their position on the board. There was some reference made that often other board members may not know the questions to ask. It is the forthcoming knowledge of the staff elected director that puts those questions on the table. The other board members would not have known when to invite a consultant in to ask them the questions, because there was no reference to that. I think there was a specific example given with regard to the positioning of the new site for the ABC, which eventually ended up in Ultimo. Can you comment on that?

**Mr Warren**—It goes back to what I was attempting to say to Senator Eggleston before I was interrupted. The point is not that the ABC board should sit around and say: ‘Between nine and 10 this morning we’re going to talk about broadcasting. Then for the rest of the day we’re going to talk about something else.’ Public broadcasting is what the ABC does. It infuses every part of its deliberations. It is not practical to slice out that component of its dealing that says, ‘We’re now going to talk about broadcasting so let’s bring in some people who know about broadcasting.’ It is actually central to what they do and it is an essential expertise that they need to have.

**Senator WORTLEY**—Senator Ronaldson, I saved this one for when you were in the room, because you will surely claim that political appointments have been made by Labor, and perhaps from time to time we would have to plead guilty to that, I think. Mr Warren, has the practice, in your opinion, gotten worse in recent years?

**CHAIR**—Goodness me!

**Mr Thomson**—I might respond to that, and—

**CHAIR**—Keep a straight face, Mr Thomson!

**Senator RONALDSON**—If it wasn’t Easter Thursday, I would object to that!

**Senator WORTLEY**—Your mum is watching!

**Mr Thomson**—I will respond, and you may not be happy with the answer I give, in that I think the position that has been taken by the CPSU on this matter for a long time has been: ‘A plague on both your houses.’ I think there has been a long history of stacking the board. I believe that the ALP has done it, and for every political appointment that the Liberals have made I think we can also point to political appointments that the ALP has made.

**Senator RONALDSON**—Which have not necessarily compromised the independence of the board.

**Mr Thomson**—No, and I would not mind coming to that point. But, if pressed on that point, I would say that I think that over the last year or so there has been an edge to the style of appointments. Whilst I think both sides have been very guilty over the years of politically stacking the board, I would, for example, point to circumstances where the ALP in fact did appoint an ex Liberal minister to the board, and I do not believe that we could reasonably expect that to occur now.

To address the issue that you have raised about whether having people with political form on the board is a good or a bad thing, the CPSU are already on the record saying that, no, we do not object to it. To suggest that people who are on the board of the ABC should not have political form I think is silly. The truth is that the kind of people who are drawn to public life, the kind of people who are drawn to wanting to be involved in issues on the national stage, are by and large more likely to be politically active than other people. So to suggest that somebody with political form should automatically be rejected from a position on the ABC I think is wrong. And that is a point we made in our submission to the Senate references committee inquiry into selection for board appointments to the ABC.

It does point to the real need—and this is the point that Mr Warren has made a couple of times today—for a major revision of the method of selection to the ABC board. We pointed out very strongly in our earlier submission on this matter that we do believe that the ABC would be a much better organisation, and principles of governance would be better exercised, if we were to adopt the Nolan rules in whole or in part. The CPSU made a very strong submission back then. I think there are significant problems with the appointment of people to the ABC board as it stands. I will leave it there.

**Senator WORTLEY**—I think it was Ian Macphee, wasn't it, Senator Ronaldson, that Mr Hawke appointed?

**Senator RONALDSON**—I am not old enough to remember that!

**Senator WORTLEY**—Is that right! If the parliament wanted to improve the governance of the ABC, what changes do you believe should be made? You can go into some detail.

**Senator RONALDSON**—With the greatest respect, that is so far outside the—

**Senator WORTLEY**—That is relevant, Senator Ronaldson.

**Senator RONALDSON**—No, it is so far outside—

**Senator WORTLEY**—I have asked the question.

**CHAIR**—I think you need to speak to the reference.

**Senator RONALDSON**—It is half past two.

**Senator WORTLEY**—Yes, and that will be my last question.

**CHAIR**—Is it really relevant to—

**Senator WORTLEY**—It is relevant.

**CHAIR**—We are talking about a staff appointment to the board.

**Senator RONALDSON**—It cannot possibly be relevant to the board.

**Senator WORTLEY**—Okay. If the parliament wanted to improve the governance of the ABC board, do you believe the staff-elected director position is relevant to that, or what changes do you believe should be made to the board?

**Mr Thomson**—I think that, if there is a need to make changes to the ABC board, those changes by and large need to be changes made to the method of selection of ministerial appointments. I would point this committee back to the submission made by the CPSU about the need to adopt the Nolan rules, and I would say—and this goes to a question that was half-

asked before—on the adequacy of current members of the board, that I think the benchmark that should be adopted is a benchmark which was set by John Howard, I believe, in 1995. I fully endorse his statement on board appointments to the ABC. The statement was on political appointments to the ABC. I read into that that appointments of people simply by dint of their politics should stop and that, furthermore, what was also really important was the need to address public perceptions about political appointments. I think that really goes to the heart of it. It goes back to this point that says that people—

**CHAIR**—You must relate it to the staff appointment otherwise it is not really relevant to the reference.

**Mr Thomson**—The submission made by the CPSU goes to the method of selection for how one gets onto the ABC board, so to that extent it is relevant. That submission goes to all of the people on the board, and I do believe that that submission was relevant.

**Mr Warren**—I think the minister's statement announcing this change was headed 'Restructure of the ABC board'. If the minister really wanted to restructure the ABC board then this is not the way to do it. The way to do it is to introduce transparency and community involvement—

**Senator RONALDSON**—Again, that is not part of this inquiry. It was interesting reading but it is not part of this inquiry.

**CHAIR**—We are really talking about the ABC staff director.

**Senator FIERRAVANTI-WELLS**—Are you aware of what the definition of broadcasting is under the ABC Act? What is it?

**Mr Warren**—I do not believe that the reference to broadcasting, if what we are talking about is the qualities required in one of the directors, is the defined term within the act.

**Senator FIERRAVANTI-WELLS**—But broadcasting is such a wide term, isn't it?

**Mr Warren**—Yes, it is.

**Senator FIERRAVANTI-WELLS**—And you would agree that the broadcasting experience is even wider. The point I am making is, if you look at the ABC Act, the definition of broadcasting is very wide. It talks about a range of services and delivery using radio frequency, spectrum, cable, optical fibres, satellite and any other means or a combination of those means. The definition of broadcasting is a very wide one and therefore what troubles me in the assertions that you have made here is that you seem to have so much narrowed the requirements of what your view is of the board members of the ABC and the experience that they should have. In the context of that definition or in the context of that description, surely you would agree that that really affords you quite a range of possibilities for appointing people with experience.

**Mr Warren**—Absolutely. I do not think that anyone says for a minute that every appointment to the ABC board should be someone who has wide-ranging broadcasting experience. But I think what we do say is that you need that input on that board. That is one of the inputs you need on that board. I agree with what I assume is behind your question: of course you need people who come from other backgrounds and who bring other forms of expertise. What I think I clearly said was that it is not just broadcasting experience; it is

actually public broadcasting experience. Public broadcasting is a very different beast to broadcasting generally.

**Senator FIERRAVANTI-WELLS**—I know. But the difficulty with your comment is that the act does not define that. The act simply states that it shall be a person elected. If you look at the definition, it is even more narrowed. It has somebody who gives 24-hour service in some capacity, so it does not specify, for that person who is eligible to be elected as your staff director, what that person's experience has to be. There is no mention here of public broadcasting. So the point is that it really can be anyone in your organisation so long as they work in your organisation.

**Mr Thomson**—That is true.

**Senator Fierravanti-Wells**—My other concern is that you seem to be quite critical of the current crop of directors. Who do you think should not be there because their experience purportedly does not fit within your definition of what a person—

**Mr Thomson**—I am not saying that anyone should not be there. What I am talking about—and again I fully endorse what John Howard said on this matter—is the importance of perception. The ABC is a very special institution. I think it can be separated from every other agency, every other instrumentality; it is very different. The importance of not only its independence but the perception of its independence is critical to public support for the organisation.

**Senator FIERRAVANTI-WELLS**—Talking about that, I guess when you have a staff-appointed director who owes his or her election to the staff, where is the perception of independence of that person?

**Mr Thomson**—It is a very different situation. It comes back to some of the discussions and debates that were going on here earlier today—that is, is the staff-elected director, for example, the sole guardian of principles of editorial integrity and independence? And the answer is no. They of course cannot be. To the extent that there have been so many staff-elected directors who could use their numbers to crunch through a position, I would suggest and agree that the independence of the ABC board could be affected. I would also agree with the proposition that it would be reduced.

As long as the staff-elected director is a single position, whose role is to bring information and advice to all of the ministerial appointees—and, under the Nolan rules, they would always remain ministerial appointees—it is about bringing evidence, information and the day-to-day experience of broadcasting in a very broad sense and the craft of day-to-day journalism and how it applies in the public broadcaster before the other directors. It is that process of interacting with them, providing them with information about how their decisions could be better formed by taking into account their experience and their knowledge of how the public broadcaster works that makes for better governance. But nobody is saying that they should be able to ram through decisions or that they are the sole guardian. It is only through the powers of persuasion, it is only through their being able to provide critical advice to other members of the board that the decision-making processes of the board are improved.

**Senator RONALDSON**—What do you think about the current staff-elected director writing to staff and telling them that she is making representations on their behalf, holding

herself out to be a representative of the staff? How does that fit in with the union's point of view?

**Mr Thomson**—I have not seen the statement, so I am simply working off your paraphrasing of it. To the extent that she is seeking to usurp either my role, the role of the CPSU, or that of Christopher Warren, no, I would not be happy with that. But I admit to being confused about whether or not Ms Koval was indicating that she had made representations about staff issues. When that statement was read a couple of times, I was not really clear whether they were staff issues or issues that you might be interested in but were not necessarily staff issues. If, for example, they were representations that you might be interested in about editorial policies, I do not know whether they would be staff issues in the same sense. If she is talking about representations about increasing your meal allowances—that is, purely staff matters—then I would strongly suggest to Ms Koval: keep off our turf.

**Senator FIERRAVANTI-WELLS**—What is the turf division, if I can put it that way?

**Mr Thomson**—Between us?

**Senator FIERRAVANTI-WELLS**—No, in terms of the responsibilities. I think Mr Eggleston was going to ask you a question along these lines. Where do you see your role? To pick up from Senator Ronaldson, under the heading 'Staff elected director's reports', Ms Koval states:

SED making reports to staff has been cited as a potential conflict of interest.

Since 2002, I have made eleven written reports to staff while I have been a member of the Board. Each is prefaced with the following statement about legal limitations on my ability to discuss very many matters:

*This Report contains a summary of the representations I made as Director on your behalf at the most recent meetings of the ABC Board. It also contains a summary of my views in relation to decisions taken by the Board.*

And she goes to talk about that. That is very clear, isn't it?

**Mr Thomson**—What I am not clear about is what the topic of the representations was. Are they representations—

**Senator RONALDSON**—They were broad representations, and I think that is the matter of greater concern: she is holding herself out to be and sees herself as their representative in relation to all issues relating to the ABC, not just staff matters. That is the disconcerting part about this.

**Mr Warren**—I have now heard this read out several times and I must say, with respect, that you are perhaps making a bit much of a meal of this. In some ways isn't it just an extraordinarily truncated version of Edmund Burke's address to the electors of Plymouth in which he argues: 'You elected me for my judgment.' She says, yes, that she is speaking on their behalf, but that is really just a brief way of saying, 'You select me and I'm there to act in accordance as a corporate citizen.'

**Senator RONALDSON**—The rights of the citizen; she is doing it on their behalf.

**Senator FIERRAVANTI-WELLS**—In fairness to Senator Ronaldson, Mr Warren, I would suggest that you have a look at the transcript and you will appraise yourself more fully

of what Ms Koval was actually saying. I think you will find that, after the questioning of Senator Ronaldson, the interpretation can only be that she is holding herself out and saying that she represents the staff on a broad range of issues. That can really only be the net effect of her—

**Senator SIEWERT**—I am sorry. I have to say that I had a different interpretation of what Ms Koval said. I did not interpret that she was talking about—

**Senator FIERRAVANTI-WELLS**—Senator, we can all go back and read the transcript and we will all have our—

**Senator SIEWERT**—Exactly! I was also asking her questions about that and I clearly took it that she meant about the issues that were relevant to the board and not issues about specific staff matters. I thought she was fairly clear about that. She did indicate a wide range of issues that were specific to the board and the matters that the board deals with, not that the staff deals with. I thought all the board members we had here this morning were very clear on that. So it clearly is an interpretation of hearing what the witness said. Because I did not hear her say that.

**Senator RONALDSON**—I was not here.

**Senator FIERRAVANTI-WELLS**—My plain English recollection is very clear.

**CHAIR**—There is obviously a difference in points of view. Let's move on to another issue, please.

**Senator SIEWERT**—I apologise, because I may have missed the beginning of your evidence on the Nolan rules. I did hear what you said about the Nolan rules. I would like to refer to the submission and where we started this morning when Mr Henschke raised 'confidentiality'. He suggests in his submission that, if there is a concern around confidentiality, changes could be made to deal with that. There was a later discussion around the Nolan rules. Do you understand that there have been issues around confidentiality? Are you aware of any issues about that?

**Mr Thomson**—The issue of the Nolan rules is quite different, I think, from the issue of confidentiality.

**Senator SIEWERT**—Yes, I understand that.

**Mr Thomson**—If we are talking about the issue of confidentiality, there are tensions there. But there is legislation that imposes duties on the directors and that legislation should in fact be applied to the directors, and that is as far as I think we need to go. To the extent that there are attempts to muzzle a director in a way that would prevent them fulfilling their duties and responsibilities under the legislation, I think it would be wrong to go down that path.

**Senator SIEWERT**—I do appreciate that there are differences. But when we were talking about it this morning one led on to the other and I did not know whether we had dealt with it when I had briefly stepped out of the room. So, thank you.

You were talking about the roles of public broadcasting and why public broadcasting is different. But we did not get onto what you feel are the differences with public broadcasting. It came up when we were having a discussion about broadcasting. Can you articulate briefly?

**Mr Warren**—Now we will be here all Easter! What makes public broadcasting unique is that it is free of commercial interests. It has a broader national interest rather than a commercial interest. That is not to say that a lot of commercial broadcasters do not do an outstanding job and there are some great broadcasters and journalists who work in commercial broadcasting. I think everyone recognises that public broadcasting brings a quite unique perspective because it is genuinely independent, it is free of any commercial issues and it is able to be far broader than commercial broadcasts because often it is not trying to massify its audience. It therefore provides an important role in national culture and a key role in localism in ways that commercial broadcasters cannot. Those are brief grab bags of what public broadcasting means.

**CHAIR**—Thank you for appearing today. Your evidence has been very useful. Thank you very much.

[2.41 pm]

**BUETTEL, Mr Rohan, General Manager, Public Broadcasting, Department of Communications, Information Technology and the Arts**

**CHAIR**—The Senate has resolved that an officer of a department of the Commonwealth or a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about how and when policies were adopted. Any claim that relies on a ground of commercial-in-confidence must be made by a minister and should be accompanied by a statement setting out the basis for the claim. Any final refusal to answer a question should also be by a minister. Do you wish to make an opening statement?

**Mr Buettel**—Yes, I do. The government has introduced legislation to abolish the position of the ABC staff-elected director to improve corporate governance arrangements for the ABC board. The position of staff-elected director was created formally in 1975 with the elected person appointed as a non-executive director. It was abolished in 1978 and reinstated in 1983 with legislation formalising the position passed in 1986 as part of the Broadcasting and Television Legislation Amendment Act 1986. The position of a staff-elected director is not common amongst Australian government agency boards. There are some other examples where it exists but these are mainly education or research institutions.

It is the government view that it is inconsistent with modern principles of corporate governance to include a staff-elected director position on a body like the ABC, a major business undertaking with an annual turnover of around \$945 million per year. The other national broadcaster, SBS, does not have a director elected by its staff. The government is also of the view that there is a tension relating to the position on the ABC board manifested in the potential conflict that exists between the duties of the staff-elected director under the Commonwealth Authorities and Companies Act 1997 to act in good faith in the best interests of the ABC and the appointment of that director as a representative of ABC staff elected by them. The government believes that the election method creates a risk that a staff-elected director will be expected by the constituents who elected him or her to place the interests of staff ahead of the interests of the ABC where they are in conflict. In this regard, I note the statement of the Chairman of the ABC in response to the government's announcement on 24 March 2006:

Inevitably there has been a tension between the expectations placed by others on their role and their established duties as directors of the corporation.

As noted in the minister's second reading speech, this issue was recognised in the June 2003 *Review of the corporate governance of statutory authorities and office holders*, otherwise known as the Uhrig review. That review stated:

The review does not support representational appointments to governing boards as representational appointments can fail to produce independent and objective views. There is the potential for these appointments to be primarily concerned with the interests of those they represent, rather than the success of the entity they are responsible for governing.

The bill resolves these tensions by abolishing the staff-elected director position, and the bill is intended to give effect to the abolition of the staff-elected director position as close a possible to the expiry of the term of the current staff-elected director.

**CHAIR**—Thank you very much.

**Senator WORTLEY**—The minister's second reading speech talks about a potential conflict that exists between the duties of the staff-elected director to act in the best interests of the ABC and representing the staff that elected them. Is the government aware of this causing any real problems in practice and does the government believe that any directors have failed to act in the best interests of the ABC?

**Senator RONALDSON**—I think this witness can answer policy questions; I do not know whether he can answer specific questions in relation to that.

**Senator WORTLEY**—Thank you for your assistance, Mr Ronaldson.

**Senator RONALDSON**—It is a pleasure, Senator.

**Senator WORTLEY**—I think the witness is well able to answer this question.

**Mr Buettel**—I will just make a couple of remarks in response. The government believes there is a tension between the staff-elected director's method of appointment and the expectations placed on that director because he or she is elected. Earlier today, Mr Henschke referred to the tension between what staff expect of the staff-elected director and their duties as a director. As I noted in my opening statement, in response to the government's announcement the Chairman of the ABC stated in relation to staff-elected directors:

Inevitably there has been a tension between the expectations placed by others on their role and their established duties as directors of a corporation.

As was noted in the Uhrig report, while it is possible to manage conflicts of interest, the preferred position is not to create circumstances where they arise. It may be the case that previous staff-elected directors have been able to successfully manage the tension—I am not in a position to comment on that—but the legislation will certainly avoid any possibility of such a situation arising in future.

**Senator WORTLEY**—I am somewhat amused by the use of the word 'tension' that we have had here today. I believe that one of the other witnesses talked about tension between other members of the board and the expectations placed on them from the people by whom they were appointed. There seems to be tension in all areas. Would you agree with that, Mr Ronaldson?

**Senator RONALDSON**—There is tension in the air, Senator!

**Senator WORTLEY**—Can you confirm that there are mechanisms to deal with the director who fails to act in the best interests of the ABC?

**Mr Buettel**—Yes. There is a provision in the Commonwealth Authorities and Companies Act which creates a civil penalty if they do not act in the best interests of the corporation. However, the purpose of the legislation is to remove the possibility of a conflict arising in the first place, in accordance with Uhrig's recommendations.

**Senator WORTLEY**—Are you familiar with section 18 of the ABC Act that provides that the Governor-General can remove a director from office for misbehaviour and that there are also obligations to act in good faith and not to make improper use of information under the Commonwealth Authorities and Companies Act where civil and criminal penalties apply? Are these provisions not sufficient?

**Mr Buettel**—As I said, those provisions do operate in relation to directors but, as recommended by Uhrig, it is better not to create a situation where a potential conflict can arise in the first place.

**Senator WORTLEY**—Is there really conflict? We have not established that there is. As I said, the word ‘tension’ seems to be one that people have liked to use here today. The staff directors we had here this morning seemed quite clear that they were obliged to act in the interests of the ABC, not the staff. What evidence does the government have that staff-elected directors are conflicted?

**Mr Buettel**—I do not think the government is—

**Senator RONALDSON**—Again, I do not think this witness can answer these questions because they are potentially hypothetical.

**Senator WORTLEY**—Mr Ronaldson, I thought you wanted to get away at a certain—

**Senator FIERRAVANTI-WELLS**—It is actually Senator Ronaldson.

**Senator RONALDSON**—I go by a variety of names. Mister is one of them. They are a series of questions, because you prefaced your question with ‘while it has not been established that there is tension’, so anything after that, in my view, is purely hypothetical and this witness cannot answer it.

**Senator WORTLEY**—Is there really a conflict?

**Mr Buettel**—I do not think the issue really relates—

**Senator RONALDSON**—The ABC’s management and the chairman has said there is conflict—

**Mr Buettel**—Yes, the chairman said that there was a tension.

**Senator RONALDSON**—and the government is surely entitled to act on that.

**Senator WORTLEY**—If there is a conflict of interest, then there are already mechanisms in place that can address that conflict. Is that not the case?

**Mr Buettel**—As I was saying before, the issue is not really about what may or may not have happened in relation to individual directors in the past. The issue is one of what is best practice corporate governance for the ABC, and Uhrig has recommended that there should not be positions like this on government boards.

**Senator WORTLEY**—The government has relied heavily on the Uhrig report, but Mr Uhrig did not actually examine the governance arrangements at the ABC, did he?

**Mr Buettel**—In fact, in its discussion of the terms of reference, on page 1, the Uhrig report makes it clear:

A key task was to develop a broad template of governance principles that ... might be extended to all statutory authorities ...

Although the Uhrig review itself focused on particular agencies, its general principles are considered generally applicable and all statutory authorities are being considered in relation to them. The proposed change in the bill is consistent with the Uhrig report's conclusions about representative appointments.

**Senator WORTLEY**—Uhrig's terms of reference actually asked him to look at:

- Opportunities to improve the governance arrangements for statutory authorities and office holders, particularly those that have critical business relationships such as: the Australian Taxation Office, Australian Competition and Consumer Commission ...

And so on—not the ABC.

**Mr Buettel**—Although Uhrig was not looking specifically at the ABC, the government has accepted that the general principles that came out of that report are generally applicable to statutory authorities across the Commonwealth. So the government is now looking at the full range of statutory authorities across all portfolios to see how they measure up to Uhrig principles.

**Senator WORTLEY**—When did the government receive the Uhrig review?

**Mr Buettel**—I think it was 2003.

**Senator WORTLEY**—Did the government take this policy to reform the ABC board to the last election?

**Senator RONALDSON**—Again, that is not a matter within this officer's domain.

**Senator WORTLEY**—It is a specific question. Did the government take the policy to abolish the position of the staff elected director of the ABC board to the last election?

**CHAIR**—This is an officer of the department. That is a question you should direct to the minister.

**Senator WORTLEY**—The officer of the department does not have that information?

**CHAIR**—I do not think it is his business to get into a political issue.

**Mr Buettel**—Not that I am aware of.

**Senator WORTLEY**—How long has the government been considering this change, do you know?

**Mr Buettel**—I think, following Uhrig, there has been a substantial process put in place for all government departments to look at all the statutory authorities within their particular portfolios. So the process of reviewing and considering statutory authorities has been going on for some time, and because it is such a big exercise it has involved considering agencies seriatim. They were not all looked at at the one time.

**Senator WORTLEY**—Would you say that since the government received the Uhrig review, since 2003—

**Senator RONALDSON**—Mr Chairman—

**Senator WORTLEY**—Excuse me, Senator Ronaldson. It is a simple question which I am sure—

**Mr Buettel**—The short answer is: I am not aware at this precise moment.

**Senator WORTLEY**—When you say it has been going on for some time, how long is some time?

**CHAIR**—He has just said he does not know, Senator.

**Senator WORTLEY**—Is it six months, 12 months, 18 months, two years?

**Senator RONALDSON**—This officer, Mr Chairman, cannot possibly know what ministers or others—

**Senator WORTLEY**—Senator Ronaldson, I would just like the witness to respond to the question.

**CHAIR**—Senator Wortley, you seem to be asking a whole of government question. This officer represents DCITA.

**Senator WORTLEY**—And I am sure DCITA have the information as to how long the government have been considering this change.

**Senator FIERRAVANTI-WELLS**—As far as DCITA is concerned, I think you need to qualify that.

**Senator WORTLEY**—Yes, the department. How long have you been looking at these changes? Just an approximation will do.

**Mr Buettel**—About 12 months.

**Senator WORTLEY**—I am really struggling to reconcile this with Minister Coonan's comments, when she told us at the estimates hearing in May this year that she did not have the abolition of the staff-elected director position under active consideration.

**Mr Buettel**—I think that at that time she did not.

**Senator WORTLEY**—We are aware of a Senate file list and that in 2004 DCITA created a file entitled: ABC/SBS governance—Uhrig review implementation—file No. 2004-005682.

**Mr Buettel**—That file was probably created at the start of the process. It would have been created when the Uhrig report first came to the department for consideration. We had to go through a substantial process of reviewing agencies in the light of Uhrig findings and that took a considerable period.

**Senator RONALDSON**—That is clearly a leaked document.

**CHAIR**—And that is a process of government and a process of the department and it is not necessarily public information. There are lots of—

**Senator WORTLEY**—Regarding the fact that this file exists, wouldn't that indicate that the government was actually considering these changes before the election?

**CHAIR**—You would have to understand the distinction between government and the department, and I am not sure that these questions are—

**Senator WORTLEY**—I cannot see the minister here, so I am asking the department.

**CHAIR**—The minister is not here and therefore you cannot ask the questions.

*Senator Ronaldson interjecting—*

**Senator WORTLEY**—What was that, Senator Ronaldson: the minister was not invited?

**Senator RONALDSON**—No, I said the minister is not required to be here.

**Senator WORTLEY**—I thought you said she was not invited.

**CHAIR**—Let us get back to the matter before us. You were asking about the process of departments and I am not sure that is a question you can ask.

**Senator WORTLEY**—I will move on. Can you describe the current process of appointing the other non-executive directors to the ABC board? How does the government go about making these appointments?

**CHAIR**—Again, they are cabinet appointments and, no doubt, recommendations go to the cabinet. But that is a cabinet matter and it is—

**Senator WORTLEY**—Are the vacancies advertised? Are there independent selection criteria? Who decides on the candidates to be considered?

**CHAIR**—Again, that is a cabinet-level decision.

**Senator WORTLEY**—How do you get on this list? Do you actually put it into hat? Do people nominate? How does one get onto this list?

**CHAIR**—That is a government level, ministerial question. I do not think it is appropriate.

**Senator RONALDSON**—You have appropriate skills which will add to the ABC board.

**Senator WORTLEY**—Sorry, Senator Ronaldson, I missed the point you were trying to make.

**Senator RONALDSON**—I said you are appointed on the basis—

**Senator WORTLEY**—Are we going to get the answers? I am just wondering—

**Mr Buettel**—Obviously, I cannot talk about particular cases, but—

**Senator WORTLEY**—So we cannot know—

**Mr Buettel**—appointment practices will vary in individual cases. From time to time, the department is asked to identify possible appointments to particular bodies. Often a minister will have particular appointees in mind for a particular position and does not seek advice. It does tend to vary from case to case. But there are standard government processes that are gone through in relation to appointments: having to go to cabinet and a formal minute being done for the Governor-General to recommend the appointment.

**Senator WORTLEY**—Some of the previous witnesses have used the word ‘opaque’. Would you think that is an appropriate word to use to describe the appointment process?

**Senator RONALDSON**—You cannot possibly comment on that.

**CHAIR**—Again, it is a political question that you are asking. It is not the role of an officer of a department to comment on a question like that. You should confine yourself to questions about the matter that this committee is here to inquire into.

**Senator WORTLEY**—Okay, we will move on. Has the government given any consideration to introducing an approach based on the Nolan rules in the UK? Did the department look at that approach as part of its review?

**CHAIR**—Confine yourself to the department rather than the government.

**Senator WORTLEY**—Did the department look at this approach as part of its review of ABC governance practice? I assume the department is the proper organisation that actually looks into these things?

**CHAIR**—They do, but departments carry out many inquiries on many matters which are not always adopted.

**Senator WORTLEY**—Mr Buettel, do you have the answer to that?

**Mr Buettel**—Perhaps I will comment on the Nolan rules, particularly since a number of the submissions suggested that the ABC's board appointment process should be changed to that resembling the method used for appointing governors of the BBC involving the Nolan rules. The Nolan rules are a method of board appointment based on recommendations of the Committee on Standards in Public Life—the Nolan committee. Under the rules, appointments are made on the basis of recommendations provided by an independent advisory panel in accordance with a code of practice. The two most recent appointments to the BBC chairmanship, Mr Gavyn Davies and Mr Michael Grade, were recommended to the UK government by a panel chosen by the Department of Culture, Media and Sport consistent with the code of practice laid down by the Office of the Commissioner for Public Appointments. The OCPA, which was established in the UK in November 1995 in response to the Nolan committee report, based its code of practice on seven principles of public life.

If the argument to implement something like the Nolan rules relates to avoiding the appointment of board members who are too closely associated with a political party, a Nolan rules type process would not necessarily deal with that issue. The classic example of that occurred in September 2001, when Mr Gavyn Davies was appointed Chairman of the BBC under the Nolan rules. Mr Davies was a Labour Party member and long-time ministerial adviser to Labour governments in the United Kingdom. The appointment was criticised by the UK opposition at the time as calling into question the BBC's political impartiality.

**Senator WORTLEY**—Given that the government did not take the proposed changes to the ABC board to the federal election—specifically the abolition of the staff elected director, the only truly transparent position on that board—why did the government decide that the extra director's position, the staff elected position, was unnecessary?

**CHAIR**—That is a political question that should be directed to the minister.

**Senator WORTLEY**—The bill has the effect of reducing the maximum size of the board from nine to eight. Is that correct?

**Mr Buettel**—Correct.

**Senator WORTLEY**—So the position will be lost.

**Mr Buettel**—The position is being abolished, yes.

**Senator WORTLEY**—There are two vacancies on the board at the moment. How long have they been open?

**Senator RONALDSON**—That is totally unrelated to the terms of this inquiry.

**Senator WORTLEY**—It is to do with positions on the board. We are losing one position, the staff elected position, and now we are talking about two positions on the board that have been open for some time.

**CHAIR**—That is a political matter again. It is up to the government to appoint people to those positions.

**Senator WORTLEY**—I would like to ask the department: if the government is interested in improving the ABC's governance, why has it taken so long to make these appointments?

**CHAIR**—That is a question you should asked the minister, not the department.

**Senator WORTLEY**—Are they expected to be made soon?

**CHAIR**—That is a question that you should ask the minister. You can do that during estimates, not to an official in this inquiry. I suggest you confine yourself to the subject matter of this inquiry.

**Senator WORTLEY**—So the department does not have any authorisation to answer any of these questions?

**CHAIR**—This is not an estimates hearing. This is an inquiry into the staff position and you must not wander across the border into political questions.

**Senator WORTLEY**—I will hand over to another senator, but I may have other questions.

**CHAIR**—Senator Siewert?

**Senator SIEWERT**—Senator Wortley has asked my questions.

**CHAIR**—That is what happens sometimes in these matters.

**Senator WORTLEY**—I would have thought we could have gotten some answers.

**CHAIR**—I think you really do have to understand that political questions have to go to a minister and you can ask departmental officials questions about matters relevant to the inquiry but not questions which have political overtones.

**Senator WORTLEY**—I would have assumed that the department has the information, unless, of course, it is all very secret and it is something that we—

**CHAIR**—Do you have any more questions? Otherwise we will conclude.

**Senator WORTLEY**—I will leave it there.

**CHAIR**—I believe Senator Ronaldson wanted to table a document.

**Senator RONALDSON**—This morning I was referring to a document, which was from Ms Koval's 12th letter to staff, I believe. I seek to table it.

**CHAIR**—Do senators wish to have a look at this document?

**Senator SIEWERT**—Yes.

**Senator WORTLEY**—Yes.

**CHAIR**—Are we happy for the document to be tabled? There being no objection, it is so ordered. We thank Mr Buettel for appearing. With that I conclude this inquiry. I thank all concerned for their assistance today.

**Committee adjourned at 3.05 pm**