

The Senate

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Environment and Communications  
Legislation Committee

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Parliamentary Proceedings Broadcasting  
Amendment Bill 2013

February 2014

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## **Committee membership**

### ***Committee members***

Senator John Williams, Chair	NATS, New South Wales
Senator Anne Urquhart, Deputy Chair	ALP, Tasmania
Senator David Fawcett	LP, South Australia
Senator Louise Pratt	ALP, Western Australia
Senator Anne Ruston	LP, South Australia
Senator Larissa Waters	AG, Queensland

### ***Participating member for this inquiry***

Senator Nick Xenophon	IND, South Australia
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# Chapter 1

## Introduction

1.1 On 14 November 2013, on the recommendation of the Senate Selection of Bills Committee, the Senate referred the Parliamentary Proceedings Broadcasting Amendment Bill 2013 (the bill) to the Senate Environment and Communications Legislation Committee (the committee) for inquiry and report by the first sitting Wednesday in February 2014.<sup>1</sup>

1.2 The reasons for referral were for the committee to consider:

- whether the current guidelines, issued by the Joint Committee on the Broadcasting of Parliamentary Proceedings, regarding ridicule and satire are still appropriate;
- whether similar restrictions exist in other jurisdictions, both domestically and overseas; and
- the benefits to the Australian public and public debate of removing the current restrictions regarding ridicule and satire.<sup>2</sup>

1.3 The committee received one submission relating to the bill which is listed at Appendix 1. The submission may be accessed through the committee's website at:

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Environment\\_and\\_Communications/Parliamentary\\_Proceedings\\_Broadcasting\\_Amendment\\_Bill\\_2013](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Parliamentary_Proceedings_Broadcasting_Amendment_Bill_2013).

## Background

1.4 The *Parliamentary Proceedings Broadcasting Act 1946* (the Act) establishes the Joint Committee on the Broadcasting of Parliamentary Proceedings (JCBPP). The functions of the JCBPP are to consider and specify in a report presented to each House of Parliament, the general principles upon which there should be determined the days and periods upon which, the proceedings of the Senate and the House of Representatives shall be broadcast.<sup>3</sup>

1.5 Section 14 of the Act provides that the JCBPP shall have power to determine the conditions in accordance with which re-broadcast may be made of any portion of the proceedings of either House of the Parliament or of a joint sitting.<sup>4</sup> The JCBPP has a limited role in relation to the televising of proceedings, as the Act covers televising of joint sittings only.<sup>5</sup>

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1 *Journals of the Senate*, No. 3, 14 November 2013, p. 125. Wednesday, 12 February 2014 is the first sitting Wednesday in February 2014.

2 Senate Selection of Bills Committee, *Report No. 9 of 2013*, Appendix 9, 14 November 2013.

3 *Parliamentary Proceedings Broadcasting Act 1946*, s. 12.

4 *Parliamentary Proceedings Broadcasting Act 1946*, ss. 14(1).

5 BC Wright (ed), *House of Representatives Practice Sixth Edition*, 2012, p. 119.

1.6 Proceedings of the Senate and the House of Representatives and their committees are broadcast on radio, television and through electronic media. Each House of the Parliament has passed resolutions that set out rules for broadcasts and the use of recorded excerpts.<sup>6</sup>

1.7 A resolution of the Senate passed on 31 May 1990 established rules for the use of excerpts, the principal rule being that excerpts are to be used only for the purposes of fair and accurate reports of proceedings.<sup>7</sup> The rules also prohibited excerpts being used for:

- political party advertising or election campaigns;
- satire and ridicule; or
- commercial sponsorship or commercial activity.<sup>8</sup>

1.8 The House of Representatives adopted a similar resolution on 1 May 1996 restricting broadcasts for the purposes of fair and accurate reporting and prohibiting the use of excerpts for satire and ridicule.<sup>9</sup>

1.9 New resolutions relating to the broadcasting of parliamentary proceedings were passed at the commencement of the 44th Parliament by the Senate and the House of Representatives.<sup>10</sup> The new resolutions omitted the requirement that broadcast material shall not be used for satire and ridicule (see Appendices 2 and 3).

### **Purpose of the bill**

1.10 The bill proposes to insert new subsection 14(3) into the Act to prevent the JCBPP from making a condition prohibiting the use excerpts of parliamentary proceedings for the purposes of satire or ridicule.

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6 *Journals of the Senate*, No. 17, 31 May 1990 (amended *Journals of the Senate*, No. 36, 18 October 1990); *House of Representatives Votes and Proceedings*, No. 2, 1 May 1996, pp 42–43 (amended *House of Representatives Votes and Proceedings*, No. 85, 8 February 2012, p. 1179).

7 *Radio and television broadcasting of Senate proceedings*, Resolution adopted by the Senate 31 May 1990 (amended 18 October 1990). The resolution of the Senate also required the Senate Procedure Committee to examine the conditions related to the use of excerpts. The Procedure Committee tabled its report on 22 August 1990 and considered that no changes should be made to the conditions but that they be tried and reviewed 'in the light of experience'. See Senate Procedure Committee, *First report of 1990: Conditions governing television broadcasting of Senate proceedings*, 22 August 1990, p. 1.

8 *Radio and television broadcasting of Senate proceedings*, Resolution adopted by the Senate 31 May 1990 (amended 18 October 1990).

9 *Broadcasting of proceedings—conditions for broadcasters*, Resolution adopted by the House of Representatives 1 May 1996 (amended 8 February 2012).

10 *Journals of the Senate*, No. 10, 11 December 2013, pp 336–339; *House of Representatives Votes and Proceedings*, No. 12, 9 December 2013, pp 182–183.

**Committee comment**

1.11 The committee notes that new resolutions on the broadcasting of parliamentary proceedings have been passed by both Houses of the Parliament that omit restrictions on the use of broadcast material for the purposes of satire or ridicule. As a result, the issue which the bill attempts to address has been resolved.

1.12 The committee also notes that if the intention of the proposed legislation is to remove restrictions on the use of excerpts of parliamentary proceedings for the purposes of satire and ridicule, the bill can only be of marginal usefulness given the limited scope of the JCBPP's role. Furthermore, the bill would be of limited effectiveness given that broadcast resolutions are matters determined by each House of Parliament.

1.13 The committee therefore recommends that the Senate not pass the bill.

**Recommendation 1**

**1.14 The committee recommends that the bill not be passed.**

**Senator John Williams**  
**Chair**



# **Appendix 1**

## **Submission**

1. Australian Human Rights Commission



## Appendix 2

### Resolution on the Broadcasting of Senate and Committee Proceedings passed by the Senate on 11 December 2013<sup>1</sup>

#### Broadcasting of Senate and Committee Proceedings

That, in place of the orders relating to the broadcasting of Senate and committee proceedings, the Senate adopts the following:

##### *1 Provision of broadcast*

- (1) The Senate authorises the broadcast and rebroadcast of proceedings and excerpts of proceedings of the Senate and of its committees in accordance with this order.
- (2) The Senate authorises the provision of sound and vision coverage of proceedings of the Senate and its committees, including records of past proceedings, through the House Monitoring Service and through the Parliament of Australia website.
- (3) Access to the House Monitoring Service sound and vision coverage of the proceedings of the Senate and its committees is provided to persons and organisations as determined by the President, on terms and conditions determined by the President which must not be inconsistent with this order.
- (4) The President shall report to the Senate on persons and organisations in receipt of the service and on any terms and conditions determined under paragraph 1(3).
- (5) Use of sound and vision coverage of proceedings of the Senate and its committees, including records of past proceedings, published on the Parliament of Australia website is subject to conditions of use determined by the President.

##### *2 Broadcast of Senate proceedings – House Monitoring Service*

Access to proceedings provided through the House Monitoring Service is subject to compliance with the following conditions:

- (1) Only the following broadcast material shall be used:
  - (a) switched sound and vision feed of the Senate and its committees provided by the Parliament that is produced for broadcast, rebroadcast and archiving; and

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<sup>1</sup> *Journals of the Senate*, No. 10, 11 December 2013, pp 336–339.

- (b) official broadcast material supplied by authorised parliamentary staff.
- (2) Broadcast material shall be used only for the purposes of fair and accurate reports of proceedings, and shall not be used for:
  - (a) political party advertising or election campaigns; or
  - (b) commercial sponsorship or commercial advertising.
- (3) Reports of proceedings shall be such as to provide a balanced presentation of differing views.
- (4) Excerpts of proceedings which are subsequently withdrawn may be broadcast only if the withdrawal is also reported.
- (5) The instructions of the President or his or her delegates, which are not inconsistent with these conditions or the rules applying to the broadcasting of committee proceedings, shall be observed.

### **3 *Broadcast of committee proceedings***

The following conditions apply to the broadcasting of committee proceedings:

- (1) Recording and broadcasting of proceedings of a committee may occur only in accordance with the authorisation of the committee by a deliberate decision of the committee.
- (2) A committee may authorise the broadcasting of only its public proceedings.
- (3) Recording and broadcasting of a committee is not permitted during suspensions of proceedings, or following an adjournment of proceedings.
- (4) A committee may determine conditions, not inconsistent with this order, for the recording and broadcasting of its proceedings, may order that any part of its proceedings not be recorded or broadcast, and may give instructions for the observance of conditions so determined and orders so made. A committee shall report to the Senate any wilful breach of such conditions, orders or instructions.
- (5) Recording and broadcasting of proceedings of a committee shall not interfere with the conduct of those proceedings, shall not encroach into the committee's work area, or capture documents (either in hard copy or electronic form) in the possession of committee members, witnesses or committee staff.
- (6) Broadcasts of proceedings of a committee, including excerpts of committee proceedings, shall be for the purpose only of making fair and accurate reports of those proceedings, and shall not be used for:
  - (a) political party advertising or election campaigns; or
  - (b) commercial sponsorship or commercial advertising.

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- (7) Where a committee intends to permit the broadcasting of its proceedings, a witness who is to appear in those proceedings shall be given reasonable opportunity, before appearing in the proceedings, to object to the broadcasting of the proceedings and to state the ground of the objection. The committee shall consider any such objection, having regard to the proper protection of the witness and the public interest in the proceedings, and if the committee decides to permit broadcasting of the proceedings notwithstanding the witness' objection, the witness shall be so informed before appearing in the proceedings.

#### **4 *Broadcast of proceedings of committees when considering estimates***

The public proceedings of legislative and general purpose standing committees when considering estimates may be broadcast through the House Monitoring System and through the Parliament of Australia website in accordance with this order, and in accordance with any further conditions, not inconsistent with this order, determined by a committee in relation to the proceedings of that committee.

#### **5 *Radio broadcast of parliamentary proceedings by the Australian Broadcasting Corporation – general principles***

The Senate adopts the following general principles agreed to by the Joint Committee on the Broadcasting of Parliamentary Proceedings on 19 March 2013:

*(a) Allocation of the broadcast between the Senate and the House of Representatives*

The proceedings of Parliament shall be broadcast live whenever a House is sitting. The allocation of broadcasts between the Senate and the House of Representatives will be in accordance with the standing determinations made by the Joint Committee on the Broadcasting of Parliamentary Proceedings. It is anticipated that over time, the coverage of each House will be approximately equal.

*(b) Rebroadcast of questions and answers*

At the conclusion of the live broadcast of either House, questions without notice and answers thereto from the House not allocated the broadcast shall be rebroadcast.

*(c) Unusual or exceptional circumstances*

Nothing in these general principles shall prevent the Joint Committee on the Broadcasting of Parliamentary Proceedings from departing from the principles in unusual or exceptional circumstances.

#### **6 *Television broadcast of question time by the Australian Broadcasting Corporation***

- (1) The Senate authorises the television broadcast and rebroadcast by the Australian Broadcasting Corporation of question time in the Senate.
- (2) The distribution of television broadcasts between the two Houses shall be in accordance with the distribution of the radio broadcast, provided

that the Senate is broadcast on not less than 3 days in any 2-week sitting period.

7 This order is of continuing effect.

## Appendix 3

### Resolution on the Broadcasting of Proceedings passed by the House of Representatives on 9 December 2013<sup>1</sup>

#### Broadcasting of Proceedings

That this House:

- (1) repeal the following resolutions:
  - (a) Broadcasting and re-broadcasting of excerpts of proceedings, adopted 30 November 1988;
  - (b) Televising of proceedings, adopted 16 October 1991;
  - (c) Extension of House monitoring service, adopted 28 September 1993;
  - (d) Radio broadcasting of parliamentary proceedings - general principles, adopted 20 September 1994; and
  - (e) Broadcasting of proceedings - conditions for broadcasters, adopted 1 May 1996; and
- (2) in their place, adopt the following resolution:

#### **1** *Provision of broadcast*

- (a) The House authorises the broadcast and re-broadcast of the proceedings and excerpts of proceedings of the House, its committees and of the Federation Chamber in accordance with this resolution.
- (b) The House authorises the provision of sound and vision coverage of proceedings of the House, its committees, and of the Federation Chamber, including records of past proceedings, through the House Monitoring Service and through the Parliament of Australia website.
- (c) Access to the House Monitoring Service sound and vision coverage of the proceedings of the House, its committees and the Federation Chamber is provided to persons and organisations as determined by the Speaker, on terms and conditions determined by the Speaker which must not be inconsistent with this resolution.
- (d) The Speaker shall report to the House on persons and organisations in receipt of the service and on any terms and conditions determined under paragraph 1(c).
- (e) Use of sound and vision coverage of proceedings of the House, its committees and the Federation Chamber, including records of past

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1 *House of Representatives Votes and Proceedings*, No. 12, 9 December 2013, pp 182–183.

proceedings, published on the Parliament of Australia website is subject to conditions of use determined by the Speaker.

## **2 *Broadcast of House of Representatives and Federation Chamber proceedings – House Monitoring Service***

Access to proceedings provided through the House Monitoring Service is subject to compliance with the following conditions:

- (a) Only the following broadcast material shall be used:
  - (i) switched sound and vision feed of the House of Representatives, its committees and the Federation Chamber provided by the Parliament that is produced for broadcast, re-broadcast and archiving; and
  - (ii) official broadcast material supplied by authorised parliamentary staff.
- (b) Broadcast material shall be used only for the purposes of fair and accurate reports of proceedings, and shall not be used for:
  - (i) political party advertising or election campaigns; or
  - (ii) commercial sponsorship or commercial advertising.
- (c) Reports of proceedings shall be such as to provide a balanced presentation of differing views.
- (d) Excerpts of proceedings which are subsequently withdrawn may be broadcast only if the withdrawal is also reported.
- (e) The instructions of the Speaker or his or her delegates, which are not inconsistent with these conditions or the rules applying to the broadcasting of committee proceedings, shall be observed.

## **3 *Broadcast of committee proceedings***

The following conditions apply to the broadcasting of committee proceedings:

- (a) Recording and broadcasting of proceedings of a committee is subject to the authorisation of the committee.
- (b) A committee may authorise the broadcasting of only its public proceedings.
- (c) Recording and broadcasting of a committee is not permitted during suspensions of proceedings, or following an adjournment of proceedings.
- (d) A committee may determine conditions, not inconsistent with this resolution, for the recording and broadcasting of its proceedings, may order that any part of its proceedings not be recorded or broadcast, and may give instructions for the observance of conditions so determined and orders so made. A committee shall report to the House any wilful breach of such conditions, orders or instructions.

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- (e) Recording and broadcasting of proceedings of a committee shall not interfere with the conduct of those proceedings, shall not encroach into the committee's work area, or capture documents (either in hard copy or electronic form) in the possession of committee members, witnesses or committee staff.
  - (f) Broadcasts of proceedings of a committee, including excerpts of committee proceedings, shall be for the purpose only of making fair and accurate reports of those proceedings, and shall not be used for:
    - (i) political party advertising or election campaigns; or
    - (ii) commercial sponsorship or commercial advertising.
  - (g) Where a committee intends to permit the broadcasting of its proceedings, a witness who is to appear in those proceedings shall be given reasonable opportunity, before appearing in the proceedings, to object to the broadcasting of the proceedings and to state the ground of the objection. The committee shall consider any such objection, having regard to the proper protection of the witness and the public interest in the proceedings, and if the committee decides to permit broadcasting of the proceedings notwithstanding the witness' objection, the witness shall be so informed before appearing in the proceedings.

#### ***4 Radio broadcast of parliamentary proceedings by the Australian Broadcasting Corporation – general principles***

The House adopts the following general principles agreed to by the Joint Committee on the Broadcasting of Parliamentary Proceedings on 19 March 2013:

##### *(a) Allocation of the broadcast between the Senate and the House of Representatives*

The proceedings of Parliament shall be broadcast live whenever a House is sitting. The allocation of broadcasts between the Senate and the House of Representatives will be in accordance with the standing determinations made by the Joint Committee on the Broadcasting of Parliamentary Proceedings. It is anticipated that over time, the coverage of each House will be approximately equal.

##### *(b) Re-broadcast of questions and answers*

At the conclusion of the live broadcast of either House, questions without notice and answers thereto from the House not allocated the broadcast shall be re-broadcast.

##### *(c) Unusual or exceptional circumstances*

Nothing in these general principles shall prevent the Joint Committee on the Broadcasting of Parliamentary Proceedings from departing from them in unusual or exceptional circumstances.

**5** This resolution shall continue in force unless and until amended or rescinded by the House in this or a subsequent Parliament.

