



# **Senate Standing Committee on Environment and Communications’ inquiry into Allegations of Political Interference in the ABC**

## **Introduction**

This document constitutes the Australia/Israel & Jewish Affairs Council (AIJAC) submission to the Senate Standing Committee on Environment and Communications’ inquiry into Allegations of Political Interference in the ABC and wishes to thank the Senate Standing Committee for the opportunity to do so.

This submission will address the terms of reference, with a special emphasis on (e) “governance, legislative and funding options to strengthen the editorial independence and strength of the ABC to prosecute its charter obligations”.

This submission will make particular reference to the inadequate complaints procedure at the ABC and the need for the ABC complaints process to be reformed and handled independently. Reverting to an independent complaints procedure will allow the ABC the ability to better deal with accusations of political interference and to better comply with its own editorial policies and statutory obligations.

This submission will state the case that complete editorial independence is all but impossible without adequate external oversight of ABC content by a party widely considered neutral and impartial, that is, not on the ABC payroll or part of a politically-motivated review or inquiry.

AIJAC is the premier public affairs organisation for the Australian Jewish community and conveys interests of the Australian Jewish community to government, media and other community organisations.

AIJAC seeks to further Australia's development as a tolerant and harmonious multicultural society and identify, expose and combat extremism in its various hues. AIJAC also participates in international human rights activities and interfaith dialogue and seeks to increase understanding of Israel in Australia.

AIJAC strongly supports the ABC. It is important that the ABC is editorially independent, well-funded and continues to play a key role in informing public debate in Australia on political and social issues, as well as contributing to Australian culture. AIJAC further believes that a key prerequisite to the ABC fulfilling that role is for the corporation to be widely and genuinely perceived as unbiased, fair, above the political fray as an organisational entity, as well as scrupulously proper with the use of taxpayer funds.

## **Background**

In 2011, former managing director Mark Scott introduced the complaints handling process that is used by the ABC today. Mr Scott's process included the removal of the pre-existing Independent Complaints Review Panel (ICRP), which had been established in 1991.

That independent complaints review process was developed, in part, in response to criticism of some aspects of ABC news and current affairs coverage during the 1991 Gulf War, including from then prime minister Bob Hawke.<sup>1</sup>

There seem to be a number of documented reasons why Mr Scott decide to abolish the ICRP, including but not limited to: reducing the layers in a complex complaints-handling process; a desire to move towards further 'self-regulation' and to develop better understanding among staff of editorial policies; and the opportunities provided by the emergence of online media for audiences to correct or add to stories themselves.<sup>2</sup>

In place of the ICRP, which had consisted of experienced individuals who were not current or recent ABC employees, complaints handling is now conducted by an ABC team called Audience and Consumer Affairs (ACA). This team is under the management of ABC editorial director Alan Sunderland, a former ABC journalist.

As it currently stands, complaints handling at the ABC today is far from independent. According to the ABC's current editorial policies on complaints handling, ABC content producers are instructed that "if the complaint makes a valid point and you can act

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<sup>1</sup> Jolly, R. (2014) "The ABC: An overview", *Parliament of Australia Research Papers*, 11 August  
[https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp1415/ABCoverview](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1415/ABCoverview) (accessed Nov 9 2018)

<sup>2</sup> "Editorial Policies: Review of the ABC's self-regulation framework" (2009) *Australian Broadcasting Corporation*,  
<http://about.abc.net.au/wp-content/uploads/2012/06/ReviewOfABCSelfRegulationFrameworkOct2009.pdf> (accessed Nov 1 2018)

immediately to address the issue, you should do so”<sup>3</sup>. It goes without saying that the content producer may not be the best arbiter of whether a complainant has a “valid point”.

Complaints that are not dealt with by ABC content producers are handled by the ACA. When a complaint is referred to the ACA, the ACA can select to address it or can again refer it back to the relevant content area for direct handling.

Once a complaint has been dealt with through ABC processes, complainants are entitled to appeal to the Australian Communications and Media Authority (ACMA) if they continue to believe there has been a breach of the ABC’s Code of Practice<sup>4</sup>. This is the only remotely independent part of the process.

According to the ABC’s *Editorial Policies: Complaints Handling* section, “good complaint handling aims to listen, address legitimate concerns and build trust”. Complainants should also be treated with “courtesy”, “respect”, “care” and “empathy” because this “helps to ensure the complaint is not escalated – either to a manager, the media, an MP, or the Minister”.

While it is unrealistic to expect that every complaint made to the ABC is justified, the most recent statistics available show that only a tiny percentage are resolved. According to their own figures and in their own words, in quarter two of 2018, the ABC received 5228 complaints, of which 629 were “investigated” and 91 “resolved” – that is, only 14 per cent of complaints reached a resolution. Of those that were resolved, 26 issues were “upheld”, with the other two-thirds dismissed. Resolution in this case mean rectification of a mistake, written apologies, on-air corrections, counselling or reprimanding staff, amending future broadcasts and a commitment to review or improve procedures<sup>5</sup>. This low rate of resolution is not anomalous, it is consistent with previous quarters.

## **Improving editorial standards by reforming the complaints process**

As a diligent observer of the media representation of public affairs, especially those of special relevance to the Jewish community in Australia, including matters relating to Israel as the world’s sole Jewish state, AIJAC keeps a keen eye and ear on ABC content across platforms and markets.

According to AIJAC’s ongoing observations, since the abolition of ABC’s ICRP, confidence in the handling of editorial complaints at the ABC has diminished.

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<sup>3</sup> “ABC Editorial Policies: Complaints Handling” (2017) *Australian Broadcasting Corporation*, <https://edpols.abc.net.au/guidance/complaints-handling/> (accessed Nov 1 2018)

<sup>4</sup> “Complaints about the ABC or SBS” (2013) *Australian Communication and Media Authority*, <https://www.acma.gov.au/Citizen/TV-Radio/Broadcasting-complaints2/Broadcast-complaints/complaints-about-the-abc-or-sbs-1>, (accessed Nov 1 2018)

<sup>5</sup> “Statistical Report on Audience Comments and Complaints (April to June 2018)” (2018) *Australian Broadcasting Corporation* <http://about.abc.net.au/wp-content/uploads/2018/08/Statistical-Report-on-Audience-Comments-and-Complaints-April-to-June-2018.pdf> (accessed Nov 1 2018)

In particular, while ABC executives claim that the ACA provides the ABC with an *independent* complaints review process<sup>6</sup>, this appears to mean merely that the ACA is a team that works alongside, rather than embedded in, the ABC content teams, who tend to be the subject of complaints.

This is not independence in the sense that the ICRP was independent; a body that was distanced from both ABC management and internal ABC culture. The ACA is a team within the ABC so it is still answerable to both senior ABC management and the ABC board. And like all organisations, public or private, the ABC has its own interests when it comes to complaints handling and other related matters.

Where complaints are handled 'in-house', it raises the perception that those investigations may be influenced by the following priorities of the ABC as an organisation:

1. A desire to have the ABC's obligations under the ABC Charter, ABC Code of Practice and the ABC Editorial Policies interpreted as narrowly as possible. After all, these obligations are constraints on the ABC's ability to provide programming and current affairs coverage, often under tight time frames, and with limited budgets;
2. A desire to protect the overall reputation of both the ABC as an organisation, and the reputation of its presenters and reporters. Upholding high-profile complaints or a high volume of complaints could clearly damage such reputations, crucial to the ABC for retaining audience share and gaining public support for additional funding;
3. A desire to maintain ABC staff morale. Upholding a complaint on politically-loaded issues may create internal tension and frustration among ABC content producers with strong views on these issues;
4. A desire to preserve international content partnerships. For example, ABC executives have repeatedly defended the ABC's use of content produced by Al-Jazeera English, which is obtained free of charge under a content-sharing agreement. It would likely be detrimental to this arrangement if the ABC complaints department were to uphold complaints about Al-Jazeera content.

This perception is shared by others, including former veteran ABC reporter Geoffrey Luck. Writing in June 2018, Luck noted "The internal audience and consumer affairs section only masquerades as independent, a case of the policeman investigating the police."<sup>7</sup>

AIJAC's understanding of the ABC complaints process has been born out of AIJAC's repeated attempts to seek ABC acknowledgement of the substance of the complaint and then act to rectify the ABC's inadequate coverage of the situation in Israel and the Palestinian Territories. Over many years, AIJAC has tried to work with both ABC leadership and content

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<sup>6</sup> "Hansard" (2018), *Environment and Communications Legislation Committee*, April 11, pp 10, [https://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/27e68f53-6e03-4de1-ad7d-1e791f6b4462/toc\\_pdf/Environment%20and%20Communications%20Legislation%20Committee\\_2018\\_04\\_11\\_6044\\_Official.pdf;fileType=application%2Fpdf#search=%22committees/estimate/27e68f53-6e03-4de1-ad7d-1e791f6b4462/0000%22](https://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/27e68f53-6e03-4de1-ad7d-1e791f6b4462/toc_pdf/Environment%20and%20Communications%20Legislation%20Committee_2018_04_11_6044_Official.pdf;fileType=application%2Fpdf#search=%22committees/estimate/27e68f53-6e03-4de1-ad7d-1e791f6b4462/0000%22)

<sup>7</sup> Luck G (2018) "The rot set in with current affairs, and ABC news has since lost its bearings", *The Australian*, June 30, <https://www.theaustralian.com.au/news/inquirer/the-rot-set-in-with-current-affairs-and-abc-news-has-since-lost-its-bearings/news-story/06202187428fc0e6b2a14b60f940c8de> (accessed Nov 9 2018)

producers, particularly those based in the Middle East, to ensure a range of views are broadcast. In most cases, feedback and complaints from AIJAC are dismissed, or acknowledged and then disregarded. In rare cases when a complaint is partially or fully upheld, the ABC's usual practice of rectification – placing a small amendment and acknowledgement of a correction on a, by then, out-of-date story on ABC Online – is unlikely to garner much attention.

In 2018, AIJAC has had reason to make contact with the ABC on a range of editorial concerns<sup>8</sup>. These complaints included accusations that false statements and inaccuracies had been included in news content broadcast nationally in prime time; news stories lacked context leaving viewers poorly informed; and one-sided opinion content was presented as news. Two of these complaints were upheld and addressed<sup>9</sup> and AIJAC thanks the ABC for addressing these most obvious and grievous errors.

There are many more situations where AIJAC does not lodge a complaint about content that is clearly one-sided because of the much-discussed, but highly flawed, principle in the ABC's Editorial Policies (section 4) that the "the ABC aims to present, over time, content that addresses a broad range of subjects from a diversity of perspectives reflecting a diversity of experiences, presented in a diversity of ways from a diversity of sources"<sup>10</sup>. How this policy tends to manifest itself in reality is that a one-sided report on a national prime time current affairs program is deemed to be "balanced" by a late night conversation on local radio, or in a fleeting story on News Radio, often on a topic of no relevance to the subject at hand, with someone representing the other side. This approach does not reflect common sense and surely breaches the spirit of the Editorial Policies, if not the literal wording.

A further area where AIJAC has made multiple complaints about the ABC – both officially and through alternate channels, including the media – is in the public broadcaster's continued use of content produced by Al Jazeera English, particularly on stories relating to the Middle East. AIJAC considers this to be one of the most problematic and systemic issues that the ABC has failed to properly address.

Al-Jazeera English is Qatar's state-owned and funded global news outlet. Qatar is not a democracy, does not adhere to liberal values of free speech and, according to Freedom House, does not have a free media<sup>11</sup>.

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<sup>8</sup> Media Release "AIJAC 'very disappointed' in ABC TV story on Israel's Nation-State Law, will lodge complaint" (2018) *Australia/Israel and Jewish Affairs Council*, September 6 <https://aijac.org.au/media-release/aijac-very-disappointed-in-abc-tv-story-on-israels-nation-state-law-will-lodge-complaint/> (accessed Nov 1 2018);

Media Release "AIJAC complains to ABC on Hamas description; wins complaint on SBS Arabic story" (2018) *Australia/Israel and Jewish Affairs Council*, August 6 <https://aijac.org.au/media-release/aijac-complains-to-abc-on-hamas-description-wins-complaint-on-sbs-arabic-story/> (accessed Nov 1 2018)

Media Release "AIJAC writes to the ABC asking it to explain the lack of coverage of Gaza rocket attacks" (2018) *Australia/Israel and Jewish Affairs Council*, June 5, <https://aijac.org.au/media-release/aijac-writes-to-the-abc-asking-it-to-explain-the/> (accessed Nov 1 2018)

<sup>9</sup> Upheld Complaints "Good Friday Breakfast, 30th March 2018" (2018) *Australian Broadcasting Corporation*, June 14, <http://about.abc.net.au/complaints/breakfast-38/> (accessed Nov 1 2018)

Upheld Complaints "ABC News Online, 21<sup>st</sup> July 2018" (2018) *Australian Broadcasting Corporation*, August 22, <http://about.abc.net.au/complaints/abc-news-online-270/> (accessed Nov 1 2018)

<sup>10</sup> "ABC Editorial Policies: Impartiality and Diversity of Perspectives" (2017) *Australian Broadcasting Corporation*, <https://edpols.abc.net.au/guidance/complaints-handling/> (accessed Nov 1 2018)

<sup>11</sup> "Freedom of the Press 2017: Qatar" (2018) *Freedom House*, <https://freedomhouse.org/report/freedom-press/2017/qatar> (accessed Nov 1 2018).

The ABC has a reciprocal news access arrangement with Al Jazeera English, which allows it to broadcast Al Jazeera content without payment<sup>12</sup>. For years, the ABC has defended its use of Al Jazeera English content – both in news bulletins and as news features broadcast on radio, and until recently, TV. This is despite significant evidence that its continued use violates the ABC’s Editorial Policies.

Al Jazeera journalists, including former Australian employee and sometime ABC contributor Peter Greste, have highlighted Al Jazeera’s links to the Islamist group, the Muslim Brotherhood. There are also well documented links between Al Jazeera executives and the terrorist group Hamas. In addition, there have been complaints from former Al Jazeera English employees of antisemitism in the news room<sup>13</sup>.

Yet, at the height of recent deadly border clashes between Israel and Gaza early this year, ABC NewsRadio relied on Al Jazeera English reports on 22 occasions – five news reports during bulletins and 17 feature stories<sup>14</sup>. Responding to questions on whether it is appropriate for the ABC to broadcast Al Jazeera English content given the Qatari broadcaster’s well-publicised affiliations – especially with respect to Gaza, where the Qatari Government is a key patron and ally of Hamas, one of the parties to the conflict - the ABC’s Sunderland said “The ABC assesses Al Jazeera content on its merits, ensuring that content broadcast on the ABC is consistent with all ABC editorial policies, including recognised standards of accuracy and impartiality.”<sup>15</sup>

According to the ABC Editorial Policies (section 13.1), where the ABC uses content provided by an external partner, it is compelled to consider “the nature of the external partners’ interest in the subject matter of the content ... and how that interest – whether it be political, commercial, sectional, personal or otherwise – is likely to be perceived.”<sup>16</sup> Yet despite this provision, the ABC appears determined to ignore both *Al-Jazeera’s* clear and direct political “interest in the subject matter of” Middle East content, as well as the issue of how that interest “is likely to be perceived.”

Despite complaints from AIJAC – and presumably others – and scrutiny of the ABC’s use of Al Jazeera English content, the practice is ongoing. Independent oversight would certainly add additional scrutiny to this problematic relationship, something which would certainly be warranted.

While some would doubtless argue that ACMA today serves the role of independent arbiter of the ABC’s editorial policies and statutory obligations, AIJAC would submit that ACMA, as currently constituted, lacks the expertise and resources to properly investigate breaches of those aspects of ABC Editorial Policies dealing with fairness, factual accuracy, journalistic

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<sup>12</sup> ABC, answer to Question on Notice 109, Senate Standing Committee on Environment and Communications, 2017.

<sup>13</sup> Rubenstein, C (2017) “ABC ignores editorial policy to run Al Jazeera stories” *The Australian*, July 3, <https://www.theaustralian.com.au/business/media/opinion/abc-ignores-editorial-policy-to-run-al-jazeera-stories/news-story/e3a1f1b5b7acba5c14be23014658fef> (accessed Nov 1 2018)

<sup>14</sup> ABC, answer to Question on Notice 226, Senate Standing Committee on Environment and Communications, 2018.

<sup>15</sup> ABC, answer to Question on Notice 109, Senate Standing Committee on Environment and Communications, 2017.

<sup>16</sup> “ABC Editorial Policies: External Funding and Relationships” (2017) *Australian Broadcasting Corporation*, <https://edpols.abc.net.au/guidance/complaints-handling/> (accessed Nov 1 2018)

professionalism and impartiality. ACMA has a wide-ranging role as the main Commonwealth communications regulator and its investigations reflect its very broad responsibilities across both content and technology. In addition to acting as an appeals mechanism for ABC complaints, ACMA's primary responsibilities centre on dealing with issues around broadcasting spectrum, telecommunications and advertising standards, captioning, program classification, offensive material and rules for political advertising – as well as its new role in regulating the rollout of the National Broadband Network.

ACMA does a very limited number of investigations into broadcasting complaints. Of 1166 complaints received across all Australian commercial, community, public and cable radio and television networks in 2017-18, ACMA investigated only 74 – many dealing with regulatory issues such as alleged offensive content, captioning, advertising standards and program classification - and found only six breaches of all codes of practice it monitors<sup>17</sup>.

Enforcing the ABC's statutory obligations and editorial policies requires dedicated investigators with journalistic and content expertise, not technical and regulatory expertise of the sort found at ACMA.

## **Recommendations**

AIJAC recommends that the ABC adopt an independent editorial complaints procedure where those assessing and responding to complaints do not work alongside those creating content.

An independent complaints procedure for the ABC would involve:

- A completely independent arbiter or panel of arbitration, similar to the former ICRP or the position of the SBS Ombudsman, to determine the outcome of editorial complaints.
- Content producers and editorial staff having no role to play in determining the outcome of the complaints process. These staff would be required to provide input or evidence to those undertaking the arbitration, but the current situation where the ACA is often effectively a channel for ABC content producers to behave as “judge, jury and executioner” for complaints against themselves would be abolished. Veteran ABC journalist Geoffrey Luck has suggested one model for doing so, writing, “A simple amendment to the [ABC] Act would establish an independent external body – call it an ombudsman –to handle all complaints about breaches of the ABC charter, its code of practice and editorial guidelines. It would bring all programming under the same rules.”<sup>18</sup> However, AIJAC also understands that an actual amendment to the *Australian Broadcasting Corporation Act 1983* may not be necessary given that the ICRP was created and then abolished without such an amendment.

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<sup>17</sup> “Annual Report: Australian Communications and Media Authority and Office of eSafety Commissioner” (2017-18) *Australian Communications and Media Authority*, October 18, [https://www.acma.gov.au/-/media/mediacomms/Report/pdf/ACMA\\_OeSC-annual-reports-2017-18-pdf.pdf?la=en](https://www.acma.gov.au/-/media/mediacomms/Report/pdf/ACMA_OeSC-annual-reports-2017-18-pdf.pdf?la=en) (accessed Nov 9 2018)

<sup>18</sup> Luck G (2018) “The rot set in with current affairs, and ABC news has since lost its bearings”, *The Australian*, June 30, <https://www.theaustralian.com.au/news/inquirer/the-rot-set-in-with-current-affairs-and-abc-news-has-since-lost-its-bearings/news-story/06202187428fc0e6b2a14b60f940c8de> (accessed Nov 9 2018)

- A reconsideration of the efficacy of some of the ABC's Editorial Policies, including the commitment to the "balance over time" provision outlined in section 4 and its use of external partners in section 13, and the very narrow interpretation the ABC currently applies to both these provisions.

While AIJAC does not have the expertise to determine budget arrangements for the ABC. It is likely AIJAC's proposal would be cost neutral, with resources currently budgeted toward supporting the ABC's Audience and Consumer Affairs team redirected to fund a new independent complaints procedure.

AIJAC would strongly argue that such changes are essential to preserving the editorial independence and important role of the ABC. They would also serve to strengthen the ABC's obligations for impartiality and accuracy in all activities. As a taxpayer-funded statutory organisation, the ABC must be both clearly accountable and trusted to behave impartially and professionally by all sides of the Australian political landscape. If it is not, it will inevitably become subject to partisan criticism and interference, with its funding increasingly questioned.

Current arrangements cannot provide that level of accountability and the current model is simply not sustainable. For the ABC to continue to be perceived as truly independent, it must be accountable and be judged by a body external to the ABC as an organisation.

These suggested reforms would assist the ABC to better address accusations of bias and political interference and lead to the development of a stronger and more sustainably independent public broadcaster in the interest all Australians.

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This report has been prepared by the Australia/Israel & Jewish Affairs Council.

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