

The Senate

Environment and Communications
Legislation Committee

National Broadcasters Legislation Amendment
(Enhanced Transparency) Bill 2017

March 2018

© Commonwealth of Australia 2018

ISBN 978-1-76010-749-9

Committee contact details

PO Box 6100
Parliament House
Canberra ACT 2600

Tel: 02 6277 3526

Fax: 02 6277 5818

Email: ec.sen@aph.gov.au

Internet: www.aph.gov.au/senate_ec

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website: <http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

This document was printed by the Senate Printing Unit, Parliament House, Canberra

Committee Membership

Committee Members

Senator Jonathon Duniam, Chair	LP, Tasmania
Senator Janet Rice, Deputy Chair	AG, Victoria
Senator Anthony Chisholm	ALP, Queensland
Senator Linda Reynolds CSC	LP, Western Australia
Senator Anne Urquhart	ALP, Tasmania
Senator John Williams	NATS, New South Wales

Participating member for this inquiry

Senator Sarah Hanson-Young	AG, South Australia
----------------------------	---------------------

Committee secretariat

Ms Christine McDonald, Committee Secretary
Ms Bonnie Allan, Additional Committee Support Secretary
Dr Ros Hewett, Senior Research Officer
Ms Fattimah Imtoul, Senior Research Officer
Ms Margaret Jones, Administration Officer
Ms Georgia Fletcher, Administration Officer

TABLE OF CONTENTS

Committee membership	iii
Inquiry into the National Broadcasters Legislation Amendment (Enhanced Transparency) Bill 2017	1
Referral	1
Purpose of the bill	1
Conduct of the inquiry	2
Reports of other committees	2
Issues raised in submissions	3
Committee view	7
Labor Senators' dissenting report	9
Australian Greens' dissenting report	13
Appendix 1: Submissions and answers to questions on notice	15

Inquiry into the National Broadcasters Legislation Amendment (Enhanced Transparency) Bill 2017

Referral

1.1 On 8 February 2018, the Senate, on the recommendation of the Selection of Bills Committee, referred the National Broadcasters Legislation Amendment (Enhanced Transparency) Bill 2017 (the bill) to the Senate Environment and Communications Legislation Committee (the committee) for inquiry and report by 26 March 2018.¹

Purpose of the bill

1.2 The bill proposes to amend the *Australian Broadcasting Corporation Act 1983* (ABC Act) and the *Special Broadcasting Services Act 1991* (SBS Act). Its stated purpose is to provide more transparency in how government funding for salaries and allowances paid to employees of both the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS) is allocated – in particular, payments to employees and on-air talent contractors where the total amounts paid exceed \$200,000 annually.²

1.3 The bill's Explanatory Memorandum stated that a further purpose of the bill is to improve gender pay gaps through increased scrutiny of how employees in national broadcasters are remunerated based on their gender.³

1.4 If passed, the bill would require the ABC and SBS to include the following information in their annual reports:

(a) for employees:

- the combined amount of salaries and allowances paid to employees;
- the name of the employee where the total amount of salary and allowances paid to the person exceeds the applicable reporting threshold for the reporting period; and
- the positions held by the person; and

(b) for on-air talent:

- the total amount paid to, and the name of each individual, who is a party to one or more on-air talent contracts⁴ if the total amount paid to the

1 *Journals of the Senate*, No. 83, 8 February 2018, p. 2634.

2 Explanatory Memorandum, p. 2.

3 Explanatory Memorandum, p. 3.

4 An on-air talent contract is a contract for performance across all platforms, including online and podcasting services: Explanatory Memorandum, p. 3.

individual in the reporting period was more than the applicable reporting threshold for that period; and

- the nature of the services performed for each contract.⁵

1.5 The proposed applicable reporting threshold for the first period beginning after the commencement of the bill would be \$200,000 AUD. This amount would be indexed for subsequent periods by reference to the Consumer Price Index (CPI) published by the Australian Statistician.⁶

Conduct of the inquiry

1.6 The committee advertised the inquiry on its website and wrote to relevant organisations inviting written submissions by 28 February 2018.

1.7 The committee received three submissions which are listed at Appendix 1 of this report. The public submissions are available on the committee's website at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications.

1.8 The committee thanks all of the individuals and organisations that contributed to the inquiry.

Reports of other committees

1.9 When examining a bill or draft bill, the committee takes into account any relevant comments published by the Senate Standing Committee for the Scrutiny of Bills. The Scrutiny of Bills Committee assesses legislative proposals against a set of accountability standards that focus on the effect of proposed legislation on individual rights, liberties and obligations, and on parliamentary propriety.

1.10 In its Scrutiny Digest No. 1 of 2018, the Scrutiny of Bills Committee expressed concern that publishing the names and remuneration details of ABC and SBS employees and contractors receiving more than \$200,000 would impact on the right to privacy of such persons and may unduly trespass on personal rights and liberties. The Scrutiny of Bills Committee noted that Commonwealth Government departments and agencies usually publish salaries and allowances of senior public servants by salary bands without disclosing individual names, and state the number of persons employed of each gender under each band. It drew these concerns to the attention of senators and left it to the Senate as a whole to determine the appropriateness of publishing such details.⁷

5 Explanatory Memorandum, p. 3.

6 Explanatory Memorandum, p. 3.

7 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest*, No. 1 of 2018, 15 November 2018, p. 81.

1.11 The Parliamentary Joint Committee on Human Rights also expressed its concern over 'whether the public disclosure of the names and remuneration of employees and on-air talent' was proportionate to the legitimate objectives of the bill. It asked for the minister to provide advice on this issue and to consider whether there are less rights-restrictive methods to achieve the bill's objectives.⁸

Issues raised in submissions

Objectives of the bill

1.12 Submitters to the inquiry raised concerns about whether the proposed amendments would lead to increased transparency and improve the gender pay gap.

Gender equality in remuneration

1.13 The ABC submitted that de-identified reporting of data could meet the objective of improving gender pay gaps, arguing that 'there is no direct correlation between the publication of individual names and salaries and the identification of gender pay gaps'.⁹

1.14 The ABC further asserted that according to analysis undertaken in May 2017, no level at the ABC features a pay gap unfavourable to women, with 49 per cent of its senior executive being female.¹⁰ SBS also contended that SBS had 'a positive record in terms of gender representation', with 57 per cent of its Senior Leadership Group being female.¹¹

1.15 The second reading speech stated that the national broadcasters should be commended for their assertion that their organisations do not feature a pay gap unfavourable to women. It further argued that the 'measures proposed by this bill will ensure ongoing scrutiny and visibility to the Australian public of the performance of the national broadcasters in this regard'.¹²

Greater transparency

1.16 SBS stated that it publishes de-identified information about executive salaries on its website and in its annual reports.¹³ The ABC contended that it already 'meets

8 Parliamentary Joint Committee on Human Rights, *Human Rights Scrutiny Report*, Report 1 of 2018, 6 February 2018, pp. 51, 53. See also Australian Broadcasting Corporation, *Submission 3*, p. 8.

9 Australian Broadcasting Corporation, *Submission 3*, p. 8.

10 Australian Broadcasting Corporation, *Submission 3*, pp. 7–8.

11 Special Broadcasting Service Corporation (SBS), *Submission 2*, p. 4.

12 *Senate Hansard*, 6 December 2017, p. 9917.

13 Special Broadcasting Service Corporation (SBS), *Submission 2*, p. 2. See also Save Our SBS Inc, *Submission 1*, p. 2.

the highest levels of transparency...[by] setting disclosure levels beyond those required in law by any other organisation in Australia, taxpayer funded or otherwise'.¹⁴ This includes existing Executive Remuneration Reporting Guidelines for Commonwealth departments, entities and companies, as well as additional remuneration reporting consistent with private sector standards, including total remuneration paid to key management personnel.¹⁵

1.17 The second reading speech emphasised that because high profile employees 'occupy significant positions of public trust...it is reasonable to expect greater transparency of the remuneration arrangements that apply to high-earning individuals at taxpayer-funded broadcasters'. Further, salaries of senior public servants are publicly available.¹⁶

1.18 In response, the ABC asserted that the salaries of senior public servants and military officers, judges and ministers of the Crown 'are applied to the positions, rather than individuals as required under this bill'.¹⁷

1.19 The Minister for Communications, the Hon. Mitch Fifield, previously argued in Senate Estimates that there is 'a greater level of transparency currently about what senior officers of government departments receive than there is of the public broadcasters' because salary classifications are not attached publicly to individuals in public broadcasters.¹⁸

1.20 He also suggested that because of the amount of funding allocated to public broadcasters, the level of transparency expected of their senior staff should be enhanced:

ABC receives over a billion dollars a year. SBS receives a couple of hundred million dollars a year. This is a significant public investment, and the government is of the view that having enhanced transparency for senior staff of these organisations is appropriate, that there is a high level of transparency when it comes to the salaries of people on the public payroll, whether they be judges or members of parliament or senior military officers, and that this level of transparency is appropriate for the public broadcasters.¹⁹

14 Australian Broadcasting Corporation, *Submission 3*, p. 7.

15 Australian Broadcasting Corporation, *Submission 3*, pp. 5–6.

16 *Senate Hansard*, 6 December 2017, p. 9917.

17 Australian Broadcasting Corporation, *Submission 3*, p. 7.

18 Senator the Hon. Mitch Fifield, Minister for Communications, *Senate Environment and Communications Legislation Committee Estimates Hansard*, 24 October 2017, p. 51.

19 Senator the Hon. Mitch Fifield, Minister for Communications, *Senate Environment and Communications Legislation Committee Estimates Hansard*, 27 February 2018, p. 63.

Privacy concerns

1.21 The main issue that submitters emphasised in their concerns raised about the bill was that the amendments would lead to the publication of names of senior executives and talent alongside their salaries. In particular, SBS expressed concerns that the proposed changes, if enacted, would lead to a violation of the *Privacy Act 1988*:

The Privacy Act protects personal information relating to the employment of agency employees. The definition of "employee record" in the Privacy Act includes terms and conditions of employment, and the employee's salary or wages, as examples of personal information relating to the employment of the employee.

The Bill would amend Section 73 of the SBS Act to report details of annual salaries and allowances of SBS employees, and amounts paid to "on-air talent" in excess of \$200,000...This information clearly falls under the definition of "employee record" under the Privacy Act.²⁰

1.22 SBS further noted that the requirement that individuals earning above \$200,000 be named is not a feature 'in counterpart public services agencies' or government departments.²¹

1.23 The second reading speech stated that 'The concept of reporting on employee salaries is not a new one'. As outlined above, the salaries of members of Parliament, ministers, judges, senior public servants and military officers are all publicly released, and private companies, including commercial broadcasters, also 'are required to include similar information in annual reports, provided for under the *Corporations Act 2001*'.²²

1.24 The second reading speech further noted that the *Privacy Act 1988* allows for cases where Australian law requires disclosure, and that while privacy issues may be a concern to the individuals affected by the proposed amendments, national broadcasters are expected to 'manage these issues appropriately'.²³

1.25 The Department of Communications and the Arts in its response to questions on notice put to it by the committee emphasised that it had weighed up the question of any issues surrounding privacy:

...the Department attempted to balance issues such as the need to protect privacy against the competing need to improve public visibility over how

20 Special Broadcasting Service Corporation (SBS), *Submission 2*, p. 4. See also Save Our SBS Inc, *Submission 1*, p. 1.

21 Special Broadcasting Service Corporation (SBS), *Submission 2*, p. 3.

22 *Senate Hansard*, 6 December 2017, p. 9917.

23 *Senate Hansard*, 6 December 2017, p. 9918.

the national broadcasters allocate and spend the significant taxpayer funding which they receive each year.²⁴

Comparisons with the BBC

1.26 SBS in its submission referred to the statement in the second reading speech that a similar requirement to report salaries has been made of the British Broadcasting Corporation (BBC), which now publishes the names of all senior executives paid more than £150,000.²⁵ SBS argued that the BBC was not directly comparable to SBS because SBS is not fully funded by public funding, and the BBC minimum reporting threshold is much higher than the \$200,000 proposed by the bill.²⁶

1.27 Similarly, the ABC also highlighted that the ABC 'is a considerably smaller player in the Australian media market than the BBC is in Britain', with the ABC receiving around a third of the BBC's funding on a per capita basis.²⁷

1.28 In their response to questions on notice put to them by the committee, the Department of Communications and the Arts observed that 'the British Broadcasting Corporation is a global leader among national broadcasters. The salary transparency of the BBC is considered to be good practice'.²⁸

Public assessment of value for money

1.29 SBS expressed concern that the bill, if enacted, would place the onus on members of the public to assess whether the remuneration of senior executives and talent equated to value for money. The SBS explained that its board is currently tasked under a statutory framework to consider the question of value for money, and asserted that its existing employment and performance framework was the most appropriate method for determining remuneration of individual employees.²⁹

1.30 The ABC also echoed these concerns, and drew the committee's attention to the ABC Board, which is tasked with ensuring that the ABC's functions provide the maximum benefit to Australians.³⁰

1.31 The second reading speech stated that the way Government funding is spent is of interest to the public, and 'The payment of salaries and allowances in excess of

24 Department of Communications and the Arts, answers to written questions on notice, received 16 March 2018.

25 *Senate Hansard*, 6 December 2017, p. 9918.

26 Special Broadcasting Service Corporation (SBS), *Submission 2*, p. 3.

27 Australian Broadcasting Corporation, *Submission 3*, p. 9.

28 Department of Communications and the Arts, answers to written questions on notice, received 16 March 2018.

29 Special Broadcasting Service Corporation (SBS), *Submission 2*, p. 5.

30 Australian Broadcasting Corporation, *Submission 3*, p. 12.

\$200,000 per annum is a major allocation of Government funding which should be visible to the taxpayer'.³¹

Impact on staff retention and financial implications

1.32 SBS outlined a number of potential negative impacts it considered would arise if the bill was passed. These included staff retention, with staff possibly choosing to leave SBS if they knew their salaries were made public; difficulties attracting new staff in the future; and existing employees negotiating higher salaries which, SBS stated, had happened in the United Kingdom after the BBC had commenced reporting of individuals' salaries.³²

1.33 The ABC also was of the opinion that the proposed measures of the bill had 'significant potential to lead to wages pressure' and could be detrimental to its ability to retain and attract employees.³³

1.34 The Department of Communications and the Arts stated in their response to questions on notice put to them by the committee that the bill was not expected to have any financial impact on national broadcasters, because it would require them 'to publish information available from within existing internal systems'.³⁴

Committee view

1.35 The committee is of the view that the measures proposed by the bill will lead to improvements in gender pay gaps. The ABC and SBS pointed out in evidence to the inquiry that unequal remuneration based on gender is not a feature of their organisations. The increased transparency provided for under the measures would require public broadcasters to set an example for the rest of the broadcasting industry to follow in terms of being transparent about differences, or lack thereof, in remuneration based on gender.

1.36 While the names of senior public servants, military officers, judges and ministers of the Crown may not be attached overtly to salaries, it is clear, based on their seniority, which pay band applies to an individual. This means that members of the public are able to infer salaries based on the individual's level. The proposed changes to requirements for public broadcasters would allow members of the public to access a similar form of information, thereby increasing transparency and public trust that government funds are being used effectively.

31 *Senate Hansard*, 6 December 2017, pp. 9917–9918.

32 Special Broadcasting Service Corporation (SBS), *Submission 2*, p. 6.

33 Australian Broadcasting Corporation, *Submission 3*, pp. 9, 10.

34 Department of Communications and the Arts, answers to written questions on notice, received 16 March 2018.

1.37 Concerns were raised in evidence to this inquiry about whether the provisions of the bill would constitute a violation of privacy for individuals whose names would be reported. However, the committee notes that the *Privacy Act 1988* allows for instances where full disclosure is required by Australian law, and considers that the ABC and SBS will be able to manage any issues related to privacy appropriately.

1.38 The committee considers that the benefits of the bill, such as transparency regarding differences in pay based on gender, outweigh any potential negative impacts that could arise from the proposed amendments.

1.39 Given the importance of increased transparency and ensuring that public trust in the allocation of government funding is maintained, the committee recommends that the bill should be passed.

Recommendation 1

1.40 The committee recommends that the National Broadcasters Legislation Amendment (Enhanced Transparency) Bill 2017 be passed.

Senator Jonathon Duniam

Chair

Labor Senators' dissenting report

1.1 Labor Senators reject the views and recommendation of the committee in this report.

1.2 Labor Senators know that this bill has nothing to do with addressing the gender pay gap and everything to do with the fact that Pauline Hanson and Malcolm Turnbull are intent on undermining the ABC and SBS.

1.3 No one is fooled that this bill has anything to do with addressing the gender pay gap or improving transparency in public funding. This bill is designed to menace and harass the national broadcasters to satisfy the whims and demands of Pauline Hanson.

1.4 Labor Senators note that there is no real problem with salaries disclosure at the ABC or SBS. The only problem this bill solves is the one Malcolm Turnbull faced last year – when he could not get his media law changes through Parliament without Pauline Hanson's support.

1.5 The Turnbull Government could not get its plan to scrap the 2 out of 3 cross-media control rule through on merit last year, despite 18 months of trying, because it was contrary to the public interest. This desperate and chaotic government then resorted to dragging the ABC and SBS into a quagmire of deal-making in order to push their plan to undermine media diversity through Parliament.

1.6 Labor Senators note that this bill was introduced further to a backroom deal between the Turnbull Government and One Nation in exchange for Pauline Hanson's support for the repeal of the 2 out of 3 cross-media control rule, which Labor opposed. The Turnbull Government used the ABC and SBS as bargaining chips in exchange for support for the Broadcasting Legislation Amendment (Broadcasting Reform) Bill 2017 which made final passage through the House of Representatives on 16 October 2017.

1.7 All up, Malcolm Turnbull and Pauline Hanson have teamed up to launch an unprecedented attack on the ABC and SBS this year. They have lined up no less than three bills, an insidious and destructive 'competitive neutrality inquiry' and the threat of budget cuts in 2018.

1.8 Labor Senators note that the bill is politically motivated and furthers One Nation's vendetta against the national broadcasters, particularly because Pauline Hanson did not like being scrutinised in a Four Corners episode, last year. We note the changes proposed by this bill are not in the public interest; they are in Pauline Hanson's complete self-interest.

1.9 Labor Senators believe it is important to note the context which led to the introduction of this bill into Parliament, last year.

1.10 In April 2017, the ABC Four Corners program aired an investigative story into One Nation called 'Please Explain' and ABC News subsequently published leaked recordings of conversations between Pauline Hanson on the donation of a light aircraft, among other things.

1.11 In May 2017, One Nation complained of bias at the ABC and threatened to refuse to support the Federal Budget unless the ABC's funding was cut by \$600 million over four years.

1.12 In August 2017, the Turnbull Government announced a deal with One Nation on the media ownership changes, inclusive of a number of unnecessary and unwarranted amendments to the ABC Act and SBS Act as well as an insidious 'competitive neutrality inquiry' aimed at reducing the role of the ABC and SBS towards that of market failure broadcasters. In a subsequent press conference, Pauline Hanson also made it clear that she will be speaking to the Treasurer and going after the ABC's budget in 2018.

1.13 Labor Senators note that the intent of the competitive neutrality inquiry, still yet to get underway, is completely at odds with the Liberal Government's two recent attempts to change the legislation of the SBS to permit greater flexibility in SBS advertising, in direct competition with commercial television, commercial radio and subscription television broadcasters. The hypocritical and confused Turnbull Government does not know what it stands for from one month to the next.

1.14 Labor Senators note the remarks of ABC Managing Director, Michelle Guthrie, in her speech at the ABC Friends Public Conference Dinner in October 2017:

The ABC's role in the media law reform debate was supposed to be as an interested bystander. We had no skin in the game. Or so we thought. We now find ourselves very much impacted by the deal-making and with a real need to ensure that the public interest – as opposed to vested interest – is protected.¹

1.15 Ms Guthrie further stated that:

The ABC Act and Charter should not be tampered with simply to suit political or commercial agendas...Legislation designed to further a political vendetta by one party uncomfortable with being scrutinised by our investigative programs is not good policy-making. Neither is using the ABC Act as a bargaining chip in industry machinations that have nothing to do with the national broadcaster.²

1.16 Labor Senators believe the ABC and SBS are two of Australia's most important public institutions and regard the bill to be an unwarranted, onerous and counter-productive incursion on their independence.

1 ABC Managing Director speech at the ABC Friends Public Conference Dinner, 6 October 2017, <http://about.abc.net.au/speeches/abc-managing-director-speech-at-the-abc-friends-public-conference-dinner/> (accessed 26 March 2018).

2 ABC Managing Director speech at the ABC Friends Public Conference Dinner, 6 October 2017, <http://about.abc.net.au/speeches/abc-managing-director-speech-at-the-abc-friends-public-conference-dinner/> (accessed 26 March 2018).

1.17 Labor Senators oppose the bill because the ABC and SBS already disclose information about salaries appropriately – a fact that both the Explanatory Memorandum to this bill and this committee acknowledge. In other words, this bill is pointless and does more harm than good.

1.18 Labor Senators note this bill could impinge on the right to privacy of individuals.

1.19 We note that in its Scrutiny Digest No. 1 of 2018, the Scrutiny of Bills Committee expressed concern that publishing the names and remuneration details of ABC and SBS employees and contractors receiving more than \$200,000 would impact on the right to privacy of such persons and may unduly trespass on personal rights and liberties.³

1.20 Further, the Parliamentary Joint Committee on Human Rights also expressed its concern over 'whether the public disclosure of the names and remuneration of employees and on-air talent' was proportionate to the legitimate objectives of the bill.⁴

1.21 Labor Senators oppose the bill because it would require the national broadcasters to provide greater transparency on salaries than other publicly funded bodies and their private sector competitors, for no justifiable reason. Further, we note that the ABC and SBS already provide detailed tables showing remuneration paid to employees in bands over \$200,000. Those tables are consistent with the guidelines set for the public service.

1.22 Labor Senators note that gender pay equity analysis identifies no like-for-like pay gap unfavourable to women at any level in the ABC. As ABC Managing Director Michelle Guthrie said in her opening remarks at Senate Estimates last October:

The BBC's top executive is male and its top presenter is also male. That presenter earns £2.3 million a year—A\$3.7 million. Our highest paid talent earns roughly one-eighth of that figure and is a woman. I'm the highest-paid person at the ABC, under a salary set by the Remuneration Tribunal. We lead the way on gender representation: five of our nine board members are female, 49 per cent of our senior executive is female and 51 per cent of the general workforce is female. This is also the case in relation to pay. There is no pay gap unfavourable to women at any level in the ABC. We have parity across our executive and our senior on-air talent.⁵

1.23 SBS submitted that SBS has 'a positive record in terms of gender representation', with 57 per cent of its Senior Leadership Group being female.⁶

3 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest*, No. 1 of 2018, 15 November 2018, p. 81.

4 Parliamentary Joint Committee on Human Rights, *Human Rights Scrutiny Report*, Report 1 of 2018, 6 February 2018, p. 51.

5 Ms Michelle Guthrie, Managing Director, Australian Broadcasting Corporation, *Senate Environment and Communications Legislation Committee Estimates Hansard*, 24 October 2017, p. 103.

6 Special Broadcasting Service Corporation (SBS), *Submission 2*, p. 4.

1.24 Labor Senators do not support a bill that achieves nothing of policy value and that permits the Turnbull Government to use the ABC and SBS as political bargaining chips, that forms part of a concerted effort by One Nation to attack the ABC and SBS and which is an unjustified incursion on the independence of the national broadcasters.

Senator Anne Urquhart
Senator for Tasmania

Senator Anthony Chisholm
Senator for Queensland

Australian Greens' dissenting report

1.1 This bill is an attack on Australia's national broadcasters, coming from quarters of the Parliament opposed to the broadcasters' roles as institutions committed to the public interest. Support for this bill would undermine the effectiveness of these institutions and would be a victory for ideologically hostile elements of the Parliament who support tying up the broadcasters in regulation to prevent them from functioning effectively. It presents itself as a crude solution to a fictional problem when in fact it is simply designed to create a new problem, and in doing so hobble the ability of the ABC and SBS to hold political parties and politicians to account.

1.2 The argument that this bill is necessary to close a gender pay gap within national broadcasters is laughable. If a national broadcaster has a gender pay gap, it is curious why we would only wish to close it for those earning more than \$200,000 a year.

1.3 If we are to believe this bill is motivated by an interest in gender pay equity, it is a remarkably poorly targeted way to do so: because most of the staff of the national broadcasters earn under the 'transparency' threshold, the vast majority of the people working for the ABC and SBS would therefore not have their gender pay gap publicly disclosed or resolved. The fact that this bill does nothing for those people shows the disingenuousness of that justification.

1.4 This bill provides no means to compare two on-air talents on a like-for-like basis, when considering the extent of any gender pay gap. It is noted that the assertion that a gender pay gap at the ABC or SBS may exist is presented as a justification for why this extreme move should be pursued. There is little evidence for the former, and there is no support for the latter. The government's Explanatory Memorandum for this bill notes the lack of gender pay gap at the ABC, acknowledging there is no problem in need of this blunt solution. It nonetheless suggests this bill may be justified as a means to prevent a gender pay gap from developing.

1.5 But by acknowledging that there is no gender pay gap at the ABC, and that the current policy parameters have not allowed one to develop, it critically undermines the case that is being publicly made that change is required to prevent a gap from developing into the future.

1.6 It is an important point to emphasise: that, in the government's own view, what is currently in place is working, and what is being proposed is not intended to achieve anything other than what is already being achieved.

1.7 The argument that because an institution is in receipt of public funding, it should be subject to the highest level of transparency, is an equally spurious one. The SBS already publishes de-identified information about executive salaries. The ABC has met a higher standard than that required by any other organisation, taxpayer funded or otherwise.

1.8 It is not unreasonable to demand transparency on how tax money is being spent. It is unreasonable however to demand total, absolute transparency when it undermines an individual's right to privacy and property.

1.9 We do not require national broadcasters to disclose employee's home addresses, expense receipts, travel arrangements or email correspondence. All of these disclosures could be justified as 'enhanced transparency', but all of them, like the one this bill proposes, would represent an extreme and irresponsible violation of the right for an individual to maintain their privacy.

1.10 Employees of the ABC and SBS are by and large not public figures. Their salaries are not relevant to the public interest any more than the salaries of the staff who work dutifully in the Minister's office are: both are paid by public money, and both are earning relatively high salaries, but both are deserving of some privacy. The Minister does not believe these staff should be publicly highlighted in the name of 'enhanced transparency' because he rightly believes that transparency is a principle that must be balanced against privacy, and such a disclosure would disrupt that balance.

1.11 The Australian Greens do not oppose transparency when it serves the public interest. However, it is important that the need for transparency is balanced against the need for privacy. If there is a way to improve transparency without undermining privacy, that should be the preferred approach.

1.12 It is standard for Commonwealth government departments and agencies to publish salaries and allowances of senior public servants within fixed salary bands, so that individuals cannot be identified. Furthermore, it is entirely possible to include in such a publication the number of persons employed in each salary band according to gender.

1.13 The purpose of the bill is to solve an imaginary problem: that the level of transparency of the national broadcasters is insufficient. This committee has received no evidence that this is the case, nor has the government attempted to demonstrate that this is the case. There has been no indication that the public interest would be better served by this additional level of forced disclosure.

1.14 If this bill was a genuine attempt to improve gender pay gaps, then it would have some mechanism to do so. It does nothing other than put in place a draconian measure to solve a problem that the government does not believe exists, and that the government acknowledges has been prevented from coming into existence by existing policy.

1.15 It is laughable that, in the name of transparency, this bill is being pushed by this committee and this government with no reference to its real motivation: making good on a side-deal made with Pauline Hanson's One Nation party to secure its support for the media reform package that passed the Senate in 2017.

1.16 The Australian Greens recommend the Senate does not pass this bill.

Senator Janet Rice
Deputy Chair
Senator for Victoria

Senator Sarah Hanson-Young
Senator for South Australia

Appendix 1

Submissions and answers to questions on notice

Submissions

- 1 Save Our SBS Inc
- 2 Special Broadcasting Service Corporation (SBS)
- 3 Australian Broadcasting Corporation (ABC)

Answers to questions on notice

- 1 Department of Communications, answers to written questions on notice, received 16 March 2018.

