

CHAPTER 1

INTRODUCTION

Background

1.1 On 16 May 1985 the Senate referred the following matter to the Committee for investigation and report:

Whether the claim by the Australian Broadcasting Corporation that certain information should not be made available to Estimates Committee C, on the ground of commercial confidentiality, is justified.¹

1.2 The subject matter of the inquiry arose during hearings held by Estimates Committee C on 15 April 1985. The Committee was taking evidence on additional estimates of expenditure for the Australian Broadcasting Corporation [ABC] for the financial year 1984-85. During examination of ABC officers in attendance, then Senator Peter Rae (Tasmania) asked several questions which sought to establish the salary paid to Ms Geraldine Doogue, then a compere/interviewer on the ABC 'The National' television news program.

1.3 At the hearing the Minister for Finance, Senator Peter Walsh, who was Minister representing the Minister for Communications, offered to seek the Minister's approval to make the information available to Estimates Committee C on the understanding that it would be 'in confidence'. The information sought by Senator Rae was regarded by the ABC officers who attended the Estimates hearing as commercially confidential.

1.4 Estimates Committee C was provided with supplementary written answers by the ABC to the questions asked by Senator Rae. The answers confirmed the stance of the ABC officers present at the hearing. The ABC's reply stated:

The matter has been discussed with the Minister for Communications, Mr Duffy, who has agreed to the ABC putting forward the following proposal to the Committee:

"We would be reluctant to make public the amount paid to a particular contract employee because such a disclosure could adversely affect the interests of the ABC in acquiring and retaining suitable persons having regard to the competition amongst TV stations for top 'on camera' personalities. However, we would provide such details to the Minister for his information."

"Our view is that by providing the Minister with this information, the ABC is demonstrating its preparedness to be accountable, while at the same time protecting its commercial competitiveness."²

1.5 In its subsequent report to the Senate on the additional estimates, Estimates Committee C drew attention to this matter and to criticism of the ABC made by Estimates Committee A in its May and October 1984 reports. (Estimates Committee A had examined the ABC estimates in 1984.) In its May 1984 report, Estimates Committee A commented on the ABC's attitude to provision of information at the Committee's hearings. The Committee recommended that the Senate re-affirm a statement of principle, adopted initially by the Senate in 1971 following criticism of the ABC by an Estimates Committee, concerning the financial accountability of statutory authorities to the Parliament.

1.6 On 31 May 1984 the Senate re-affirmed the statement, which reads:

That whilst it may be argued that Statutory Authorities are not accountable through the responsible Minister of State to Parliament for day-to-day operations, they may be called to account by Parliament itself at any time and that there are no areas of expenditure of public funds where these corporations have a discretion to withhold details or explanations from Parliament or its Committees unless the Parliament has expressly provided otherwise.³

1.7 Estimates Committee C also drew attention to a 'severe problem' it experienced in obtaining information on ABC activities regarded as necessary to enable the Estimates Committee to report adequately to the Senate and noted:

Whilst questions have been answered, the information contained in many instances has not appeared adequate to the Committee.⁴

This Committee has had a similar experience, which is the subject of comment in Chapter 4 of this Report.

1.8 When moving the referral of this matter to the Committee, the Chairman of Estimates Committee C, then Senator Cyril Primmer (Victoria), told the Senate that the ABC had declined to provide an answer to the question of what salary was paid to staff on 'The National' on the ground that the information was commercially confidential. Senator Primmer noted:

Estimates committees cannot receive information on a confidential basis. For this reason Estimates Committee C was unable to receive the material confidentially and to make a decision as to whether the claim for commercial confidentiality was justified. To overcome this problem the Committee decided

to move the motion for reference of the matter to the Senate Standing Committee on Finance and Government Operations to enable the matter to be determined.⁵

1.9 Senator Primmer also told the Senate that the ABC had assured him of its co-operation in such an enquiry, and that the ABC was willing to make the information available to a Committee which could accept evidence 'in camera'.

Conduct of the inquiry

1.10 The Committee decided that, before dealing with the specific matter arising from the Estimates Committee C report, it would inquire into certain general questions regarding contract employment. The Committee believed it should examine and determine whether contracts were justifiable, and whether claims of their confidentiality could be justified.

1.11 The ABC had made it clear that it would provide the information on Ms Doogue's salary in confidence. It appears that Estimates Committee C considered that this would satisfy the requirement of proper accountability. The Committee believes it does not need to know the amount in question to judge whether or not the figure should be made public. The amount in the Committee's view is irrelevant to the principle involved. The Committee does not know the amount and has not asked the ABC to provide it. There seems to be little point in the Committee's having such private information if it must keep it confidential.

1.12 The Committee wrote to relevant Ministers, the ABC and relevant unions to seek their views on the use of contract employment by statutory authorities and on the question of confidentiality of contracts. The replies are contained in the Evidence of the Committee's hearings.⁶ The Committee also sought and received from the ABC samples of employment contracts to assist the Committee in its inquiry.⁷

1.13 A public hearing was held on 25 November 1985 to explore the issues further with the ABC and union representatives. After more correspondence with the ABC, another public hearing was held on 21 March 1986. Further correspondence was necessary to clarify a number of matters raised at the second public hearing.

ENDNOTES

1. Australia, Senate, Journals of the Senate 1985-, no. 28, 16 May 1985, p. 260.
2. Australia, Senate, Replies to questions asked during Estimates Committee C examination of proposed Additional Expenditure for 1984-85, Canberra, May 1985, p. 22.
3. Australia, Senate, Debates 1984, vol. S.103, p. 2212.
4. Australia, Senate, Estimates Committee C: Report on Additional Expenditure for Year ending on 30 June 1985 (Senator C. Primmer, Chairman), Canberra, May 1985, p. 5.
5. Australia, Senate, Debates 1985, no. 8, p. 2040.
6. Evidence, pp. 3-58 and 88-93.
7. Evidence, pp. 59-87.

