

**Senate Standing Committee on Environment and Communications**

**Answers to Senate Estimates Questions on Notice**

**Additional Estimates Hearings February 2015**

**Communications Portfolio**

**Department of Communications**

**Question No: 5**

**Program 1.1**

**Hansard Ref: Page 58, 24 February 2015**

**Topic: Nihal Gupta**

**Senator Dastyari, Sam asked:**

**Senator DASTYARI:** Can you take on notice whether or not the minister was aware before 10 November 2014 of the following claims about Mr Gupta, as reported in *The Australian*:

He has not worked in the media industry, has no legal background and has limited corporate governance experience. Mr Gupta's rise is linked to the ascension of Barry O'Farrell as NSW premier. Mr O'Farrell's government appointed him to several prominent board and government positions, including the Judicial Commission of NSW and to the board of the SCG Trust. Mr Gupta also accompanied Mr O'Farrell on a number of trade missions and is a minor donor to the Liberal Party.

Can you take that on notice?

**Senator Fifield:** I do not know how I take a newspaper article on notice.

**Senator DASTYARI:** I am asking: regarding those claims that were recorded in *The Australian* on 10 November, was the minister aware or not of the allegations prior to them being in the paper? Take that on notice.

**Senator Fifield:** I do not know that it is appropriate that I would take on notice a newspaper article, or claims in a newspaper article, when I am not particularly sure what they relate to. Perhaps you could reframe your question, Senator Dastyari.

**Senator DASTYARI:** The question again. I thought I was making this easy for you by saying that it is something that the minister's office, who I am sure are listening to this now, can actually respond to in their own time—that is, there was a series of allegations related to Mr Gupta published in *The Australian* on 10 November 2014. The question is whether the minister was aware of the allegations that are raised in that article prior to that point in time, because people like me became aware of many of these allegations at that point in time. I am just wondering whether the minister had had these allegations raised with him before that time. You obviously cannot answer that question.

**Senator Fifield:** I am still not entirely clear what the allegations are.

**Senator DASTYARI:** The allegations are that Mr Gupta has never worked in the media industry, has no legal background and has limited corporate government experience.

**Senator Fifield:** I will take on notice for the minister that I am sure we can provide background as to Mr Gupta's experience.

**Answer:**

*The Special Broadcasting Service Corporation (Selection criteria for the appointment of non-executive Directors) Determination 2013* sets out the generally applicable selection criteria for the appointment of the Chairperson and other non-executive Directors of the SBS. The Nomination Panel is required to assess each applicant for a non-executive Director position against the

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selection criteria in the Determination. Candidates must, among others, demonstrate substantial experience or knowledge in at least one of the following five fields:

- (a) the media industry, including broadcasting, digital media and/or digital technologies;
- (b) business or financial management;
- (c) corporate governance, including managing large and/or complex operations in the private, public or not-for-profit sectors;
- (d) cultural industry and/or cultural policy, including its administration;
- (e) industrial relations, including an understanding of interests of employees.

A candidate with no (or limited) experience in the media industry or corporate governance could, therefore, still be considered suitable for appointment provided they met at least one of the other selection criteria. The selection criteria do not include substantial experience or knowledge in the legal field.

Candidates for non-executive Director positions on the SBS Board are subject to a rigorous merit-based assessment process as set down in Part 3A of the *Special Broadcasting Service Act 1991*. As advised by the Secretary of the Department of Communications at the Senate Estimates hearing on 19 March 2015, the specific information provided by the applicants, and the details of the independent Nomination Panel's deliberations, are confidential. This is to protect the privacy of the candidates and to ensure that there is full disclosure of relevant facts.

The Minister for Communications announced the appointment of Mr Nihal Gupta as SBS Chair on 17 October 2014. Prior to that announcement, the Minister received a written report from the Nomination Panel on the selection process it had conducted for three ABC and SBS Board vacancies, including that of the SBS Chair, with relevant information on the suitability of recommended candidates.