

CHAPTER 1

INTRODUCTION

The ABC does not exist for the benefit of any single individual, organisation or political party, but for all Australians, including me. The very fact of its independence should be its strength.¹

Terms of Reference

1.1 On 27 June 2001, the Senate referred the following matter to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 25 September 2001:

The development and implementation of options for methods of appointment to the board of the Australian Broadcasting Corporation (ABC) that would enhance public confidence in the independence and representativeness of the ABC as the national broadcaster.

Conduct of the inquiry

Advertising the inquiry

1.2 The Committee advertised the inquiry in *The Sydney Morning Herald* and *The Age* on 7 July and *The Weekend Australian* on 7-8 July 2001, calling for written submissions to be lodged by 9 August 2001. Details of the inquiry were also placed on the Committee's homepage on the Internet. In addition, letters were sent to organisations and individuals with an interest in the inquiry.

Evidence to the inquiry

1.3 The Committee received and published 720 written submissions, which are listed at Appendix 1.

1.4 A public hearing was held in Parliament House, Canberra on Monday 20 August, taking evidence from five individuals and two organisations. Witnesses are listed at Appendix 2. Copies of submissions or the transcripts of evidence are available on request from the secretariat or via the Committee's homepage at:

http://www.aph.gov.au/senate_environment

1.5 The Committee wishes to thank all of the many people who contributed to the inquiry by preparing written submissions and appearing at the public hearing. The

1 Brown, Submission 109.

Committee has endeavoured to reflect all of these views in the report, but with so many submissions direct attribution has not always been possible.

Background

1.6 The Australian Broadcasting Corporation (the ‘ABC’) was established by the *Australian Broadcasting Corporation Act (1983)*, and its functions set out in sections 6 and 6A of the Act. The issue of how appointments are made to the ABC Board is not new, and this inquiry draws on a considerable amount of earlier work including three major inquiries, and a Private Member’s bill.

1.7 First of these was the *Committee of Review of the Australian Broadcasting Commission*,² conducted by Alex Dix and others in 1981, which received 2,259 submissions from individuals and organisations, and resulted in a five volume report.³

1.8 Second was the inquiry in 1997, by Bob Mansfield titled *The Challenge of a Better ABC*. The Mansfield inquiry received 10,615 submissions and produced a two volume report.

1.9 While both inquiries had a broad focus, they included discussion and recommendations covering the issue of the ABC’s independence.

‘Our ABC’ Report

1.10 In March 1995, the Senate Select Committee on ABC Management and Operations, handed down its report *Our ABC*. Although the Committee considered a range of issues in relation to the ABC, chapter 7 of the report focused specifically on the ABC Board, including its composition, duties and methods of appointment. Among other things, the Committee found that:

The current ABC is required to make decisions with long-term implications in a time of overwhelmingly rapid transformation of broadcasting technology. The Board’s task may have been made more difficult by the fact that many of its members have little specialist knowledge of either the broadcasting industry or the new technologies. Without such expertise, it is inevitable that a part-time board will be essentially reactive to senior management suggestions and initiatives, and will have difficulty in setting a vision other than in the most general terms, for the future direction of the organisation. The Committee believes that the Board as a whole lacks the range of depth of skills and experience which would be necessary to provide adequate leadership for the ABC.⁴

2 The ABC changed from a Commission to a Corporation under the *Australian Broadcasting Corporation Act 1983*.

3 Committee of Review of the Australian Broadcasting Commission, *The ABC in review: national broadcasting in the 1980s*, 1981, Volume 2, p 3.

4 Report of the Senate Select Committee on ABC Management and Operations, *Our ABC*, March 1995, p 155.

1.11 Some of the recommendations of these committees will be discussed in detail in the following chapters.

ABC Amendment Bill 1999

1.12 On 25 March 1999, Senator Vicki Bourne of the Australian Democrats introduced the Australian Broadcasting Corporation Amendment Bill 1999. The bill proposes the creation of a Joint Parliamentary Committee on the ABC which would have the power, amongst other things, to accept or reject the Minister for Communications' recommendations for appointment to the ABC Board. The details of the bill are discussed in greater detail in Chapter 3.

The ABC Board

1.13 The Board of the ABC is created by section 7 of the Act, with the membership detailed in section 12. There are three types of Director:⁵

- the Managing Director, who is appointed by the Board for a period of 5 years⁶
- the staff-elected Director;⁷ appointed for a period of 2 years,⁸ and
- not fewer than 5 nor more than 7 other Directors, appointed for a period not exceeding 5 years by the Governor-General on the advice of the Minister for Communications.⁹

1.14 The duties of the Board are set out in section 8:

(1) It is the duty of the Board:

- (a) to ensure that the functions of the Corporation are performed efficiently and with the maximum benefit to the people of Australia;
- (b) to maintain the independence and integrity of the Corporation;
- (c) to ensure that the gathering and presentation by the Corporation of news and information is accurate and impartial according to the recognised standards of objective journalism; and

5 ABC Act, section 12

6 Section 12(1). The office of Managing Director is established under section 9, and the duties are set out in section 10.

7 Section 13A. The Staff appointed director must be an employed member of the ABC, whilst the rules governing the elections are provided in Regulations (section 13A(1))

8 Section 13A(5)

9 Section 12(1) & (2). Basis for 'on the advice of the minister'?

- (d) to ensure that the Corporation does not contravene, or fail to comply with:
- (i) any of the provisions of this Act or any other Act that are applicable to the Corporation; or
 - (ii) any directions given to, or requirements made in relation to, the Corporation under any of those provisions; and
- (e) to develop codes of practice relating to:
- (i) programming matters; and
 - (ii) if the Corporation has the function of providing a datacasting service under section 6A – that service;

and to notify those codes to the Australian Broadcasting Authority.

- (2) If the Minister at any time furnishes to the Board a statement of the policy of the Commonwealth Government on any matter relating to broadcasting, or any matter of administration, that is relevant to the performance of the functions of the Corporation and requests the Board to consider that policy in the performance of its functions, the Board shall ensure that consideration is given to that policy.
- (3) Nothing in subsection (1) or (2) is to be taken to impose on the Board a duty that is enforceable by proceedings in a court.

1.15 The Board has three further functions. First, it is responsible for appointing the Managing Director.¹⁰ Second, section 31D requires the Board to notify the Minister where the Board considers matters have arisen that may prevent or effect the achievement of the ABC's objectives, strategies and policies, or revenue. Third, the Board may make rules necessary to the administration of the Act.¹¹

1.16 The current board comprises:¹²

- Mr Donald McDonald, AO, Chairman of the Board, who was reappointed for a second five year term on 6 July 2001;
- Mr Jonathan Shier, Managing Director;
- Mr Ian Henschke, staff-elected Director;
- Mr Michael Kroger;
- Professor Judith Sloan;

10 Section 13(1)

11 Section 83

12 ABC Website, (www.abc.net.au) as at 6 July 2001.

- Mr Ross McLean;
- Mr John Gallagher QC;
- Mrs Leith Bouilly; and
- Mr Maurice Newman.

Outline of the report

1.17 The report is structured around answering the two central questions in the Senate Committee's terms of reference: **who** should be selected as a member of the ABC Board, and **how** should they be appointed. Chapter 2 answers the first question by examining both the issue of politicisation of the Board, and that of the skills and representative qualities of appointees. Chapter 3 then answers the second question by examining the process of appointment, broken down into the key stages of defining the selection criteria; gaining nominations; assessing and shortlisting candidates; and making the final decision.

