

## **Friends of the ABC**

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The Secretary

Senate Environment, Communications, Information Technology and Arts References Committee

Parliament House

CANBERRA ACT 2600

Via email [erca.sen@aph.gov.au](mailto:erca.sen@aph.gov.au)

Facsimile 02 6277 5818

Dear Ms LeGuen,

Friends of the ABC Submission

Further to the invitation to make a submission to above committee in relation to the following terms of reference:

“(a) any existing commercial arrangements for the production, supply or distribution of Australian Broadcasting Corporation (ABC) material online, including, but not limited to, mechanisms for ensuring ABC editorial control and independence;

(b) any proposed commercial arrangements for the production, supply or distribution of ABC material online, including, but not limited to, mechanisms for ensuring ABC editorial control and independence”

Friends of the ABC (FABC) note that submissions relating to a third term of reference will be requested at a later date.

FABC appreciates the opportunity to make a submission, and requests that in accordance with previous practice, FABC be granted permission to publish this submission online.

This submission was prepared by the President of Friends of the ABC, South Australia, Darce Cassidy, and I submit it to the Committee of behalf of Friends of the ABC nationally.

Yours faithfully,

Alison Clifford

National Spokesperson

Friends of the ABC

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### 1. Executive Summary

\* Australia is fortunate in having a broadcasting system consisting of three distinctly different sectors. Commercial broadcasters are funded primarily through advertising, community broadcasters are supported primarily by volunteers and by listener/viewer subscriptions (although limited advertising is permitted), while the ABC is taxpayer funded. The ABC Act sets up various mechanisms to prevent the government dictating to the ABC, formally or informally.

Each sector has its own strengths, and it is important for media diversity, and for Australian democracy, that these different sectors remain distinct.

\* Australia is not a third world country. It can afford a publicly funded national broadcaster. Surveys have shown that the great majority of Australians are happy to have a taxpayer funded broadcaster.

\* The ABC is a very efficient broadcaster. It is far more cost effective than the commercial broadcasting sector in Australia, and far more efficient than comparable taxpayer funded broadcasters like the British Broadcasting Corporation and the Canadian Broadcasting Corporation.

\* Substantial reductions in the ABC budget, by both Labor and Coalition governments have left the ABC's editorial independence vulnerable both to government pressure and to the temptation to compromise editorial independence with advertising.

\* The ABC's newest network, ABC Online, has the potential to be just as significant a vehicle for information, education and entertainment as its radio and television networks. It deserves the same protection from government and advertising pressures that the other networks have enjoyed.

\* The ABC Act requires the ABC Board to "maintain the independence and integrity of the Corporation". The proposed sale of ABC content to Telstra, and similar arrangements with other commercial entities, are an inverted form of advertising that threaten ABC programming independence just as much as traditional advertising does.

\* In defending the proposed arrangement with Telstra, and similar arrangements with other companies, ABC management has made some misleading statements, and has underestimated the influence of these arrangements on ABC programming.

\* As Senator Alston has pointed out budget pressures have been a significant factor in tempting the ABC into inappropriate commercial arrangements. Both proper funding and public scrutiny are required to protect the independence of the ABC.

## **2. Introduction**

In presenting the report of the Senate Select Committee on ABC Management and Operations on March 30, 1995, Senator Richard Alston said:

*The ABC has had a special place in the hearts of the community now for more than 60 years. It is a long and honourable history and it is vitally important that the ABC remains as an independent quality alternative to the commercial radio and television networks in the decade ahead. Australia certainly needs a fearlessly fair, impartial and independent ABC.*

*Of course, the forces of darkness are constantly at hand, whether in the form of political interference, board stacking, or commercial interest wanting a free, or indeed a paid, run. Therefore, the ABC must be constantly on its guard to protect itself against threats to its independence and impartiality. Where necessary, the parliament, which currently provides \$515 million on behalf of the taxpayers each year, must be equally vigilant to ensure that the ABC does not compromise itself and that it maintains its independence and integrity*

Senate Hansard, 30 March 1995

FABC agrees completely with Senator Alston's words. Just as a number of commercial arrangements in 1995 were found to have compromised the independence of the ABC, so now the deals with a number of commercial Internet companies, and the proposed agreement with Telstra, threaten the ABC's independence and integrity.

In 1995 it was budget pressure which led the ABC astray. As Senator Alston said in presenting the 1995 report:

*I think it is fair to say that the common thread that runs through the report is the impact of commercialisation and commercial activities. In many respects it can be said that that relates to the budget pressures that have been on the ABC and, of course, on a number of other publicly funded institutions. It is a function of pushing the barriers to engage in a number of new commercial activities, which often have taken the ABC into uncharted waters, and the compromises and pressures that are always there on a public broadcaster.*

Senate Hansard, 30 March 1995

In the year 2000 the ABC is under even greater budget pressure. The temptations to compromise its integrity through commercial deals are even greater. As Senator Alston has so clearly explained, if the ABC is to maintain its independence there will need to be more than public and parliamentary scrutiny, important as that is. The ABC should also be free of undue budget pressure, political interference, board stacking and commercial interest.

### **3 About Friends of the ABC**

Friends of the ABC is an independent community organisation comprised of organisations in each Australian state and territory which in turn have local groups that operate in regional and some metropolitan areas. Its objectives are:

To support the maintenance and advancement of the Australian Broadcasting Corporation:

- \* To fulfil to a high standard its role as an independent and comprehensive national broadcaster;
- \* To be adequately funded by government for that role;
- \* To remain independent of government influence, commercial sponsorship and advertising; and
- \* To promote Australian culture in all its diversity.

FABC engages in a range of activities which include informing the public, communicating with Members of Parliament and media, presenting submissions to government reviews and inquiries; addressing public meetings, conducting rallies and publishing a newsletter.

This submission is made by Alison Clifford, National Spokesperson for Friends of the ABC, who is authorised to make public statements on behalf of the Friends of the ABC.

### **4. The need to maintain three distinct broadcasting sectors.**

Australia has one of the best, and most diverse, broadcasting systems in the world. Each sector has its own strengths and weaknesses, and there is competition both within the three sectors and between the three sectors. These three sectors are specified in the ABC Act.

Commercial broadcasters are supported primarily by advertising. While this does leave this sector open to influence from advertisers, commercial broadcasters are less susceptible to government influence.

Community broadcasters are supported primarily by volunteers and by listener/viewer subscription, although limited advertising is allowed. Community stations broadcast in a wide variety of community languages, and represent diverse interest groups, many of them minorities. They tend to be closer to their listeners/viewers than either commercial broadcasters or the ABC. They also tend to be much more poorly funded than either commercial or national broadcasters, and to attract much smaller audiences.

The ABC is supported primarily by tax revenue, and the ABC Act prohibits the ABC from broadcasting advertisements. While dependence on government funding has the potential to make the ABC susceptible to government pressure, the ABC Act requires that the ABC Board maintain the independence of the ABC, and places conditions on the power of the Minister to intervene in ABC programming.

While each of the sectors has its own weaknesses, the system as a whole promotes diversity. This diversity would be threatened if the ABC became subject to commercial pressures in a way that commercial broadcasters (and to a lesser extent community broadcasters) are.

It will no doubt be argued that receiving \$13 million a year out of a total budget of \$500 million will not make the ABC a commercial broadcaster. It will however turn the ABC into a hybrid, and reduce its distinctiveness from the commercial sector. Most significantly, it will introduce to the ABC's news and current affairs production arm, significant commercial pressures which can only compromise editorial independence.

Max Walsh (The Bulletin 30/11/99) reports that a McKinsey study has shown that the more commercial funding a public broadcaster accepts it becomes more populist and reduces its public service role. Walsh writes that:

*there is an inverse relationship between a broadcaster's dependence on advertising revenue and the share of programming given over to factual, cultural and children's programming, the traditional fare of public broadcasters..... The McKinsey analysis suggests that the extent of populist programming on advertising-dependent broadcasters has been increasing with the passage of time. Consequently there is evidence to support the proposition that advertising would change the ABC into a more populist broadcaster"*

Experience elsewhere, particularly in New Zealand, has shown that once the process of commercialisation has begun, it is difficult to stop. Gradually, so that audiences don't really notice it until it is too late, the proportion of commercial funding increases until the public broadcasting values are a distant memory.

At a time when media ownership continues to become more and more concentrated, when Microsoft and Murdoch are set to dominate not just Australia but the English speaking world, a strong public broadcasting sector becomes even more vital.

### **5. Australia can afford public broadcasting.**

Australia is not a third world country. The economy is in good shape. Professor Glenn Withers, in a summary of a study commissioned by the ABC titled National Public Broadcasting Benefit reported that in an:

*....independent 1994 study of public budget outlays, the Economic Planning Advisory Commission established that the willingness to pay through taxes for arts and public broadcasting support exceeded the liability for these activities by seven per cent. Unlike areas such as family assistance, defence, unemployment, general industry assistance and the like, where taxpayers wanted to contribute less, the respondents were prepared to pay more for the arts and public broadcasting.*

(ABCzINE, No 1/ Summer 2000)

There is no evidence that Australians would rather pay for the ABC through advertising than the tax system. On the contrary, the Economic Planning Advisory Commission's study demonstrates that the ABC is one of few publicly funded institutions that citizens would be prepared to pay more for.

### **6. The ABC is a very efficient broadcaster.**

By any measure the ABC is an efficient broadcaster. Professor Glenn Withers shows the ABC to be more cost effective than commercial broadcasters on a variety of measures. The ABC is significantly more cost effective when the measure is dollars per hour broadcast.

The ABC is required by its Charter to be a comprehensive broadcaster and to provide "a balance between broadcasting programs of wide appeal and specialised broadcasting programs". Commercial stations are under no such obligation. As a result the ABC could be expected to have lower ratings, and to perform poorly when the measure was changed to the dollar cost per rating point. Yet even on this measure ABC TV is more cost effective than both Channel 9 and Channel 7.

By comparison to other public broadcasters the ABC is also very efficient. One would expect

the economies of scale available to the BBC, operating in a far more densely populated country, to give it a substantial advantage. Yet measured by expenditure per head of population, Professor Withers demonstrates that the ABC spends far less than the British Broadcasting Corporation and significantly less than the Canadian Broadcasting Corporation. (ABCzINE, No 1/ Summer 2000)

### **7. Underfunding has left the ABC vulnerable to both political and commercial pressure.**

Through most of the 1980s and 1990s, under both Labor and Coalition governments, ABC budgets have fallen in real terms. A combination of the application of the governments efficiency dividend, the inappropriateness of the non-farm GDP deflator as an index for ABC funding, and the substantial reductions announced by the Coalition in July 1996, has left the ABC in serious difficulty, and caused large program and staff reductions.

In this climate the ABC is vulnerable to suggestions that it will receive a budget increase if it implements program changes suggested by the Minister.

At the same time the ABC is pressured to consider commercial funding. Already pushed into selling off property, an ABC board member suggests the sale of ABC Online. The ABC's new Managing Director is prepared to consider advertising on ABC Online, while rejecting it for radio and television.

The implied assumption that advertising on ABC Online is a different proposition to advertising on TV and radio is specious. The core principle of independence must apply whatever the medium. ABC Online is integrated with rest of the organisation, drawing information from TV and radio and feeding content back. Introducing advertising, or any other kind of commercial pressure, to one platform, is effectively to introduce it throughout.

Under a previous Managing Director, the ABC made a number of questionable deals with commercial interests that can fairly be described as 'backdoor sponsorship'. These deals were criticised in the report of the Senate Select Committee on ABC Management and Operations, chaired by Senator Alston.

FABC sees the current plans for the sale of ABC content to Telstra and other parties in a similar light. While they will not place advertisements on ABC radio or television, and may or may not surround ABC Online content with advertisements, they will oblige the ABC to listen to the program suggestions of Australia's biggest company. Whether this provision is written into the ABC's contract with Telstra or not, the economic reality is that the ABC will need to pay attention to Telstra's wishes.

### **8. The proposed arrangement between the ABC and Telstra is a form of advertising.**

Sponsors, advertisers and patrons rarely have to make their requirements for program content explicit - the recipients of their largesse soon develop a sense for what is acceptable and what is not. It is really not necessary for the purchaser to have regular meetings "to discuss the mix and variety" of content. It is no longer necessary to specify, as the ABC/Telstra document did, that the ABC must consider "reasonable suggestions" of one of Australia's most powerful and controversial companies. If the ABC wants the Telstra dollars to keep flowing, it knows it must do more than just listen to "reasonable suggestions".

Erik Barnouw, author of the definitive three volume history of broadcasting in the United States, underlined this significant point in the introduction to his book *The Sponsor: Notes on a Modern Potentate*:

*According to some network executives, he (the sponsor) no longer makes decisions that deal with programming. Spokesmen for sponsoring organisations tend toward similar statements, but with a difference. They say they don't want to control programming, but insist on the right to decide with what programs their names or commercials will be associated. They leave it to broadcasting companies to provide suitable settings for this participation. The broadcasters do so.*

*Perhaps all they are saying is that sponsorship has become so essential, so crucial to the whole scheme of things, that interference of the old sort is no longer necessary. A vast industry has grown up around the needs and wishes of sponsors. Its program formulas, business practices, ratings, demographic surveys have all evolved in ways to satisfy sponsor requirements. He has reached the ultimate status: most decision making swirls at levels below him, requiring only his occasional benediction at this or that selected point. He is a potentate of our time.*

The Telstra/ABC deal is not a typical sponsorship or advertising agreement, but it does retain the essential features. In a typical commercial television situation the sponsor buys the right to place his advertisements on the broadcasters medium and next to the broadcasters content, in the belief that people drawn to the content will also see the advertisements. In the Telstra/ABC deal the sponsor buys the rights to reproduce the broadcasters content on his own medium, in the belief that people drawn to the content will see advertisements on the Telstra site.

While this is still essentially a sponsorship deal, with all the implications for ABC independence that sponsorship means, it doesn't look like one at first glance. There won't be any Telstra advertisements on ABC radio or television. While there has been some advertising surrounding ABC content on the Internet, this is not central to the Telstra deal.

Despite the novel features of this sponsorship arrangement, the fundamentals remain. Telstra will pay the ABC \$13.5 million a year, plus a percentage of the advertising revenue that it generates from its website, for the right to place advertisements next to ABC content. If the ABC wants to keep this income stream it will need to pay close attention to the suggestions of Australia's largest company.

### **9. Some statements made by proponents of existing and proposed commercial arrangements are misleading.**

Supporters of the proposed ABC/Telstra deal have claimed that websites are not allowed to filter or cherry-pick ABC news, that the sites may not place advertising around ABC content, that the proposed deal between the ABC and Telstra is non-exclusive, and that Telstra will have no input into the ABC's editorial process.

All of these claims are misleading.

Speaking on Radio National's Media Report, ABC Managing Director Brian Johns said:  
*So I might also say, and let's cut straight to the chase, we are in complete control of that material. It is created under our existing editorial guidelines of course, because our online services have to meet our editorial guidelines, which as you know are very strict. When we on-sell our online material, whether it be to Telstra if this arrangement comes about, or when we're selling it*

*to Yahoo or other people that we are selling it to, then we are in complete control of that material. If it's in the case of News, they cannot affect the news bulletins, they can't pull an item from the news bulletin, they can't cherry-pick from the news bulletin, we are in complete control of it. We decide what we pass on, and how we pass it on, and to whom.*  
(<http://www.abc.net.au/rn/talks/8.30/mediarpt/stories/s100979.htm>)

Yet Geoff Elliott reported that Cable and Wireless Optus, one of a number of companies licensed to reproduce ABC News content had indeed been cherry-picking:  
*ABC News appears to be filtered before it lands on a Cable and Wireless Optus Web site.*

*The ABC News logo appears at [www.optusnet.com.au](http://www.optusnet.com.au) for Optusnet subscribers, but not all news provided by the ABC makes it on the site.....*

*The Australian monitored the C&W Optus Web site for 68 hours. While other Web sites including [Telstra.com](http://Telstra.com) and [Ninemsn](http://Ninemsn) were carrying broad and in depth coverage of local and international news, including National Textiles, the C&W Optus Web site's political coverage was rudimentary.*

*On Saturday morning, when media outlets, including the ABC, were carrying items about the National Textiles controversy afflicting John Howard, lead political story on the C&W Optus web site was an ABC item headed "PM thanks Parer for service to govt."*  
(The Australian 14 February 2000)

The Australian also reported Harry Bardwell, head of the business development unit at ABC Enterprises as saying that ABC management was deeply concerned about the nature of the content on the C&W Optus Web site. He was quoted as saying "if there is filtering going on it will be stopped immediately"

Mr. Johns was also contradicted by ABC Board Member Kirsten Garrett, who said:  
*Well if I can take you to what happened in Senate Estimates a few days ago, Mr Rolland from Telstra said as much there, and I'm quoting now from the transcripts of the Senate Estimates. He said that 'the ABC and Telstra will discuss the performance of content, and what we are hearing from our customers about what they would like to see.' And he goes on later and says, 'If content is not performing, in other words if people don't want to look at it, then Telstra can go back to the ABC and get content that is more attractive.' Now you can't get much more commercial pressure than that. Telstra can cherry-pick.*  
(<http://www.abc.net.au/rn/talks/8.30/mediarpt/stories/s100979.htm>)

In the same program Mr. Johns said:  
*The principles are clear though, and those principles are that we supply online material, our online material, to Telstra on a completely non-exclusive basis.*

A leaked copy of the terms of the proposed ABC/Telstra agreement, obtained by Stewart Fist and posted at <http://www.electric-words.com/abc/index.html> gives Telstra exclusive rights to co-produced material, and also the use of the ABC sports material for radio transmission to cellphone handsets via Wireless Applications Protocol.

Telstra has confirmed that the agreement would give them certain exclusive rights:  
Yet before the Senate committee, more concerning elements of the deal were revealed. Telstra's online services director, John Rolland, said the arrangement would also give the carrier five-year

exclusive rights to wireless internet transmission for sports and finance news regarded as the key drivers in future so-called wireless applications protocol services.  
(Australian Financial Review, 14 Feb 2000)

Mr Johns wrote:

*There will be no advertisements around ABC news anywhere on our own site or any other site. There cannot be. There will not be. The spectre of advertising is a false and misleading issue in this debate.*

(Sydney Morning Herald, 11 February 2000)

The terms of the agreement obtained by Stewart Fist provide that “interstitial advertising “ may accompany ABC content. (<http://www.electric-words.com/abc/index.html>)

The Age reported

*The ABC’s ability to protect its Internet content against commercial interests was thrown into doubt yesterday after it was revealed that a shares website has surrounded news generated by the national broadcaster with advertising.*

*Questioned about the Equitycafe site, ABC management yesterday was forced to admit that it may have to establish clearer guidelines over the display of its material online.*

(The Age 17 February, 2000)

*The ABC has admitted that there is advertising around index sites.*

*But Ms Julianne Schultz, the ABC’s corporate strategy manager, said last night the corporation allowed advertising around indexes. She admitted the ABC may have to review how much information is allowed on an “index” site.*

(The Age, 17 February 2000)

According to the logic of this argument the table of contents and the index in a book do not form part of the book.

Speaking on the Radio National’s Media Report Mr Johns said:

*So, no, it does not give Telstra any input or any control over the editorial process that is involved as a result of this agreement should it be ratified.*

(<http://www.abc.net.au/rn/talks/8.30/mediarpt/stories/s100979.htm>)

The terms of the proposed agreement between Telstra and the ABC state that:

ABC must meet with Telstra regularly to discuss the mix and variety of ABC Content. ABC must consider Telstra’s reasonable suggestions in relation to the mix and variety of content. Telstra acknowledges the ABC’s editorial independence in relation to ABC Content.

It is very clear from this that if the proposed agreement were to proceed then Telstra would have regular and formal input into the ABC’s editorial process.

While Telstra ‘acknowledges’ the ABC’s editorial independence, ‘editorial independence’ does not appear to be clearly defined. Given that Equitycafe has placed advertisements around ABC content, and Optus has “cherry-picked” or filtered ABC News, we wonder if Telstra’s acknowledgement is anything more than a motherhood statement.

## **10. Conclusion.**

It may well be that the issues surrounding advertising around ABC index sites, exclusivity and cherrypicking will be eventually resolved. Indeed there are indications from ABC management that some of the clauses in the proposed terms have already been renegotiated. We suspect that this may have happened after the proposed terms were leaked, and as a result of public outcry.

This raises a significant point about public bodies using a claim of 'commercial in confidence' to avoid public scrutiny. Had the terms remained confidential changes may never have been made.

While the issues of advertising around index sites, exclusivity and cherrypicking are significant issues, they are not the fundamental issue. The fundamental issue is that the ABC was established to be free of commercial pressure, to be part of a distinct non commercial broadcasting sector, and separate from both the commercial and community broadcasting sectors.

It will no doubt be argued that there is no difference between the ABC onselling its news output than selling old episodes of Mother and Son. In our view there are dangers in both, but the dangers in the proposed Telstra deal are much greater.

There is a concern that the ABC is so poorly funded that it can not afford to produce drama unless it can onsell them overseas. It has been reported that production of the well regarded series Wildside was halted for this reason. If this is the case will we be condemned to armies of quaint locals and endless variations on the Ballykissangel/Sea Change/Something in the Air formula?

This issue becomes much more important when it relates to news and current affairs, and when content is sold to other outlets not years later but simultaneously with its publication by the ABC.

Australia's largest company does not need a clause that requires the ABC to hold regular meetings and listen to reasonable suggestions about program content. When the time comes to renegotiate the contract, the ABC will be able to place a very precise price on failure to keep their major commercial sponsor happy.

As Senator Alston has pointed out inadequate funding has tempted the ABC to pursue a number of dubious commercial deals. Some of the backdoor sponsorship arrangements entered into in the early 1990s were rightly condemned by the Senate Select Committee on ABC Management and Operations. Both proper funding and close and continued scrutiny of the ABC's commercial deals are required to maintain the ABC's independence.