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August 11, 2001

Ms Andrea Griffiths
Secretary,
Senate Environment, Communications, Information Technology and the Arts References
Committee
Parliament House
CANBERRA ACT 2600

Dear Ms Griffiths,

Friends of the ABC Submission

Thank you for allowing an extension of time for this submission. On behalf of Friends of the ABC I wish to make the following submission to the above committee in relation to:

“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 the representativeness of the ABC as the national broadcaster”

I will be available to appear before the committee if required. Friends of the ABC also seeks permission to publish this submission.

Yours sincerely,

Darce Cassidy
National Spokesperson
Friends of the ABC

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1. Executive Summary

- **Friends of the ABC**
Friends of the ABC is an independent and unaligned community organisation operating in all states and territories.
- **Nearly everyone agrees that the current appointment process has been abused.**
The Coalition, the A.L.P. and the Australian Democrats have all strongly criticised the abuse of the appointment process. So have many independent commentators, and two former Chairmen of the ABC.
- **Politicisation of the ABC Board is damaging because it threatens ABC independence, because it is destabilising, and because it erodes public trust in the ABC.**
While nearly everyone gives lip service to the notion of ABC independence, both the current government and the previous government have loaded the ABC Board with their sympathisers.

As a result the ABC Board no longer enjoys public confidence.

Over the past 18 years the premature departure of every chief executive, and scores of other top managers, sacked in their scores as every new broom sweeps clean through, has destabilised the ABC.

- **Politicisation of boards damages government.**
As a similar process takes place with the boards of other public institutions, so public trust in our institutions generally declines. Board stacking contributes to public distrust of political parties, and the consequent erosion of support for both Labor and the Coalition.
- **Politicisation of the ABC board threatens funding.**
Bias in political appointments undermines the well-being of the ABC because it leads to government funding being less than it should be for the national broadcaster. Board appointees who act in the interest of a government which appointed them may be less assertive in seeking government funds. Governments who take office with a board in place which the government perceives to be comprised principally of supporters of another party are less likely to grant the level of funds required for the operation of the ABC.
- **Staff elected director**
There should always be provision for a staff-elected member of the Board.
- **A more open system**

While one of the ABC's functions is to throw light on the processes of government, it is not appropriate that the process of choosing the ABC Board happens in private, if not in secret.

Therefore an important aspect of any new process should be openness to public scrutiny and public debate.

- **Conclusion and recommendations**

There is a widespread perception that the ABC Board and Managing Director are political appointees.

While some questionable actions by the Chairman and the Managing Director may have contributed to this perception, the principal cause has been the political connections of many members of the current board, and also of members of previous ABC Boards.

The process should not happen behind closed doors. There must be a new, open and transparent method of appointment, cleansed by the disinfectant of sunlight.

Friends of the ABC recommend:

1. That future appointments to the ABC Board be made either :

- By the parliament from a shortlist selected by a joint parliamentary committee following the development of selection criteria and the advertising of vacancies.
- Or by the parliament from a shortlist selected by an Independent Appointments Commission following the development of selection criteria, and the public advertisement of vacancies.
- Or by an Independent Appointments Commission following the development of selection criteria, and the advertising of vacancies.
- Or by the method described in Recommendation 22 of the 1995 Senate Inquiry into ABC Management and Operations.
- Or by a two thirds majority of all members of the federal parliament.

2. That one of the above appointment processes be implemented urgently, within six months. As soon as this mechanism is in place, all of the members of the board, except for the Managing Director and the Staff Elected Director, be replaced by directors chosen by the new process.

2. Friends of the ABC

Friends of the ABC is an independent community organisation which represents the public's interest in its national broadcaster. It is 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.

Friends of the ABC engage 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 has been developed in consultation with Friends of the ABC organisations in all states and territories and is made by Darce Cassidy, National Spokesperson for Friends of the ABC, who is authorised to make public statements on behalf of the Friends of the ABC

3. Nearly all agree that the current appointment process has been abused.

All of the major political parties have been critical of what they see as the abuse of the process by which the ABC Board is appointed

On behalf of the Coalition Mr. Howard and Senator Alston have made vigorous criticism of Labor appointments to the ABC Board. (See Appendix 3)

On behalf of the ALP Senator Evans, Senator Schacht and Mr Stephen Smith have attacked Coalition appointments with equal vigour. (See Appendix 4)

The Democrats and the Greens have also been critical of the process. (Appendix 5)

A number of independent commentators, including Professor Mark Armstrong, a former Chair of the ABC, have called for the development of a new method of appointing the board. Mr David Hill, appointed Chairman of the ABC Board by a Labor government, and later appointed Managing Director by the ABC Board, has also attacked the abuse of the appointment process. (Appendix 2)

The Friends of the ABC agree with Mr. Howard, Senator Alston and other Coalition members when they criticise the ALP for stacking the ABC Board with their supporters.

Likewise, we agree with Senator Evans and Mr Smith when they complain about the appointments made by the Coalition.

It appears that just about everyone disagrees with the current system, except for the party in power at the time.

4. Politicisation of the ABC Board is damaging because it threatens ABC independence, because it is destabilising, and because it erodes public trust in the ABC.

In addition to the obvious and important threat to the national broadcaster's editorial independence, politicisation of the ABC board has other serious consequences.

The escalation of politicisation since the early 1990s has damaged public confidence.. Even if Boards do act independently and in the public interest, politicisation of Board appointments erodes public confidence. As a result of appointments by the current government, and of appointments by the previous Labor government, the ABC Board lacks credibility. The present system is in danger of developing public cynicism and mistrust of all ABC boards, regardless of their integrity and or the independence of any particular board and its members.

As the Canberra Times pointed out, the experience of the last ten years or so has meant that:" Suspicions of board-stacking and the politicisation of statutory and quasi-government authorities will persist until a more accountable method of appointing office-holders is adopted."

Politicisation of the ABC Board politicises the ABC management and staff. ABC Managing Director Geoffrey Whitehead dismissed nearly all the key ABC managers of the Duckmanton era. His successor, David Hill, dismissed nearly all the key managers appointed by Mr Whitehead. Brian Johns dismissed most of the key executives appointed by Mr. Hill. Jonathan Shier has dismissed nearly all the key managers appointed by Mr Johns.

Since 1983 not one chief executive of the ABC left fully voluntarily. Keith Jennings, who succeeded Talbot Duckmanton, left prematurely. So did Geoffrey Whitehead, partly due to pressure from then ABC Chairman, David Hill. David Hill was also forced to leave prematurely by the ABC Board. He blamed John Bannon and Rod Cameron in particular for his demise. Brian Johns completed a five year term, and let it be know that he would be interested in another term. He is reported to have been told not to bother applying.

This situation has not been conducive to the good management of the ABC.

5. Politicisation of the ABC board threatens funding.

Bias in political appointments undermines the well-being of the ABC because it leads to government funding being less that it should be for the national broadcaster. Board

appointees who act in the interest of a government which appointed them may be less assertive in seeking government funds. Governments who take office with a board in place which the government perceives to be comprised principally of supporters of another party are less likely to grant the level of funds required for the operation of the ABC.

6. Politicisation of boards damages government.

As a similar process takes place with the boards of other public institutions, so public trust in our institutions generally declines. Not only does respect for politicians decline further, so too does respect for people perceived to be political appointees, and respect for the institutions which they direct. Left unchecked, this practice could ultimately threaten the public's belief in the legitimacy of government.

A recent article in the Australian comments:

A local Sydney newspaper recently carried an article exposing the degree to which Australia's arts and science-educational organisations have been politicised over the years. There is a full-scale attack taking place on many of our cultural institutions, not just the ABC.....

Of course the boards of all of these elite government-funded arts and cultural organisations have always suffered the burden of absorbing the weight of corporate philistines and the bunyip aristocracy in the interests of political expediency. Most of these boards now have a decidedly political slant, and most did even under Labor. In fact, when it comes to buying campaign-funding friends through prestigious appointments and the judicious awarding of titles, medals, chairmanships and the like, Labor can learn little from the Liberals. The Australian, 24 April 2001

7. Staff elected director

There should always be provision for a staff-elected member of the Board. Having a position of staff elected member allows valuable input from the people who directly produce the programs and run the ABC. Importantly, it is one small counter to the domination of the board by the government of the day.

8. A More Open System

Before canvassing a number of methods by which the directors could be chosen, we would like to outline some general principles which should apply to the process.

At present the process takes place behind closed doors.

When one function of a public broadcaster is to lay open the processes of government, it is not appropriate that the process for appointing its governing body is carried out behind the screen of Cabinet confidentiality.

A better system must ensure the appointment of people with a commitment to public broadcasting and experience relevant to governing a complex broadcasting organisation. There should be clear selection criteria.

To obtain 'good' people, and to provide transparency for at least part of the process, there would be an advantage in a public nomination process. Before any appointment is made, the public should know who has been recommended, and there should be an opportunity for public discussion.

In all of the options that we have seriously considered, there is provision for a much more formal and rigorous appointment process, including the development of appropriate selection criteria, the advertising of vacancies, and the publication of the names and relevant qualifications of the shortlisted candidates. This will provide an opportunity for public discussion before the final selection. A process that has become suspect in the public mind would be cleansed by the disinfectant of sunlight.

We will now canvass a number of alternative methods by which the directors might be chosen.

An independent appointments commission.

Professor Armstrong has proposed:

Another way to get the best ABC directors would be to take the power away from the politicians altogether, giving it to an independent appointments commission. Cabinet would appoint the commissioners for long terms, so that there would be a reasonable balance despite the comings and goings of governments. The commissioners would be responsible for doing what cabinets rarely do: looking at the composition of the whole board to identify needed skills, consulting community leaders, and even interviewing possible appointees. (Appendix 2)

If such a system is to work, it would be necessary to avoid a 'winner takes all' result. A weakness of this model is that there is the potential to stack the appointments commission, just as it has been possible to stack the board itself.

This could be avoided by the members being selected by a joint parliamentary committee along the lines suggested by the Senate Inquiry into ABC Management and Operations in 1995.

The staggering of appointments could lessen the likelihood that the entire Appointments Commission would be appointed under one government.

Shortlisting by an Appointments Commission, final selection by government.

A variation of the Appointments Commission model is to provide for the shortlisting of candidates by an Appointments Commission, with the final decision taken by the government.

Shortlisting by a joint parliamentary committee, final selection by government.

A further variation could provide for a joint parliamentary committee, rather than an Appointments Commission, to advertise the vacancies and prepare the shortlist for presentation to the government.

Scrutiny of recommendations by parliament

The report of the Senate Select Committee on ABC Management and Operations, tabled on 30 March 1995, made a number of recommendations including

:Recommendation 22

Before the appointment of a person to the Board, the proposed nominee should be required to appear before a joint parliamentary committee to enable the Parliament to scrutinise the person's credentials. The committee would not have a power of veto, but would be able to comment on the suitability of a nominee prior to appointment.

This recommendation was supported by a majority of the committee including the Coalition and Democrat Senators. Labor Senators issued a minority report.

It has been said that there could be a "Star Chamber" aspect to this process, which might deter suitable people if they thought that every aspect of their private life might be the subject of minute scrutiny. For such a process to be effective it would be necessary to restrict questioning to professional and public issues, and not to private life.

Such a system would leave the government of the day with the right to make appointments, but parliamentary scrutiny would act as a brake on the temptation to appoint political allies to the ABC board.

A disadvantage of such a system is that it does not become public until late in the process, and does not provide the same opportunity to consider alternatives as the other methods.

The development of selection criteria, and the advertisement of vacancies, should also apply to this model.

An alternative method of appointment by the parliament would be to require a two thirds majority of all members of federal parliament. The appointment of anyone perceived to be partisan would be difficult under these circumstances.

8. Conclusions and recommendations.

There is a widespread perception that the ABC Board and Managing Director are political appointees. To a large extent this perception has been created by both the Coalition and the ALP through the appointments they have made in recent years..

While some actions by the current Chairman and Managing Director have added to the perception, our view is that the primary cause has been the nature of the appointments to the Board.

Public confidence can only be restored by the appointment of a new board, by a new, transparent and non-partisan process.

Friends of the ABC recommend:

1. That future appointments to the ABC Board be made either :

- By the parliament from a shortlist selected by a joint parliamentary committee following the development of selection criteria and the advertising of vacancies.
- Or by the parliament from a shortlist selected by an Independent Appointments Commission following the development of selection criteria, and the public advertisement of vacancies.
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- Or by the method described in Recommendation 22 of the 1995 Senate Inquiry into ABC Management and Operations.
- Or by a two thirds majority of all members of the federal parliament.

2. That one of the above appointment processes be implemented urgently, within six months. As soon as this mechanism is in place, all of the members of the board, except for the Managing Director and the Staff Elected Director, be replaced by directors chosen by the new process.

Appendix 1

THE COMPOSITION AND CHARACTER OF THE ABC'S GOVERNING BODY, 1932-2001

Notes written at the request of Friends of the ABC for attachment to their submission to the Senate's Standing Committee on Environment, Communications, Information Technology and the Arts, for its inquiry into the development and implementation of options for methods of appointment to the Board of the Australian Broadcasting Corporation that would enhance public confidence in the independence and representativeness of the ABC as the national broadcaster.

K S Inglis

*Visiting fellow, Research School of Social Sciences, Australian National University.
Author of This is the ABC. The Australian Broadcasting Commission 1932-1983 (1983)*

20 July 2001

FORMALITIES

The Australian Broadcasting Commission Act became law on 17 May 1932. The bill introduced by the Lyons government differed little from the one previously introduced by the Scullin government, and it went through with the support of Labor after sustaining some amendments.

The Commission was to consist of five part-time Commissioners appointed by the Governor-General - in effect, by cabinet on the advice of a minister. One of them was to be Chairman and another Vice-Chairman. The Chairman was to be appointed initially for not more than five years, the Vice-Chairman for not more than four, the others for not more than three. The Commission was to appoint a General Manager, who would not be a Commissioner, and other staff.

The Commission was to broadcast 'adequate and comprehensive programmes.' No criteria were prescribed for Commissioners. In the inaugural broadcast on 1 July 1932 Joseph Lyons, Prime Minister, said that the government's purpose was to appoint able and impartial trustees for an important national service.

An Act of 1942 required that one of the five Commissioners be a woman. In practice there had always been one.

An Act of 1948 increased the Commissioners to seven, two of whom were to be public servants, one from the Treasury and one from the Postmaster-General's department (which had responsibility for broadcasting.)

The Broadcasting and Television Act of 1956 removed the public servants but left the number at seven. That enabled the government to make sure that for the first time every state was represented by a Commissioner. The Postmaster-General, H.L. Anthony, had wanted the part-time Commission replaced by a full-time Commission of three experts, but that plan was dropped.

An Act of 1967 increased the number to nine.

An Act of 1976 increased the number to eleven, including two women, and one person from each state. The bill for this Act had proposed nine members. It had also provided that all current Commissioners were to be removed by 31 December. This provision was withdrawn after criticism both from outside parliament and from back benchers, and the nine became eleven.

An Act of 1983 replaced the Australian Broadcasting Commission by the Australian Broadcasting Corporation. As in 1932, an incoming government (Bob Hawke's) took over and made few changes to a bill drafted by its opponents.

This Act was introduced in response to a Committee of Review, composed of Alex Dix and three other members. Dix proposed in place of the Commission a National Broadcasting Organisation with two components:

1. A part-time Board of Directors composed of between five and seven people chosen by the government for their expertise, to serve part-time except for a Director-General who resembled the present General Manager but unlike him had a place on the governing body. The Director-General would be appointed for a fixed non-renewal term of perhaps five to seven years.
2. A National Broadcasting Consultative Council, of twenty people chosen by federal and state governments to represent the community at large.

The two bodies would have the same part-time Chairman.

Instead of 'adequate and comprehensive programmes' the NBO would 'provide to Australia as a whole, and to its component community groups, broadcasting and television programmes which are informative, entertaining and innovative.'

The framers of legislation rejected the proposed structure, re-named the Commission the Corporation, and opted for a governing body of nine people, to be called Directors, instead of between five and seven. They could be appointed for up to five years and were eligible for reappointment. For the first time, and following Dix, qualifications were specified. Directors were to be 'suitable for appointment because of experience in broadcasting, television, communications or management, expertise in financial or technical matters or cultural or other interests relevant to the position.' They were to be assisted by a National Advisory Council which would replace a network of advisory committees Dix had found ineffective, and, if the Board chose, by state and regional councils. The Director-General would be a member of the Board, and eligible for up to two five-year terms instead of either the five to seven proposed by Dix or the unlimited tenure permitted until now. The responsibilities of the national broadcaster were set out for the first time in a 'Charter'.

All these elements survived when the Fraser government's bill became the Hawke government's and completed its passage through parliament on 26 May 1983.

An amendment of 1985 provided for a staff-elected director, who could serve for up to two two-year terms. A staff-elected Commissioner had been introduced by the Whitlam government without legislation in 1975. The Fraser government dropped the position. The first Board resolved to have one while awaiting legislation.

Seven of the first nine directors were chosen in June 1983 by a procedure unknown in the days of the Commission . (Seven, not nine, because a Managing Director had yet to be appointed and a staff director had yet to be elected.) Dix had received submissions suggesting that nominees be referred to a joint parliamentary committee, and rejected the idea on the ground that the government would always control such a body. Senator John Button, Labor's shadow minister for communications and in 1983 minister assisting Michael Duffy in that portfolio, believed that this view showed a naïve view of the political process: surely, he argued, no government would force a name through against the wish of an opposition representing nearly half the electorate. He proposed a public calling of applications for seats on the Board and a joint parliamentary committee to consider the candidates and make recommendations to the minister. He and Duffy did not pursue the first part of that plan but persuaded cabinet to approve the consultation of other parties. At a meeting of three ministers - Duffy, Button and Senator Susan Ryan - with the Prime Minister, Hawke, a list of nine names was drawn up, and those names were put to an ad hoc consultative committee of those three ministers, Senators Peter Baume (Liberal) and Don Chipp (Democrat) and Bruce Lloyd, MHR (National) which pared the list down to seven. Cabinet endorsed that list.

APPOINTMENTS

Chairmen

The Commission had nine chairmen (including one woman, Leonie Kramer, who accepted that masculine designation), and the Corporation has had four. I doubt whether more than three or four of the thirteen have given their first preferences to Labor, but only two appointments have been criticized as partisan-political: those of Sir Henry Bland, retired public servant and adviser to Malcolm Fraser during the election campaign, 1976, and Donald McDonald, arts administrator and close friend of John Howard, 1996. Bland resigned after five months on the ground that Fraser had failed to keep certain promises.

Richard Downing, professor of economics, 1973, and Ken Myer, department store executive and chairman, 1983, had publicly endorsed Labor at the 1972 election, but their cultural credentials were strong enough to make them generally acceptable appointees. David Hill, railway executive, 1986, was close to Neville Wran, but his reputation as a public servant earned his appointment the approval of the shadow minister, Ian McPhee.

Commissioners/ Directors

From 1932 to 1942 there was always a majority of Commissioners publicly identified with the anti-Labor ministries which had chosen them. The Curtin and Chifley

governments tried a little harder for balance: of eleven members appointed and reappointed between 1942 and 1949, five were clearly Labor people and six were not. Menzies reappointed all but one of the Commissioners he found in office, but 23 years of anti-Labor rule yielded a solid majority of government supporters. By 1970 the Commission was largely composed of business men. One Commissioner belonged to the same branch of the Liberal party as the Postmaster-General, one was a member of the Country party, and the chairman, Sir Robert Madgwick, supposed that nearly all the others voted Liberal. The first Commissioner appointed by Whitlam in 1973 found himself regularly outvoted 8 to 1.

The Whitlam government became the first to make a clean sweep of its opponents' Commissioners, replacing them almost entirely with Labor sympathisers. The Fraser government made that practice a tradition. Fraser actually tried to remove all the Whitlam appointees at once late in 1976 (see above), and when the bill authorising that action had to be dropped, the number of Commissioners was increased from nine to eleven for no evident reason other than to enable the immediate appointment of two people amenable to the government.

Tony Staley, the responsible minister from 1978, tried to make appointments less partisan. Ken Tribe from the world of music and David Williamson from the theatre might as easily have been chosen by Labor; Williamson, however, resigned after nine months, saying that his presence was legitimising the actions of 'very conservative' Commissioners.

The Labor government's procedure of consultation helped to secure the new Board a favourable reception in and beyond the world of politics. It was not repeated. Seven of the nine Directors appointed in 1983 had been given three-year terms. (The Chairman, Ken Myer, and the Managing Director, Geoffrey Whitehead, had five-year terms, but each resigned short of the appointed time.) There was no consultation about their reappointment or replacement. When I recently asked Mr Hawke why, he said that governments have to govern and that he had seen no reason to involve an uncooperative opposition in the process of appointment.

Duffy and his colleagues had done their best to heed Dix's call, written into the 1983 Act, for a governing body not vaguely representative of community interests but having relevant expertise. The Age had welcomed the new Board as a group which 'had the chance to rejuvenate Aunty'. Three years later, the paper judged the first Board differently. 'The Government's mistake', it declared, 'was to appoint people who were representative of community interests, when they should have been chosen primarily for their knowledge of broadcasting and for their managerial experience.' The paper was not alone in thinking that the first group of Directors had not displayed conspicuous expertise.

Duffy tried again in 1986. When he replaced three of the original directors, he dwelt on the newcomers' array of relevant expertise. None of the 1986 appointments were criticized as partisan.

By Paul Keating's time as Prime Minister the practice of consultation had been largely forgotten. At the end of Labor's thirteen years in office Alan Ramsey of the Sydney Morning Herald made what seems to me a judicious review of its appointees' politics. Of 26 Board members, including chairmen, '12 came from overt political backgrounds, among them a former Labor premier, a former Liberal senator, a former Liberal Cabinet minister, four trade union activists, four advisers to various State Labor administrations, and Labor's former opinion pollster, Rod Cameron.' In short, 'less than half Labor's ABC appointments over the years have had obvious party political connections, while two of them came from among the ranks of its political opponents.' (12 June 1996).

Most of the directors appointed since the Howard government took office have been formally or informally identifiable as supporters of the coalition. When I asked Mr Howard about a report (Sun-Herald 15 March 2001) of discussions between the coalition and other parties about the possibility of bipartisan appointments, he said that he knew nothing of any such discussions and that he was content with the present procedure. Michael Kroger, he said, was the only clearly political appointee, and he was a good member of the Board. Mr Howard has sometimes justified the political affiliations of Board members appointed in his time by invoking (and exaggerating) the partisan appointments of his predecessors. Some Howard supporters, far from denying that appointments are being made on political grounds, argue not only that Labor did that but that to do so is proper and healthy. You would chloroform the ABC, one coalition appointee has said to me, if you filled the Board with nondescripts having no publicly stated views and no engagement in public debate. No government lasts forever (this argument runs), and the time will come when Labor can retaliate.

Present Labor policy, however, as expressed by Kim Beazley and the shadow minister Stephen Smith, is that the Board should be de-politicised. By means of a joint parliamentary committee, as proposed by the Democrats, or by an informal committee, as in 1983, or unilaterally? When I asked the present minister for communications and the arts, Senator Richard Alston, what he thought of consultation before appointment, he replied that this was the sort of thing that appealed to parties in opposition. Once, though, it has been done, and there is no reason why it could not be done again unless relations between parties have so deteriorated since 1983 that members of a Labor government could not bring themselves to consult their opponents about anything.

Commissioners and Board members with evident political preferences have not always behaved as instruments of the party to which they owed their appointment. They might well develop around the table an allegiance to the ABC itself, a sense of trusteeship, stronger than any commitment to the government responsible for putting them there. In 1967 a Commission full of Menzies and Holt appointees resisted a minister who cut the budget, which he was entitled to do, and ordered that half the cut was to be applied to the always troublesome area of current affairs television, which he was not. The chairman, Sir Robert Madgwick, flew with a team to Canberra to tell him so. The government, not the Commission and management, buckled. The episode went into ABC collective memory.

More than one member of the present Board has told me that since 1996 differences of opinion between coalition appointees have sometimes been more substantial than differences between coalition and Labor appointees.

General Managers/Managing Directors

Some journalists and other observers think that the chief executive is actually appointed by government, and there are people familiar with the formalities who believe that governments nevertheless determine, or heavily influence, the governing body when it is making the appointment.

Apart from two short-term appointees before 1935, there have been seven chief executives. The first two, Charles Moses (1935-1965) and Talbot Duckmanton (1965-82) worked their way up as announcers and administrators. . . Keith Jennings (1982-3) came in from university administration and returned to it. The name of Geoffrey Whitehead (1983-6) was unknown in Canberra when the first Board appointed him. I can see no outside initiative or pressure in the move of David Hill to managing director (1986-1994) after serving briefly as chairman. Brian Johns (1995-2000) had Labor affiliations, but like Hill was widely respected on both sides of politics for his professional performance as a public servant. Some Labor politicians certainly pressed his cause; opinions differ on whether this helped it. Jonathan Shier (2001-) had Liberal party connexions before leaving Australia in the 1970s. He did not mention them in his application, and they may or may not have been known to one or more members of the Board which appointed him. They were not mentioned at any Board meeting. Moreover, when the chairman, Donald McDonald, ran the short-listed names past ministers (certainly Senator Alston, probably Mr Howard), he was told that Malcolm Long, an ABC broadcaster and administrator before managing SBS) would not be unacceptable to the government. Geoffrey Whitehead and David Hill were induced to resign short of their appointed terms. In Mr Whitehead's case nobody saw any political interference. Mr Hill believes that he was removed at the behest of the prime minister, Paul Keating. Keating and his minister Michael Lee deny that there was any pressure from Canberra, and so does the chairman, Mark Armstrong.

THE BBC AS MODEL

BBC formalities and practice are often invoked in discussion of the ABC, for the good reason that the ABC was fashioned as a local version of the great imperial body: a public broadcaster entrusted to the control of a corporation independent of, or at least at arm's length from, the governments which composed it.

The British Broadcasting Corporation is constituted by the inimitably archaic device of a royal charter which makes the appointment of governors the prerogative of the monarch in council. The charter is amended and renewed from time to time; so far there have been seven versions. The present one, dating from 1996, ordains twelve governors, of whom three shall be National Governors for Scotland, Wales and Northern Ireland (a provision introduced in 1952). By convention the governors include a trade unionist and an

experienced diplomat. Unlike the ABC, whose governing body has included few ex-politicians, the BBC has had many former MPs and many Lords.

Governments for many years consulted their opponents before getting the monarch to seal appointments to the Board of Governors. That convention was eroded by Margaret Thatcher, who saw the BBC as an enemy and appointed a series of governors sympathetic to her regime and finally a Chairman, Marmaduke Hussey, who got rid of the Director-General, Alisdair Milne, in 1987.

In 1997 a former secretary to the BBC recalling the custom of consultation with opposition parties wrote: 'Both Labour and Conservative governments have ignored this requirement and used the Queen and her council as a rubber stamp. . . . Once the Government is allowed to appoint "one of us" as chairman or a governor without cross-party discussion another party in government will do the same, with the consequent danger of the board being regarded as the lackeys of the government of the day.' (J F Wilkinson in *The Times* , 27 March 1997).

Appendix 2 Criticism of the Appointment Process by former Chairmen

Professor Mark Armstrong

This article is reproduced from the RMIT website with Professor Armstrong's permission. A shorter version appeared in The Australian on June 26 under the title "Foes Shouldn't Pick Aunty's minders".

It is time to change the way directors are appointed to the ABC board. The current system is flawed.

The protests about a second term for Donald McDonald as chair show public distrust of the system, under which federal cabinet has complete freedom to put whom it wants on the board. The cabinet should not have that much power. A cabinet, Coalition or Labor, can be seen as a committee of the Australians who are hostile to the ABC.

Ministers are the targets of independent ABC journalism, exposure and criticism. They are the people whom news and current affairs coverage has wounded most. They have complaints, anger, grudges. Apart from hostility to the organisation, cabinets for more than 50 years have put the names of friends and allies before the Governor-General for appointment.

Sometimes, they have hoped to set the national agenda through appointments, but happily that has been a failure. ABC editorial culture is too strong for that. More frequently, there has been no conspiracy at all, just normal political instinct. Ministers choose the people they know and respect. Naturally enough, those people come from their own network of contacts.

There is actually no political mileage for government leaders in trying to stack ABC boards, but the whole idea of independent appointments is anathema to the culture of federal governments. Since long before Machiavelli, princes have appointed their own courtiers and favourites and overlooked more independent-minded people, because they might pose a threat.

Better ways to select ABC directors are not hard to find. Here are some examples. In the 1970s I was among many people who advocated Senate scrutiny of proposed appointments to these roles. If cabinets knew that the suitability of their nominees would be examined by a Senate committee, they would be reluctant to make unsuitable appointments in the first place.

The parliament is the right place for ABC independence issues, since everyone agrees that the ABC is national institution accountable not to the government but to the parliament. It

is not just a government business enterprise, to be overhauled and supervised by ministers. Opposition parties champion this idea, but once in power, they change their minds. There is always the danger that a Senate committee might engage in witch-hunts or political point-scoring, and so deter good nominees. Against that, multi-party scrutiny could create some shared ownership of the appointments, and would certainly give governments an incentive to select well-qualified people.

Another way to get the best ABC directors would be to take the power away from the politicians altogether, giving it to an independent appointments commission. Cabinet would appoint the commissioners for long terms, so that there would be a reasonable balance despite the comings and goings of governments. The commissioners would be responsible for doing what cabinets rarely do: looking at the composition of the whole board to identify needed skills, consulting community leaders, and even interviewing possible appointees.

An independent appointments commission would solve a wider problem: the ‘winner takes all’ behaviour of Australian governments. We do not have the systems for ensuring diversity systems which operate in many other democracies, including the UK, the Netherlands and Germany. A wider group of stakeholders participates when democratically sensitive appointments such as governors of broadcasting are to be made. In some cases, there is consultation and advertising of vacancies. In other cases, a range of organisation is involved in nominating.

In Australia, we carefully protect the independence of sporting umpires and referees. But we have not learned how to extend the principle to the real world public life. Any efficient democracy prevents governments (the players, in sporting terms) from appointing the referees to institutions such as the ABC board, the Australian Broadcasting Authority, the Electoral Commission, the Auditor-General and the Ombudsman. Those office-holders are above politics. They have a duty to ensure that the rules of the game are administered fairly, even when the politicians want to gain an advantage for their own team. Changes such as these would restore some faith in our institutions, at a time when the public are obviously dissatisfied. It would also improve our reputation in communications circles. Australia is well known among the world’s broadcasters for its frequent games of political ins and outs.

Some other solutions would not require any change to the law. For example, the ABC Act envisages a much more powerful National Advisory Council (NAC), to address programme and community issues. But the ABC itself has downgraded the council over 15 years; and this has undermined a pillar of accountability planned by the Dix Report in 1981. With the benefit of hindsight, the mistake was probably to change the system of appointing the NAC. It was to be a government appointment, but the Act made it an appointment by the ABC board itself.

Without a strong NAC, the board wrestles with a dual role. It must do the hard planning, financial and monitoring work a typical board in the public or private sector, as well as

dealing with the creative, community and programming issues of a unique cultural institution. Cabinets often select people who would be well suited to the Council role, but are not ideal directors for the board of a major public enterprise. There is another way to start reform right now: a definite, publicised agreement by the government to consult other parliamentary parties about appointments. This was flirted with after the Dix report, but soon abandoned. Longer terms for directors, 7 years instead of the current 5, would also make a difference. This would increase the corporate memory and stability of boards, and move the ABC board slightly further away from the political cycle.

Donald McDonald and other current directors are not to blame for the current appointment system. Nor were directors on the previous board, which I chaired. The core issue is not about individuals, and this article is not a criticism of the current chair or individual directors. The real issue is about the skills, independence and experience of 9 directors, taken as a group. In a well-balanced ABC board, there is certainly room for two or three directors with close political affiliations. There is a problem only when the affiliation is with only one political party, or when a large number of the directors are affiliated.

There are plenty of options for reform, and they are easy to enact. The hard part is finding a government forward-looking enough to make the change. Or Senators strategic enough to extract reform from an executive government clinging to absolute powers it does not need, and should not have.

Professor Mark Armstrong is director of Network Insight, an RMIT University research group. He was chair of the ABC board from 1991 to 1996

Mr. David Hill

The ABC's outgoing managing director, Mr David Hill, has accused the Federal Government of stacking the national broadcaster's board with political allies.

Mr Hill, who leaves at the end of the month with nearly two years of his contract to run, singled out two directors, the former ALP pollster Mr Rodney Cameron and the former Labor SA Premier, Mr John Bannon.

The Age 11 Feb 1995

Appendix 3

Statements by Coalition members.

Senator Richard Alston

(It will be) a great disappointment to all those who are looking to the Government tomake appointments to the board on the basis of merit and to boost the community standing and reputation of the ABC. This blatant board stacking exercise endangers the independence and integrity of the ABC and has the potential to do grave damage to Australia's international reputation.

Senate Hansard 30 June 1994

Senator Richard Alston

Senator Alston said that at one stage more than half the people appointed to the ABC board had got there principally because of their Labor or trade union affiliations. This was a "very unsatisfactory" state of affairs, he said.

SMH 19 Jan 1996

Mr John Howard

Mr Howard recently attacked the "infiltration" of Labor acolytes into the bureaucracy and opinion-forming organisations, and singled out the ABC board for mention.

SMH 15 September 1995

Senator Richard Alston. *Coalition communications spokesman Senator Richard Alston yesterday questioned the appointment of past and present ABC board members, suggesting some were made on the basis of union or political associations rather than on merit*

Senator Richard Alston

At the release of the Coalition's national and community broadcasting policy, Senator Alston promised a Coalition government would not allow "hacks" from either side of politics on the board - a rejection of what he saw as Labor's "politicisation" of the board.

AFR 19 January 1996

Senator Richard Alston

"In recent years appointments to the board of the ABC have become little more than Labor's vehicle for patronage and political game playing," Senator Alston said. "I can give you a solemn promise that there will be no more stacking of the ABC board under a coalition government."

The Age 19 January 1996

Appendix 4

4. Statements by Labor Members

Mr Gareth Evans

The Deputy Opposition Leader, Mr Gareth Evans, said Mr Kroger's appointment was disgraceful and likened it to the appointment of revisionist historian David Arriving to the board of the Holocaust museum. The Age 7 February 1998

Senator Chris Schacht

The Federal Government has appointed former Liberal Party powerbroker Mr Michael Kroger to the Australian Broadcasting Corporation board, drawing immediate claims that it was a political appointment.

The Communications Minister, Senator Richard Alston, said Mr Kroger would replace former Queensland barrister Mr Ian Callinan QC, who this week took up his position on the High Court. Mr Kroger is a former president of the Victorian Liberal Party and more recently, through his merchant bank, spearheaded Nine Network proprietor Mr Kerry Packer's unsuccessful attempt to take over the Fairfax media organisation, publisher of The Age.

The Government has previously pledged to avoid political appointments. Senator Alston yesterday said Mr Kroger's "extensive experience in financial and commercial matters" would be of great benefit.

The five-year appointment was immediately attacked by the Opposition, which branded it as "totally inappropriate". The Communications spokesman, Senator Chris Schacht, said it was further evidence of a Government "vendetta" against the ABC. "All supporters of the ABC should be aghast at this appointment," he said.

Mr Kroger's management of the Liberal Party included a controversial campaign to shift the parliamentary representation towards the right-wing - a move which led directly to the dumping of leading moderate Mr Ian MacPhee.

The Age 6 February 1998

Mr Stephen Smith

Shadow Minister for Communications, Stephen Smith, said that allegations revealed today that ABC Board Members have sought to purge Labor sympathisers from the ABC were extremely serious and would be vigorously pursued by Labor.

Mr Stephen Claypole, a former BBC employee and former candidate for the ABC Managing Director's job, has been reported as making the allegations published today.

Mr Claypole has been reported today as saying of his interview for the Managing Director's job that:

In Sydney the agenda of the Board was much more narrow, based on party political issues. It was clear they had a list of people they wanted to get rid of.

These allegations of political interference by some members of the ABC Board have been reportedly denied by ABC Chairman Donald McDonald, Managing Director Jonathan Shier and by Board Members Michael Kroger and Professor Judith Sloan.

“If there is any truth to these allegations then some ABC Board members may be in breach of their legal duties to both the ABC and the Australian people,” Mr Smith said.

“The independence of the ABC is fundamental to the maintenance of the Australian community’s confidence in our national public broadcaster.

“The Howard Government has placed the ABC under sustained political and financial pressure since 1996, cutting \$66 million from the ABC Budget in 1996 and 1997 and failing to provide the ABC with sufficient funding to make the transition to digital broadcasting.

“The Australian people have had enough of this behaviour from a Government clearly obsessed with seeking to destroy an institution cherished by most Australians, the ABC. Media Release from Mr Stephen Smith's office, 12 March 2001

Mr Stephen Smith

Such has been the sustained financial and political attack on the ABC by the government that, regrettably, a perception is now afoot in the community that the Managing Director of the ABC, Mr Shier, and, to a lesser extent, the board, are now nothing but the advertent or inadvertent agents of the government. This is a fatal perception to be afoot, and this perception has arisen as a direct result of the conduct and the actions of the government.

Mr Stephen Smith, House of Representatives Hansard, 6 December 2000

Mr Stephen Smith

In the two weeks of parliamentary sittings before we resumed this time, on at least four occasions Senator Alston refused to rule out the partial privatisation of the ABC or privatisation of key parts of the ABC. We know that he was up to his armpits with Mr Kroger, the board member, trying to get up a proposal to flog off ABC Online...

Mr Stephen Smith, House of Representatives Hansard, 6 December 2000

Appendix 5

Statements by the Australian Democrats

Senator Vicki Bourne

For nearly two decades, governments from both major parties have placed their mates at the helm of the ABC. We think it's time to stop this practice.

Australian audiences deserve the right to have the ABC protected from government interference. Audiences also deserve an ABC which is governed by Board members willing to fight for the ABC's commercial-free status. We all deserve a Board willing to stand up to government to defend the ABC.

Media release issued by Senator Bourne's office 31 May 2001

Senator Vicki Bourne

Australians have taken a very dim view of the cuts to the ABC budget.

They have taken a very dim view of the Government's party-political appointments to the Board. They know that all this eroded the ABC's independence.

We all remember the Government's promises ion the lead up to the 1996 election - that they would not politicise the ABC Board, and that they would not cut the ABC's budget.

We are left, though, with painful reality. The Minister is making appointments to the ABC Board which are clearly biased, and clearly designed to cement support for the Coalition's policy agenda.

Senate Hansard, 25 March, 1999

Appendix 6

Statements by other commentators

Michelle Grattan

Governments make political appointments and many of them are fair enough. That of Michael Kroger to the board of the ABC is not. It's brazen, and it makes John Howard look an absolute hypocrite.

It's no excuse for the Government to point to Labor precedents. Yes, the ALP stacked the ABC board with people who were its friends. The point is, John Howard said he'd be different.

Didn't he? Or am I missing what these words, Howard's in 1995, actually mean?

Condemning the political nature of the board members, Howard said: "I'm not going to telegraph punches, but you not only must have a board that is completely politically neutral but must be seen to be neutral".

Now unless something very extraordinary has recently happened to Mr Kroger, he cannot by any stretch of imagination be called politically neutral. And he will never be SEEN to be neutral. He is, and will remain, one of the most tribal of Liberals. No wonder he gets on well with that tribal ALP man Graham Richardson.

In January 1996 Richard Alston, then communications spokesman, said: "Appointments to the board should be one of the most prestigious and sought-after appointments in the country, but instead in recent years appointments to the board of the ABC have become little more than Labor's vehicle for patronage and political game playing."

Maybe Alston would like to call on another of his Opposition lines in mitigation. "It wouldn't be surprising to find that some people on boards have had involvement with one political party or another, but I think we all instinctively know the difference between a political hack and someone who can stand up in the wider community."

Does this mean former premier John Bannon, appointed by Labor, was a hack but Kroger "stands up" in the wider community?

There are several powerful arguments against Kroger's appointment. None of them have to do with the man's ability, nous or personability. He has lots of all three.

The first is that a government should err on the side of caution when putting people with a political background on the ABC board. The ABC holds a special place as the national broadcaster, and it is constantly under fire from politicians for alleged political bias.

These days the attacks come from Liberals and Nationals. But when the Hawke Government was first elected, Labor was vicious about the ABC. Hence all those Labor appointments. Attempting to reconstruct the ABC is a very old game.

While in certain circumstances it might be possible to justify appointing someone heavily identified politically, the bar should be higher than one that lets Kroger over. For example, if Tony Staley had not been Liberal Party president he would be a quite appropriate candidate. He's a former communications minister; he's at the end of his political career; he's not excessively "tribal".

Nevertheless, it would be better for the Government at this time to steer away from those with strong political associations. There are plenty of "cleanskins" around, with the

required skills and without the bent of mind that casts the ABC board as a kind of conglomerate of political factions.

Alston argued that "through his involvement with the Liberal party and as a political commentator Mr Kroger . . . possesses organisation, media and communication skills relevant to his appointment." This sounds threatening, not reassuring.

Kroger himself said: "One thing that my appointment will do is try to convince people that the national broadcaster is independent and is not some Labor Party shop front. A lot of people have said that over the years. Now what I think they will be able to say is that Kroger's on the **board** so if they have got a complaint perhaps their complaint is not well founded. So while many people will see my appointment as political and be unhappy with it, what I'm hoping is that it will bring a sense to many people that the ABC is not a biased institution but is an institution that represents the diversity of Australian opinion."

The second argument against Kroger's appointment is the perception of possible conflict of interest. Kroger last year worked with the Packer organisation in the lobbying for media law changes which, if they'd gone ahead, would have facilitated Packer buying Fairfax. Kroger doesn't have links with the Packer organisation now. But it looks bad, and potentially, it could BE bad. He has been too close, too recently, to one of the commercial heavy hitters when they were playing a pretty potent power game.

One of the serious and growing problems for the Australian media is that media companies are often compromised by their diverse business interests - Packer's casino and pastoral holdings are one example. The ABC, whatever its faults, is not so compromised. It should be well placed to look at some sensitive issues and interests touching these commercial empires. But to do so, it must be backed by a board that is willing to live with the odium that can bring. Once the net tightens between the ABC board and the people, organisations or businesses that might come under scrutiny, a lot of pressure is placed on journalistic courage.

Financial Review, 7 February 1998

In search of a fairer boardroom Canberra Times Editorial 16 March 2001

WHETHER or not there is substance to reports that some members of the ABC board wanted to appoint a managing director who would "purge" the national broadcaster of Labor Party sympathisers, is almost beside the point. Suspicions of board-stacking and the politicisation of statutory and quasi-government authorities will persist until a more accountable method of appointing office-holders is adopted.

That goes for boards appointed by Labor governments as much as it applies to boards appointed by the Coalition. Indeed, Labor's record in this respect is less than enviable, and its method of dispensing jobs for the (mainly) boys is, if anything, more cynical, since it is complicated by the need to appease or reward the various factions of the party.

The fact is that whatever high ideals about non-partisan appointments a party might hold during an election campaign (and even during the first heady months of government), sooner or later any government wants to put its stamp on the mechanics of service delivery, to influence the direction taken by the statutory bodies which are so frustratingly

at arm's length from day-to-day control by executive government.

Governments achieve that influence by appointing sympathetic individuals to the boards of those bodies individuals they know will share the general philosophical bent of the government of the day. And for as long as they can get away with it, governments of all persuasions will continue to do just that, whether subtly and over time, or bluntly and in short measure.

The Australian Democrats have resisted Opposition calls for an inquiry into the ABC allegations. They know what should be obvious to anyone that an inquiry into a single instance of alleged politicisation or board-stacking would be futile unless it led to significant changes in the appointment processes used. And that is just what the Democrats want: a joint parliamentary committee to ensure that appointments to statutory boards are made on merit, and not according to political affiliation.

There is a lot of merit in the idea of making the appointment of statutory office-holders both more transparent and more accountable. The mere existence of a brake on executive licence perhaps in the form of some kind of veto power for both Houses of Parliament could be sufficient to make governments apply more than usual care to the selection of candidates for board positions. If a government knows that its choices will not only be scrutinised and criticised by its political opponents, but are liable to be overturned by them if unsatisfactory, perhaps that government will be inclined to think twice before making a blatantly political appointment to a body which not only purports to be independent, but requires actual independence from the whims of short-term governments in order to function properly.

Naturally, as terms of office expire and new individuals are appointed, boards will alter their complexion, and this is frequently as much a consequence of individuals who share a government's basic philosophy seeking elevation to such office during a congenial period, as a consequence of governments deliberately stacking boards. And conversely, those who have less sympathy with the philosophy of the government of the day might choose not to put their names forward.

If a more transparent and accountable selection process was devised, this kind of self-censoring of potential office-holders might become a thing of the past.

Board Stacking a Party Custom

John Howard is no worse than Paul Keating when it comes to stacking the ABC board.

Six of the nine board members have open connections to the Coalition: Liberal powerbroker Michael Kroger; former Liberal federal MP Ross McLean; former Liberal party member, managing director Jonathan Shier; conservative economist Judith Sloan; and Howard confidants, chairman Donald McDonald and Maurice Newman.

Newman replaces the last Labor appointee, businessman Russell Bate.

But in 1996, the final year of the Keating government, four members had open Labor connections: former South Australian Labor premier John Bannon; former Australian Workers' Union industrial officer Janine Walker; social worker and former departmental adviser to the Burke government in Western Australia Wendy Silver; and managing director Brian Johns.

Two other appointees to that 1996 board were widely seen to be Labor allies - Text Media Group director Diana Gribble and a long-time Howard rival, the former federal Liberal minister Ian Macphee.

The remaining three former members had diverse backgrounds
Trudy Harris, The Australian 4 December 2000