



THE SENATE

ENVIRONMENT AND COMMUNICATIONS LEGISLATION COMMITTEE

23 May 2023

Mr David Anderson
Managing Director
Australian Broadcasting Corporation
Via email: [REDACTED]

Dear Mr Anderson

Senate Estimates—ABC Public Interest Immunity claims

I write regarding two public interest immunity (PII) claims raised by the Australian Broadcasting Corporation (ABC) arising from recent Estimates rounds on: a code of conduct determination; and the remuneration of highly paid ABC staff.

Public interest immunity claim regarding a code of conduct determination

The ABC has raised a PII claim in response to a question asked by Senator Henderson in the Senate Environment and Communications Legislation Committee's (the committee) Budget Estimates hearing on 29 November 2022 (SQ22-000798). This claim was set out in a letter received by the committee on 17 January 2023. Following the provision of advice from the Clerk of the Senate, the committee sought further information supporting this PII claim, which the ABC provided in letters of 14 and 28 February 2023. All these documents have been published by the committee on its [website](#).

In your letter of 17 January 2023, you set out the PII claim, citing the grounds that the ABC considers that providing the requested information may cause harm by impinging on the individual's privacy, as well as causing potential damage to the ABC's commercial interests.

Following the committee request for further information on the specific harms that may arise from the disclosure of information, on 28 February 2023 you stated that the disclosure of 'personal and confidential information about an individual and their employment' would have several harms. These included:

- adversely affecting the ABC's ability to 'manage, and also attract, personnel', as employees are entitled to expect their privacy be respected by their employer;
- that it may expose the individual to 'unacceptable harassment or abuse (including online)'; and
- that it may adversely affect the ABC's commercial interests' by making it more difficult to attract staff 'in an already competitive market'.

On the possibility of providing the committee with redacted versions of these documents, the ABC commented that this would not be effective in deidentifying the individual, as this is already in the public domain, and would not protect against the specific harms outlined above.

The committee's view and decision on this claim is set out below.

Public interest immunity claim regarding remuneration of highly paid ABC staff

The ABC raised a second PII claim in a [letter of 4 April 2023](#) regarding information requested by Senator Henderson as part of the 2023 Supplementary Budget Estimates round, on remuneration of highly paid ABC staff, contractors and subcontractors or other workers (question on notice SQ23-003322).

Your correspondence sets out that the PII claim relies on the grounds that disclosing the requested information ‘may result in unwarranted privacy concerns for identifiable employees’, as well commercial-in-confidence concerns for the ABC. It also notes that Senator Henderson’s question sought similar information in correspondence to the ABC between 4 and 6 November 2022, which were also the subject of a [previous PII claim by the ABC](#).

The committee also notes that in making the current PII claim, the ABC has also provided additional information on ABC staff levels by location, which addresses the second element of Senator Henderson’s question, and which goes beyond the publicly available information in its Annual Reports. The committee welcomes the provision of this additional information.

The committee’s view and decision on this claim is set out below.

Committee view on PII claims

The committee acknowledges that the grounds on which both claims rely are recognised as potentially acceptable grounds for PII claims, as set out in [Odgers’ Australian Senate Practice](#) (14th Edition, p. 662). Your correspondence on both claims also includes statements specifying the potential harm to the public interest that could result from the disclosure of this information requested, as required by the [Senate order](#) of 13 May 2009.

The committee has carefully considered the PII claims, considering both the importance of the accountability and transparency of government agencies, against the potential harms outlined by the ABC.

Regarding the PII claim regarding a code of conduct determination, the committee accepts the claim that the provision of the information requested may result in unwarranted privacy concerns for the individual and could result in ‘unacceptable harassment or abuse (including online)’. Additionally, the committee accepts that disclosing such documents related to employees could harm the ABC’s competitiveness in attracting, retaining and managing staff.

Regarding the PII claim regarding the remuneration of highly paid ABC staff, on balance, the committee accepts the ABC’s claims that the provision of the highly detailed and specific information requested may result in unwarranted privacy concerns for identifiable employees, as well as commercial-in-confidence concerns for the ABC more generally.

In accepting these claims, the committee notes that this decision was not unanimous, and that individual senators may raise objections to the PII claims in the Senate, should they wish to. The committee has published all relevant correspondence and advice on its website, as well as this letter.

Yours sincerely

Senator Karen Grogan
Chair