



**SUBMISSION TO THE SENATE STANDING COMMITTEE ON ENVIRONMENT AND
COMMUNICATIONS INQUIRY INTO RECENT ABC PROGRAMMING DECISIONS**

September 9, 2011.

34 Fitzroy St, Surry Hills, NSW 2010. P: 612 9360 8988

1. TERMS OF REFERENCE

That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 12 October 2011:

The decision by the television management of the Australian Broadcasting Corporation (ABC) to significantly cut the number and amount of ABC-produced programs, jobs (including through forced redundancies) and potentially affect resources, as announced on 2 August 2011, with particular reference to:

- (a) the implications of this decision on the ABC's ability to create, produce and own its television content, particularly in the capital cities of Brisbane, Adelaide, Perth and Hobart;
- (b) the implications of this decision on Australian film and television production in general and potential impact on quality and diversity of programs;
- (c) whether a reduction in ABC-produced programs is contrary to the aims of the National Regional Program Initiative;
- (d) the implications of these cuts on content ownership and intellectual property;
- (e) the impact of the ABC's decision to end internal production of Bananas in Pyjamas and to outsource the making of a 'Bananas in Pyjamas' animation series to Southern Star Endemol Proprietary Limited; and
- (f) the future potential implications of these cuts on ABC television's capacity to broadcast state league football and rugby; and
- (g) any other related matters.

2. EXECUTIVE SUMMARY

Over the years the Screen Producers Association of Australia (SPAA) has been a strong advocate for a properly funded and resourced, independent ABC. In the lead up to the most recent ABC triennial funding submission SPAA was extremely active in Canberra in proposing the ABC receive additional funding to support increased levels of independently produced Australian programs. At the same time SPAA has always supported a mixed model for the ABC combining independent commissioning with an appropriate level of in house production.

In many ways the recent ABC management decision to discontinue some entertainment programming and reduce staffing levels is a function of inadequate federal government appropriation for the scale of operations the ABC must deliver to fulfil its charter in a modern digital world and critically, remain relevant to Australians of all ages. To remain relevant in the modern broadcasting environment, the ABC has had to develop a comprehensive on-line service and a multi channel strategy.

Even taking recent funding increases into account the ABC, in adjusted terms receives less funding than it did 25 years ago and employs far less staff. ABC CEO Mark Scott estimated that “operational funding from government, including capital, fell in real terms from slightly over \$1 billion in 1986 to \$800 million today.”¹

Adding to cost pressures are the rising costs of acquisitions for completed programs from overseas, declining revenues from DVD sales of past programs, and the costs associated with the increase in servicing three channels, funding ABC Online, and ABC 24. This has led to a squeeze internally and management have made some adjustments including reducing the Entertainment budget down from \$13.5 million in 2008/09 to \$9.2 million in 2011/12 resulting in some of the cancellations that have excited this inquiry.

At the same time, the world has changed and around the globe, broadcasters have altered their operational strategies. The internet and digital multi channelling has created a fragmented broadcast environment. In this environment the large institutions of yesteryear are becoming dinosaurs, inefficient and uncompetitive. Even the highly profitable commercial TV networks in Australia have been divesting themselves of expensive facilities and are outsourcing more content creation as the fragmented environment leads to a leaner more competitive cost environment.

Broadcasters around the world have divested themselves of expensive outside broadcast (OB) equipment and infrastructure. It is cheaper now for broadcasters both public and private, to let private sector specialists pick up the updating and

¹ Trust and Relevance: Defining the Modern ABC, Mark Scott ABC Managing Director, Speech to the National Press Club, Canberra 31 August 2011

maintenance costs and provide this service for project hire avoiding year round costs.

The ABC cannot ignore the pace of change and remain relevant. With limited revenues, it needs to find new and more innovative ways of delivering content. Divesting itself of expensive under utilised facilities and outsourcing more content creation is an inevitable consequence. This has certainly been the pattern for broadcasters around the world. The BBC are now only mandated to produce 50% of their programs internally. In addition to the United Kingdom, France, Holland, Canada, and South Korea's public broadcasters all commission significant quotas of independently produced programs.

It has long been known that the average age of the ABC's audience is over 50. Clearly the ABC has to cultivate younger audiences to remain relevant and so many of its programs that are popular with audiences younger than 50 have been commissioned from the independent sector including *The Chaser*, *Angry Boys*, *Summer Heights High*, and *The Gruen Transfer*. Commissioning from the independent sector ensures diversity and allows the ABC to work with some of Australia's finest creative talent providing its audience with a greater range of ideas than could ever be accessed in house. This is the best method of ensuring diversity, one of the elements of the ABC charter.

As far as the audience is concerned, they can't tell the difference between internal and external programs. This is partly because the ABC maintains editorial control over both, and is involved at all stages of development, production and publicising to protect its interests and ensure standards are met.

Commissioning programs from the independent sector allows the ABC to use its funds to lever additional funds thereby acquiring more program content for less money. Independent producers are able to source additional production funds from other sources including state and federal government agencies, private investment, foreign pre-sales, and utilise taxation incentives such as the Producer Offset (a tax rebate of up to 20% of the production cost) that the ABC is unable to access for internal production.

In the three years to 2008/09 the total ABC TV commitment towards independently produced documentaries, dramas and children's projects was \$84m resulting in \$257m of total production with the independent sector. This equates to an overall gearing ratio of \$3 to \$1 of ABC funds. In total the ABC's commitment to independent production, across all genres in this period was \$144m. This contributed to production budgets of \$318m, delivering 698 hours of Australian content to Australian audiences² This is a good outcome for the taxpayer and the ABC audience.

² ABC and the Independent Sector, Speech to the 2009 DSPAA Conference by ABC TV Head Kim Dalton.

SPAA contends that the response to the ABC management decisions is something in the nature of an over reaction. The independent sector is hardly threatening the ABC's culture because the ABC still produces 90% of its commissioned broadcast hours internally. Also, TV programs are discontinued all the time for a variety of reasons. *The Collectors* was discontinued because viewers were turning away from it and *Spicks and Specks* was discontinued because the host wanted to move on. This happens all the time in television. The ABC has already announced a replacement for *The Collectors* and no doubt has replacement strategies for the other programs in planning.

It is understandable that the Commonwealth Public Service Union (CPSU) has reacted to the loss of jobs of some of its members. However it is worth pointing out that many of these jobs will now be undertaken by workers in the independent sector. They will not be members of the CPSU, but some will be members of other unions such as the Media Entertainment and Arts Alliance (MEAA) and some may not be union members. But the overall impact on related employment is likely to be minimal.

In conclusion, SPAA believes that recent ABC management decisions have been made because the ABC is unable to fund all its operations and remain relevant on current revenues. We do not believe the decisions are in breach of the charter nor do we believe that commissioning from the independent sector undermines the ABC's independence. On the contrary the independent sector helps the ABC be a more vibrant and relevant network broadcasting diverse content that reflects Australian culture. SPAA also believes that the ABC can retain its unique character at the same time as reducing the burden on the taxpayer of maintaining expensive underutilised facilities.

SPAA has commented on each of the specific terms of reference below.

3. SCREEN PRODUCERS ASSOCIATION OF AUSTRALIA (SPAA)

SPAA is the industry body that represents Australian independent film and television producers on all issues affecting the business and creative aspects of screen production.

SPAA members include television, feature film, animation, documentary, TV commercial and interactive media production companies as well as services and facilities providers such as post-production, finance, distribution and legal practices.

- SPAA members are key stakeholders in the effective operation of ABC Television.
- SPAA members are significant suppliers to ABC Television and have produced programs for the ABC for over 30 years.

SPAA submission to Senate Inquiry into ABC. September 9, 2011.

- SPAA members make many of Australia's best-loved and most successful television shows reaching millions of Australians every week. Shows produced by independent producers recently commissioned by ABC include: *The Slap*, *Paper Giants*, *Angry Boys*, *My Place*, *Rake*, *Bastard Boys*, *Kath & Kim*, *Double the Fist*, *East of Everything*, *The Librarians*, *Rain Shadow*, *Summer Heights High*, *Valentine's Day*, *Who Killed Dr Bogle* and *Mrs Chandler* and many more.
- SPAA members employ thousands of Australian technical and creative workers and performers. For 30 years SPAA has had a major influence in the setting of industrial standards and work practices in negotiation with actors and technical crew unions and rights and royalties regimes with Australian creative personnel.
- The independent production sector that SPAA members have played a critical role in developing is characterized by low overheads, flexible freelance working patterns, adaptability, and business acumen.

4. ABC CHARTER³

(1)The functions of the Corporation are:

(a) to provide within Australia innovative and comprehensive broadcasting services of a high standard as part of the Australian broadcasting system consisting of national, commercial and community sectors and, without limiting the generality of the foregoing, to provide:

(i) broadcasting programs that contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity of, the Australian community; and

(ii) broadcasting programs of an educational nature;

(b) to transmit to countries outside Australia broadcasting programs of news, current affairs, entertainment and cultural enrichment that will:

(i) encourage awareness of Australia and an international understanding of Australian attitudes on world affairs; and

(ii) enable Australian citizens living or travelling outside Australia to obtain information about Australian affairs and Australian attitudes on world affairs; and

(c) to encourage and promote the musical, dramatic and other performing arts in Australia.

(2) In the provision by the Corporation of its broadcasting services within Australia:

(a) the Corporation shall take account of:

(i) the broadcasting services provided by the commercial and community sectors of the Australian broadcasting system;

(ii) the standards from time to time determined by the Australian Broadcasting Authority in respect of broadcasting services;

³ Australian Broadcasting Corporation Act 1983 - Section 6

(iii) the responsibility of the Corporation as the provider of an independent national broadcasting service to provide a balance between broadcasting programs of wide appeal and specialized broadcasting programs;

(iv) the multicultural character of the Australian community; and

(v) in connection with the provision of broadcasting programs of an educational nature—the responsibilities of the States in relation to education; and

(b) the Corporation shall take all such measures, being measures consistent with the obligations of the Corporation under paragraph (a), as, in the opinion of the Board, will be conducive to the full development by the Corporation of suitable broadcasting programs.

(3) The functions of the Corporation under subsection (1) and the duties imposed on the Corporation under subsection (2) constitute the Charter of the Corporation.

(4) Nothing in this section shall be taken to impose on the Corporation a duty that is enforceable by proceedings in a court.

5. SPAA RESPONSE TO TERMS OF REFERENCE

5.1 TERMS OF REFERENCE – A:

The implications of this decision on the ABC's ability to create, produce and own its television content, particularly in the capital cities of Brisbane, Adelaide, Perth and Hobart.

The ABC charter says that the ABC is required “to provide within Australia innovative and comprehensive broadcasting services”. Nowhere in the charter is there a mandate for the ABC to create, produce, and own content. The ABC’s primary purpose is to broadcast as a user of rights, rather than a creator or owner of rights. Throughout its history, the ABC has broadcast program content from a variety of sources, including programs acquired on completion from external producers in Australia and overseas, programs made entirely internally at the ABC, programs commissioned entirely from independent Australian producers and programs made with a mixture of internal and external resources and personnel. The recent management decision does not represent a significant departure from past practice and does not in any way violate the charter.

The ABC’s audience is completely unaware of the difference between internally and externally commissioned programs and has historically not been able to distinguish between them. As far as the audience is concerned, all first run Australian programs are regarded as ABC programs. This is due in large measure to the ABC’s ability to commission, editorially control, and design and supervise the branding of the content that appears on its network. These are the critical elements that ensure the ABC retains its independence rather than the ownership of the product.

SPAA does support the maintenance of content creation from regional centres and believes that in order to “reflect the cultural diversity of the Australian community” the ABC should seek to commission independent programming from these centres. These commissions should be genuine attempts to use regional production companies rather than export programs from Sydney or Melbourne merely to shoot them in regional areas. Using regional production companies creates residual value and is an approach that has been used successfully by the ABC in its documentary co-production arrangements with Screenwest in Perth and the South Australian Film Commission in Adelaide.

SPAA is mindful of the often critical role the ABC plays in the cultural life of regional cities, by virtue of its multi media presence and obligations “to encourage and promote the musical, dramatic and other performing arts in Australia”. While maintaining expensive and underutilised facilities is poor public policy in the modern era, SPAA believes that the ABC needs to maintain a policy of commissioning independently produced content from Brisbane, Adelaide, Perth and Hobart in order to fulfil its charter.

5.2 TERMS OF REFERENCE – B:

The implications of this decision on Australian film and television production in general and potential impact on quality and diversity of programs.

To answer this question fully, it is necessary to examine a range of issues:

Difference between internal and external productions

As explained above the ABC’s audience is unable to distinguish between internally and externally commissioned programs. Many of the internally produced programs are made with important contributions from the independent sector. *Bananas in Pyjamas*, for example, was not written and directed by ABC staff but by independent freelancers who also worked for other networks. Many programs involve creative people who do not work for the ABC.

ABC editorial control

It is important to note that the ABC maintains editorial control over all its commissions and is highly involved at every stage from development through to production and marketing. The ABC has a major influence on all the key decisions including design concepts, script, casting, publicity and marketing just as it obviously does over programs made internally.

Quality and Diversity

ABC commissioning editors and program decision makers have for at least the last 25 years derived programs from varied sources and developed and made them or licensed them with a variety of means. Some will have arisen from ideas within the ABC like *The Collectors*, others from ideas pitched to the ABC but made by the ABC like *Spicks and Specks*, some enticed from rival networks like *At the Movies*, still others from ideas pitched from outside and written from outside yet produced

internally like *The Gruen Transfer*, and some created and produced entirely externally like *Paper Giants*. The ABC has not limited itself to ideas from within.

Such an approach has for many years ensured that the ABC has used some of Australia's finest creative talent, and provided the taxpayer with a rich and diverse array of programming that would be more limited if strictly limited to internal derivation and production. The creation of a commissioning system creates competition between providers leading to innovation at all levels.

Independent Sector Advantages

Apart from the ability to attract additional finance from outside the ABC, independent producers offer the taxpayer a number of advantages over internal production. Development costs, insurance, and the costs of maintaining and updating equipment and facilities is borne by the independent sector and not the ABC. This is an endless impost in the digital world as systems are continually evolving and equipment rapidly becomes obsolete.

Leverage

Commissioning programs from the independent sector obviously means that producers are able to source additional production funds from other sources including state and federal government agencies, private investment, foreign pre-sales, and utilise taxation incentives such as the Producer Offset (a tax rebate of up to 20% of the production cost) that the ABC is unable to access. This has two main advantages for the ABC. It means that the ABC is able to use its funds to lever additional funds thereby acquiring more program content for less money. This is clearly an advantage for the taxpayer. Additionally it means the ABC is able to participate in and license bigger budget high quality premium drama and documentary content that would otherwise capture too much of its budget.

The Commonwealth Public Service Union (CPSU) has questioned the 'leverage argument' in the press, claiming that internal production is competitive with external production. The CPSU made the same claim in 1997 when the Mansfield Review recommended outsourcing. Mansfield complained about the lack of transparency in ABC budgeting at the time. However the ABC reported savings of \$10 million by outsourcing the following year.⁴

Budget comparisons aside, there can be no contesting the additional funds the ABC is able to leverage by commissioning programs from the independent sector.

In the years 2006/07 to 2008/09 the total ABC TV commitment towards independently produced documentaries, dramas and children's projects was \$84m

⁴ Australian Public Broadcasting Under Review: The Mansfield Report on the ABC Allan Brown (Griffith University) 2001

resulting in \$257m of total production with the independent sector. This equates to an overall gearing ratio of 3 to 1 for each dollar of production spend.⁵

The ABC committed \$238 million to independent sector commissioning in the three years from 2008/09 to 2010/11, generating production budgets of over \$400 million and commissioning over 1000 hours of new Australian content. This equates to a leverage on all external production of \$2.2 for every \$1 committed by the ABC. In documentaries the leverage was \$3.9 for every \$1.⁶

The contribution that external commissioning makes to the quality, range, and viability of the Australian film and television industry is significant.

In summary, SPAA can see no negative implications from recent management decisions for the Australian film and television production in general and as argued above, outsourcing has an overwhelmingly positive impact on the quality and diversity of programs.

5.3 TERMS OF REFERENCE – C:

Whether a reduction in ABC-produced programs is contrary to the aims of the National Regional Program Initiative.

For SPAA's position on regional production please our response to Term of Reference A.

5.4 TERMS OF REFERENCE – D:

The implications of these cuts on content ownership and intellectual property.

As mentioned above SPAA believes that the ABC Charter does not require the ABC to own content or control the intellectual property of it. The ABC does not have a state capitalist function. The Charter requires the ABC to broadcast content regardless of who owns it.

The editorial control exercised by the ABC on commissions is more than adequate to protect the ABC's interests and ensure that program content meets the ABC's standards.

The ABC usually negotiates the first option on distribution rights to programs commissioned from the independent sector. This provides a significant revenue stream for the ABC.

⁵ ABC and the Independent Sector, Speech to the 2009 DSPAA Conference by ABC TV Head Kim Dalton.

⁶ ABC and the Independent Sector, Speech to the 2009 DSPAA Conference by ABC TV Head Kim Dalton

The ABC has long sourced program ideas from outside the ABC and can make more programs by sharing in the IP with other investors. This is the appropriate public policy in relation to IP because it best serves the Charter providing more programs and more diversity in programming than in house production would provide.

5.5 TERMS OF REFERENCE – E:

The impact of the ABC's decision to end internal production of Bananas in Pyjamas and to outsource the making of a 'Bananas in Pyjamas' animation series to Southern Star Endemol Proprietary Limited.

The animated series of *Bananas in Pyjamas* is produced by an independent production company and SPAA member. The recent management decisions have nothing to do with *Bananas in Pyjamas*. The ABC ceased production of *Bananas in Pyjamas* ten years ago in 2001. Repeats of the original six series have been subsequently shown on the ABC.

The original series was made by a very significant creative contribution from the independent sector. The writers, directors, cast and composers were all sourced from outside the ABC.

The ABC approached an independent production company to help the ABC 'rejuvenate the brand' by making an animated series based on the original program. ABC commissioners did this because the ABC did not have the capacity internally to produce the animated series. Long form animation series require specialist skills and equipment, neither of which the ABC had internally. In other words the ABC simply couldn't make the animated program internally.

5.6 TERMS OF REFERENCE – F:

The future potential implications of these cuts on ABC television's capacity to broadcast state league football and rugby.

SPAA believes that sport is an important part of community life, particularly in regional areas, and the ABC has long played a significant role in the wider community by broadcasting regional sport. However, the cost to the taxpayer of maintaining and upgrading expensive outside broadcast equipment and personnel is extensive – in excess of \$10 million dollars a year.

This equipment is also underutilised, often lying idle during the week and for long periods during off seasons. There are independent sector providers of OB equipment who specialise in this area and carry the costs of maintenance and updating equipment. Commercial broadcasters use them. Many public broadcasters around the world also now use private providers for this work.

If the federal government is not prepared to increase funding for these services, a point has been reached where the government needs to consider other mechanisms. The codes of Australian Football and Rugby League in particular are billion dollar industries. To some extent, the ABC is making the taxpayer pay to market these brands by broadcasting these codes at lower levels than the professional code. Is this fair? Should the taxpayer subsidise these codes?

The ABC Charter was adjusted to allow for sponsorship on the now defunct Australia TV service abroad. Given that AFL and the NRL are so profitable, perhaps it is time to consider a similar approach to the broadcast of these very wealthy codes.

SPAA also encourages the government to consider utilising the internet and live streaming for sports broadcasting in the future. As internet access and speeds increase, the same service can be provided without the current costs of broadcast technology.