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Department of Broadband,
Communications and the Digital Economy

Merit and transparency in appointments to the ABC and SBS Boards

Policy and guidelines for
merit-based appointments to the
Australian Broadcasting Corporation (ABC)
and Special Broadcasting Service (SBS) Boards

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Section One

Policy

1.1 Background

There is no doubt that the media landscape is undergoing a period of rapid change and that the ABC and SBS currently face, and will continue to face, significant challenges over the coming years. Australia's national broadcasters need to have the best qualified and experienced Board members available to meet these challenges.

The appointment of non-executive Directors to the Boards of Australia's national broadcasters is currently made by the Governor-General acting on advice of the Federal Executive Council. While the Australian Broadcasting Corporation and Special Broadcasting Service Acts require the Governor-General to be satisfied that the candidates are broadly suitable for appointment, they establish no formal process for appointments and do not require any degree of transparency in relation to how candidates are selected.¹

In order to address this, the Government has developed an arms length appointment process whereby an independent panel will conduct a merit-based selection process for non-executive Directors to the ABC and SBS Boards and provide advice to the Government on suitable appointments.

This process, as outlined in these guidelines, will ensure that all future appointments to the ABC and SBS Boards are conducted in a manner that fosters transparency, accountability and public confidence.

1.2 Summary

This policy and related guidelines apply to future appointments of non-executive directors to the ABC and SBS Boards. The policy is summarised as follows:

1. The Minister for Broadband, Communications and the Digital Economy (the Minister) will advise incumbents, in writing, at least four months before the expiry of their appointment whether it is intended to either reappoint them, not reappoint them, or to advertise the position to test the field.
2. A merit-based selection process with the following features will apply for filling vacancies:
 - a. the assessment of applicants' claims will be undertaken by an independent Nomination Panel established at arms-length from the Government;
 - b. vacancies will be widely advertised, at a minimum in the national press and the Department of Broadband, Communications and the Digital Economy website;
 - c. the assessment of candidates will be made against a core set of selection criteria, supplemented where necessary by additional criteria as agreed to by the Minister; and

¹ Refer section 17(2) *Special Broadcasting Service Act 1991* and section 12(5) of the *Australian Broadcasting Corporation Act 1983*.

- d. a report will be provided by the Nomination Panel to the Minister with a short-list of recommended candidates.
3. Where the Minister intends to recommend supporting an individual not recommended by the Nomination Panel, the Minister will write to the Prime Minister setting out his reasons. If approved by the Prime Minister, and subsequently by the Governor-General, the Minister will table a statement of reasons to both Houses of Parliament within 15 sitting days of the announcement of the appointment.
4. Where the appointment is that of the Chair of the ABC Board, the successful candidate will be selected by the Prime Minister in consultation with the Minister from the short-list supplied by the Nomination Panel. The Prime Minister will consult with the Leader of the Opposition before making a recommendation to the Governor-General.
5. Where the Prime Minister intends to recommend to the Governor-General an individual not recommended by the Nomination Panel for the Chair of the ABC Board, the Prime Minister will table a statement of reasons to both Houses of Parliament within 15 sitting days of the announcement of the appointment.
6. All appointments will be made for a period of up to five years. Non-executive Directors of the ABC and SBS Boards will be appointed for a total maximum appointment of 10 years.

1.3 Persons ineligible for appointment

Current or former members of the Commonwealth Parliament, state and territory parliaments or legislative assemblies, and current or former senior political staff are not eligible for appointment to the ABC or SBS Boards.²

² The definition of "senior political staff" includes the following current and former government and non-government staff positions: Chief of Staff; Special Adviser; Principal Adviser; Senior Adviser; Media Adviser; and Adviser. It does not include: Assistant Adviser; Junior Adviser; Assistant Media Adviser; Junior Media Adviser; Clerk to Whip; Executive Assistant/Office Manager; Secretary/Administrative Assistant; Electorate Officer; or Department Liaison Officer.

Section Two

Guidelines for appointments

2.1. Expiry of existing appointments

The Department Secretariat is responsible for keeping a record of all appointments to the ABC and SBS Boards. Six months before the expiry date of an appointment, the Department Secretariat will seek the Minister's advice on whether:

- the incumbent is to be offered reappointment (if eligible);
- the incumbent is not to be reappointed; or
- the Minister wishes to test the field by advertising the position (which may or may not result in the incumbent being reappointed).

The Minister will formally advise the incumbent of their decision at least four months before the expiry of their appointment.

Where the Minister decides to advertise the position a merit-based selection and transparent appointment process will apply.

2.2 Reappointments

Where the incumbent is to be reappointed, the Minister is required to follow the standard appointment process whereby:

1. the Minister will write to the Prime Minister recommending the reappointment. The Prime Minister will decide if the appointment should be considered by Cabinet;
2. if Cabinet endorsement of the reappointment is received, the Minister will then write to the Governor-General recommending the appointment; and
3. the Governor-General will consider the nomination, acting on the advice of the Federal Executive Council and having been satisfied that the candidate meets the statutory requirements.

2.3 Role of the Minister for Broadband, Communications and the Digital Economy

The Minister has significant responsibilities in the merit-based selection process. These responsibilities include:

- advising the Department Secretariat whether it is intended to reappoint the incumbent or advertise the position;
- advising the incumbent in writing at least four months before the expiry of their appointment whether it is intended to reappoint them, not reappoint them, or to test the field;
- considering the recommendations of the Nomination Panel following the completion of the merit-based selection process; and
- if required, meeting with one or more of the recommended candidates, or consulting more widely with colleagues, the Nomination Panel or others, prior to making a final decision.

Once the Minister has determined the most suitable candidate, the Minister is required to follow the standard appointment process whereby:

1. the Minister will write to the Prime Minister recommending the appointment. The Prime Minister will decide if the appointment should be considered by Cabinet;
2. if Cabinet endorsement of the nomination is received, the Minister will then write to the Governor-General recommending the appointment; and
3. the Governor-General will consider the nomination, acting on the advice of the Federal Executive Council and having been satisfied that the candidate meets the statutory requirements.

2.4 The Department Secretariat

The Department of Broadband, Communications and the Digital Economy will make a Secretariat (the Department Secretariat) available to coordinate and support the operations of the Nomination Panel and the Minister throughout the selection and appointment processes.

The Department Secretariat will be responsible for:

- maintaining a record of all ABC and SBS Board appointments;
- consulting with the Minister six months before the expiry of each appointment, seeking the Minister's decision whether to reappoint the incumbent or advertise the position; and
- consulting with the Chair of the ABC and/or SBS Board on the skills requirements of each Board.

The Department Secretariat may also decide to appoint an executive recruitment firm to assist with the selection process or engage an executive search firm to ensure the field of applicants is as strong as possible if required. In this event, the Minister and Nomination Panel will still retain their responsibilities as outlined in these guidelines.

2.5 Definition of 'merit'

A broad definition of 'merit' will be applied to ABC and SBS Board appointments whereby formal qualifications and traditional work experience will form only one element. Non-traditional activities and career paths are recognised and valued as suitable qualifications which contribute to an individual's overall suitability for appointment.

2.6 The merit-based selection process

The merit-based selection process includes the following elements:

1. an assessment is made of the comparative suitability of a candidate for the duties of the position, using a competitive selection process;
2. the assessment is based on the relationship between the candidates' experience, skills and competencies and the experience, skills and competencies genuinely required to exercise the duties of a non-executive Director on the ABC or SBS Board;
3. the assessment will focus on the capability of the candidate to achieve outcomes related to the duties of a non-executive Director on the ABC or SBS Board; and

4. the assessment is the primary consideration in making the decision with regard to a candidate's suitability.

2.6.1 The Nomination Panel

Where the Minister wishes to test the field or the incumbent is not eligible for reappointment, the Nomination Panel will conduct a merit-based selection process. The Panel will consider the claims of all applications against the selection criteria.

The Nomination Panel will comprise up to four independent members that will be appointed for a term of two to three years. The Nomination Panel will be determined by the Head of the Department of the Prime Minister and Cabinet.

The Nomination Panel ensures that the assessment of candidates is based on merit and that the process remains transparent. The Panel is required to:

- conduct a selection process based on the principle of merit; and
- provide the Minister with a short-list of at least three recommended candidates for each vacancy with a comparative assessment.

2.6.2 Criteria for appointment

Selection of ABC and SBS Board members will be made against a set of standard criteria, which are outlined below. As particular vacancies may have job-specific elements not covered within the standard criteria, additional criteria may be agreed by the Minister to maintain the overall balance of skills on the Board.

Australian Broadcasting Corporation (ABC) standard criteria

Candidates must be able to demonstrate one or more of the following capabilities:

- experience in connection with the provision of broadcasting services or in communications or management;
- expertise in financial or technical matters; and/or
- cultural or other interests relevant to the oversight of a public organisation engaged in the provision of broadcasting services.

Candidates should also demonstrate skills, knowledge and/or experience relevant to one or more of the following areas:

- managing large and/or complex operations;
- past record of effective participation on boards or public organisations;
- high-level analytical skills; and/or
- knowledge of the media environment, trends and the challenges (which might include developments in technology and content rights management).

Candidates will possess:

- demonstrated high level leadership and vision, and ability to articulate a clear direction for an organisation;
- commitment to public sector governance;
- high-level judgement;
- the highest standards of professional and personal integrity; and

- an understanding of the ABC, its Charter and its place in the Australian media environment.

Special Broadcasting Service (SBS) standard criteria

Candidates should be able to demonstrate one or more of the following capabilities:

- an understanding of Australia's multicultural society and the needs and interests of SBS's culturally diverse audience;
- experience in connection with the provision of broadcasting services or communications or management;
- expertise in financial or technical matters;
- cultural or other interests relevant to the oversight of a public organisation engaged in the provision of broadcasting services; and/or
- an appropriate understanding of the interests of employees.

Candidates should also demonstrate skills, knowledge and/or experience relevant to one or more of the following areas:

- managing large and/or complex operations;
- past record of effective participation on boards or public organisations;
- high-level analytical skills; and/or
- knowledge of the media environment, trends and the challenges (which might include developments in technology and content rights management).

Candidates will possess:

- demonstrated high level leadership and vision, and ability to articulate a clear direction for an organisation;
- commitment to public sector governance;
- high-level judgement;
- the highest standards of professional and personal integrity; and
- an understanding of SBS's role as a multicultural broadcaster, its Charter and its place in the Australian media environment.

2.6.3 Advertising

Vacancies on the ABC and SBS Boards will be advertised at a minimum in the national press and the Department's website.

2.6.4 External recruitment services

Given the volume of applications and enquiries that are expected to be received for vacancies on the ABC and SBS Boards, the Department Secretariat may appoint an external recruitment agency to assist with the initial stages of the merit-based selection process.

The involvement of any external recruitment service will be limited to:

1. the receipt of applications;

2. receiving and responding to requests for information including sending out application packages as requested;
3. preliminary sifting and sorting of applications at required stages; and
4. background checks (where required).

In the circumstances where the Nomination Panel provides a report to the Minister and the Minister considers there is not a suitable candidate, the Minister may direct the Panel to re-advertise the position and engage a recruitment agency to locate suitable candidates. All candidates identified will be assessed on merit against the selection criteria.

2.6.5 Assessment of applications

The Nomination Panel is responsible for establishing the processes used to assess applicants. This will usually involve assessing written applications, conducting formal interviews and reviewing referee reports.

The Nomination Panel will also determine the level of pre-appointment background checks to be undertaken (for example, verification of formal qualifications and work experience).

2.6.6 Final selection report

The Chair of the Nomination Panel is required to provide a final report to the Minister with at least three recommended candidates for each vacancy for the Minister's consideration.

There is no requirement to rank candidates, although the Panel may wish to do so where there is a clear order of merit or an outstanding candidate. A comparative assessment will be included noting specific skill sets. This report will remain confidential and its contents will not be made public.

2.7 Transparency in the appointments process

2.7.1 Appointment of a candidate not on the shortlist

Where the Minister decides to appoint an individual not short-listed by the Nomination Panel, the process described at 1.2 of the Guidelines will be followed.

2.7.2 Appointment of the Chair of the ABC Board

Where the vacancy is that of the Chair of the ABC Board, the selection process will follow all aspects of the merit-based selection process as it applies to non-executive Director appointments, with two exceptions:

1. the successful candidate will be selected by the Prime Minister in consultation with the Minister; and
2. the Prime Minister will confer with Cabinet and, once Cabinet endorsement has been granted, the Prime Minister will then consult with the Leader of the Opposition before making a recommendation to the Governor-General.

2.7.3 Duration of appointment

Consistent with corporate best practice, all initial appointments will be made for a period of up to five years unless circumstances exist justifying a shorter period or an individual appointee advises in writing that they are seeking a shorter term.

Non-executive Directors to the ABC and SBS Boards will be appointed for a total maximum appointment of 10 consecutive years.

2.8 Equal Employment Opportunity and Diversity

The principles of equal opportunity will be followed throughout the selection process to ensure that fair, equitable and non-discriminatory consideration is given to all applicants.

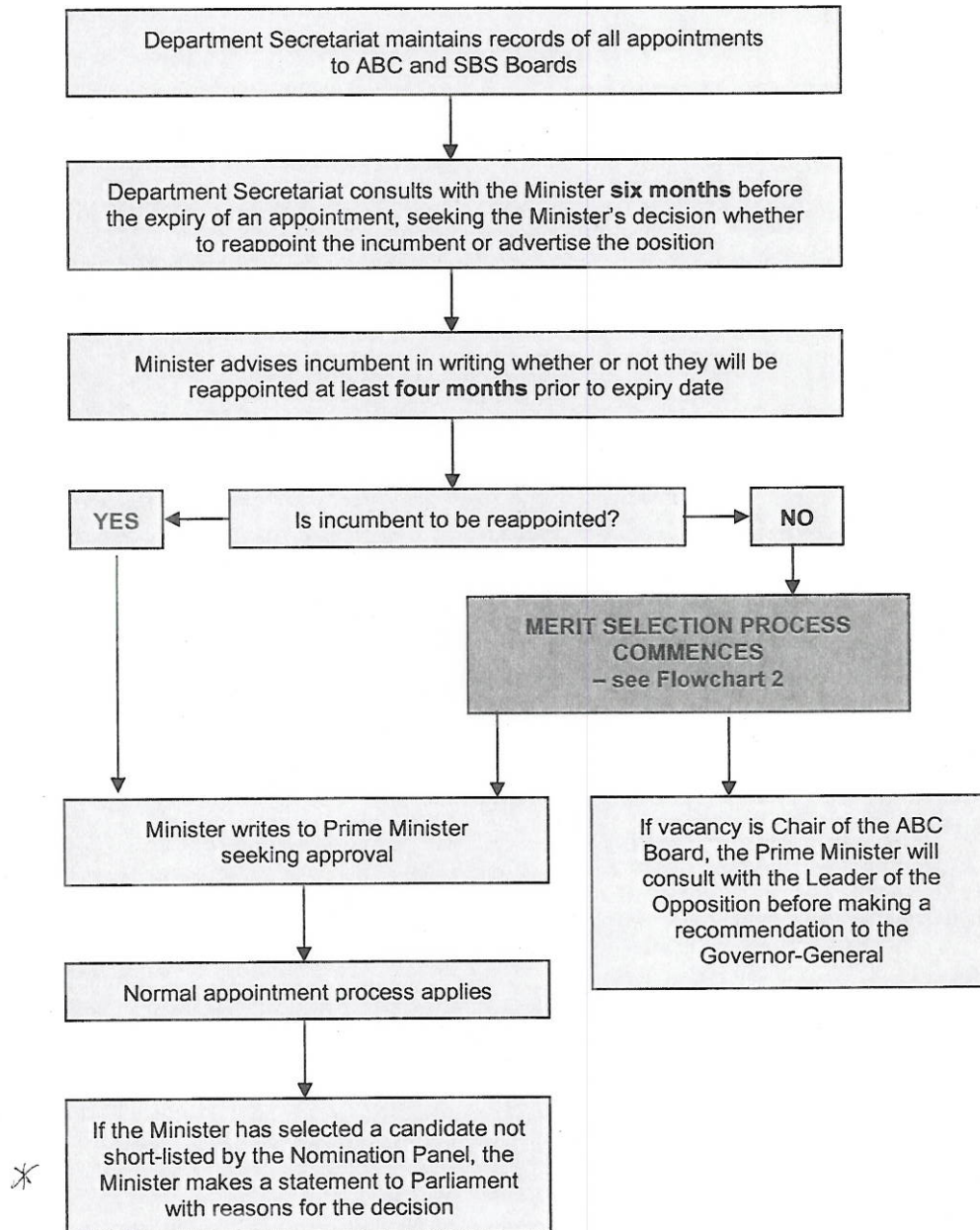
The selection process will not only consider formal experience and qualifications but will also take into account non-traditional career patterns such as community involvement and/or voluntary work that contribute to the ability of a candidate to act in the capacity as a non-executive Director on the ABC or SBS Boards.

Particular consideration will be given to ensuring that the membership of the Board encompasses diversity in gender and geographical representation.

2.9 Privacy

The Department of Broadband, Communications and the Digital Economy is subject to the operation of the *Privacy Act 1988* (Cth). Any personal information provided to the Department throughout the appointment process will only be used for the purposes of the appointment process for the ABC and SBS Boards.

FLOWCHART 1: The appointments process



FLOWCHART 2: The merit-based selection process

