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The Secretary,  
Senate ECITA References Committee,  
SI. 57, Australian Parliament,  
Parliament House,  
CANBERRA ACT 2600

8 July, 2001

Dear Secretary,

### **RE: ABC BOARD APPOINTMENTS : SUBMISSION**

I make the following submission for the method of appointment to the Board of the Australian Broadcasting Commission (ABC) that I believe will enhance public confidence in the independence of the ABC as a national broadcaster. A transparent democratic representativeness of nomination and appointment is proposed.

#### **Preamble**

It is important that the selection of Board Members be from persons representative of the Australian people as a whole with consideration for separate State and Territory interests.

The Australian Parliament is the most representative body of the Australian people as a whole, with unique State and Territory representative ingredients. While it is preferable to curtail direct Board appointments from the Federal Executive Government, it will be appreciated that the Government of the day does represent the majority view point expressed by the Australian people.

For this reason, it is appropriate that at least the President of the Board be nominated by the Federal Executive Government with Senate involvement in the appointment. The ordinary Board Members should be selected by a system comprised by Members of the Senate and the House, upon nomination endorsed by a Member of the Australian Parliament, and which recognizes State and Territory considerations. The only exception, and to cater for employee interests, an ABC employee representative should be appointed.

I would caution against any appointments made by any external special interest groups as they will act, by their very nature, against the public perception of independence and, in most cases, against true representiveness as to special interest among competing organisations. Further, the fact of nomination and selection by Parliamentary Members, who are known and accountable to the community at large, ensures a recognisable focal point to receive the views of special interests groups and citizens.

### **Composition of the Board**

I propose a Board of **thirteen** (13) Members, of which:

- \* **one** (1) shall be the *President* (non-executive chair) nominated by the Executive,
- \* **one** (1) *ABC employee* elected by all ABC employees,
- \* **seven** (7) each nominated from and elected separately by those Members of both Houses of the Parliament who, respectively, represent a particular *State and the combined Territories*.
- \* **four** (4) nominated from and elected by all the Members of both Houses of the Parliament as *national appointees*.

This composition allows for a manageable number for reasonable debate and sub-committee participation.

### **The President**

The Federal Executive Government shall nominate an Australian citizen to the position of President for the consideration of the Senate within a specified period. All nominations shall be publically notified. The Senate may approve or veto the nomination of the Executive upon its first submission. Senate approval shall effectively become the appointment. If the Executive resubmits a vetoed nominee within the specified period the nomination so submitted shall become the appointment without further consideration by the Senate. In the event that a nomination is not submitted by the Executive within the specified period the Senate may select and appoint a President within a specified period.

The term of office shall be for three (3) years. The President shall have a deliberate and a casting vote on the Board. A successful appointee may be nominated for further terms.

## **The ABC Appointment**

Any willing eligible ABC employee, who is an Australian citizen, may be nominated by ten (10) other ABC employees within a specified period to the Commonwealth Electoral Commission. This Commission shall conduct any necessary ballot of eligible nominees by those ABC employees eligible to vote. The declaration of the successful candidate shall become the appointment to the ABC Board. The Commission shall determine from the results of the ballot a “First Reserve” and a “Second Reserve” who shall fill respectively fill any casual vacancy during the unexpired term.

An ABC employee eligible to nominate shall be an employee with a minimum of twelve months continuous service with the ABC immediately prior to the date when nominations are called. An ABC employee eligible to vote in the ballot to elect an ABC Board member shall be any employee of any employment classification who is employed by the ABC immediately prior to the date when nominations are called.

An ABC employee Board member shall cease to be a member of the ABC Board at the time such a member ceases to be an employee of the ABC.

The term of office shall be for three (3) years. A successful appointee may be nominated for further terms.

## **The State and Territory Appointments**

Any member of the Australian Parliament (House or Senate) from a particular State or from the combined Territories may nominate, respectively and separately, an Australian citizen resident in the particular State or Territory from which the nominating member represents in the Australian parliament.

The nominations shall be called by the President of the Senate during a specified period and a vote of eligible nominees shall take place over a specified period. All nominations shall be publically notified. There shall be seven separate ballots conducted involving each representative from the Senate and House Members of a particular State as eligible voters and one ballot of the combined Territory Members as eligible voters to elect one eligible nominee from those nominees proposed from each State or the Territories.

This means that the Parliamentary Members from a particular State and the combined Territories, respectively, shall each separately nominate and elect one eligible person to the ABC Board (seven in all).

The term of office shall be for three (3) years. A successful appointee may be nominated for further terms.

A State or Territory ABC Board member shall cease to be a member of the ABC Board at the time such a member ceases to be resident in the State or a Territory from which such a member was nominated.

Alternatively, the six State Parliaments and the combined Territories may call nominations and elect an eligible person to the ABC Board. However, there are a number of factors against this approach. First, the Australian Parliament is representative of the geographic areas and community interests which overlap State regions. Secondly, the ABC is a national broadcaster. Thirdly, the method of appointment by one overall representative Parliament provides an uncomplicated, expeditious and a more consistent process. Fourthly, it avoids any delays or other political difficulties which may emerge when dealing with six separate State and the other Territory administrations.

### **The National Appointments**

Any person who is an Australian citizen may be nominated by any member of the Australian Parliament (Senate and House). The nominations shall be called by the President of the Senate during a specified period and a vote of eligible nominees shall take place over a specified period. All nominations shall be publically notified. The period will coincide with the calling and voting of the State and Territory nominees. There shall be four eligible nominees to be appointed. The voting shall be by an exhaustive preferential voting system with all Federal Parliamentary Members entitled to vote. The term of office shall be for three (3) years. A successful appointee may be nominated for further terms.

### **Casual Vacancies**

Any casual vacancy of any member of the ABC Board shall be filled for the duration of the unexpired term by the Federal Executive Government, except an ABC employee member whose vacancy shall be filled for the unexpired term by a “reserve” elected employee (otherwise by fresh nominations called for a new ballot of ABC employees).

### **In General**

In conclusion, the proposed method of appointment is sufficiently variable, representative and transparent to discourage blatant political bipartisanship, unfair favouritism or secretism. To the contrary, this proposal provides for openness, informed debate, accountability and representativeness in the nomination and appointment process. It will guarantee a public confidence in the expertise and independence of the ABC Board.

Yours Sincerely,



**GEOFF CAHILL, SOLICITOR & ATTORNEY**