

# SUBMISSION ON THE AUSTRALIAN BROADCASTING CORPORATION AMENDMENT BILL 2006.

## REMOVAL OF STAFF ELECTED DIRECTOR

From:  
JOHN CLEARY,  
STAFF ELECTED DIRECTOR, 1988 - 1992

April 10, 2006

The writer served two terms on the ABC board as Staff Elected Director from 1988 to 1992. During that period the ABC was engaged in the redevelopment of both its Victorian and New South Wales headquarters, the introduction of Pay TV into Australia, and a substantial revision of the ABC Editorial Guidelines. Experience with these issues has informed the views expressed below.

1. The Staff elected director is critical to both the perception and the practice of the ABC as Australia's independent national public service broadcaster. This is particularly the case with regard to the duties of the Board to 'maintain the independence and integrity of the corporation.' [Australian Broadcasting Corporation Act 1983. Section 8(1) b.]
2. The Staff Elected Director position was established as part of the ABC when it was constituted as a corporation in 1983. The Staff Elected Director is the only position on the ABC board not directly appointed by the Government of the day.
3. The explanatory memorandum to the Bill expresses the view that the position of staff elected director is not consistent with the modern principles of corporate governance and that a tension relating to the position on the ABC board has existed for many years. This statement is somewhat disingenuous. There are many examples of major corporations throughout the world that maintain a staff elected board member including such multi-nationals as Mercedes Benz. The ABC is not just another corporation. It is a government body chartered to ensure certain standards of journalistic integrity and independence. The issue of a staff elected position in such a circumstance must be weighed against the overwhelming predominance of government appointees, none of who could be considered 'independent' in the full sense. Indeed there is already a public perception that the ABC board has been regularly 'stacked' by the government of the day to ensure its own political ends.
4. The position of Staff Elected Director is not a 'staff representative' position. The director is elected by all staff of the corporation and, on taking office, assumes the same responsibilities as all other directors. These responsibilities are defined in the provisions of the Commonwealth Authorities and Companies Act of 1997.
5. There has been no expectation from staff that the Staff Elected Director should act in the interests of staff, indeed there have been significant occasions such as the opposition to 'infotainment' programs, and the decisions over Pay TV, when the Staff Elected Director has put the independence of the corporation ahead of 'the interests of staff' when narrowly defined as more jobs and money.
6. On several such occasions information vital to the board's decision-making process was provided by the staff elected director in the face of direct opposition from elements within the staff and management of the corporation.

7. The Staff elected director has been the principal guarantor of continued broadcasting experience on the board of the corporation. Despite the specific provisions in the ABC Act, [sub-section 12 (5)], there have been extended periods where there was no other board member with broadcasting knowledge or experience on the Board of the ABC. This lack of broadcasting expertise has had a detrimental effect on the governance of the corporation, particularly with regard to several of the critical issues outlined in (6) below, where considerable funds were needlessly expended.
8. This practical knowledge was a critical factor in several key decisions over the past twenty years including: the decision not to relocate ABC Melbourne to the outer suburb of Burwood remote from the daily business of journalism; the structure of the editorial guidelines of the corporation to minimise external influences on ABC programs; the uncovering of attempts to thwart editorial guidelines through ‘backdoor sponsorship’ of programs; decisions over Pay TV; and the decision not to proceed with a deal with Telstra over ABC content that would have seriously compromised both the editorial independence and the integrity of the corporation.
9. I believe the bill as proposed will have a deleterious effect on the ABC’s independence and integrity. It will seriously weaken board access to and understanding of the workings of the corporation; it will further limit the boards access to practical journalistic knowledge and; most significantly, it risks both the practice and the perception that the ABC is ‘the government broadcaster’, a profound weakening of the historic position of the ABC in Australian national life.
10. I submit that in order to genuinely underpin the integrity and independence of the ABC, no change should be made to the present composition of the board until a better system of appointment of board members is developed that gives effect to widespread public calls for an end to ‘political stacking’ of boards by the government of the day.
11. Such a system has been devised in the United Kingdom and has been implemented by the BBC under what is called the ‘Nolan Rules’, developed by The Committee for Standards of Public Life, established by under the conservative government of John Major, and chaired by a distinguished judge, Lord Nolan. From its outset the Nolan committee established seven general principles that should govern public life. Those principles are selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

**In Summary:**

- 1. That the Government of the ABC should move to establish an inquiry into the governance of the ABC with particular regard to further securing the independence and integrity of the corporation. That such an inquiry should draw on the work of the 'Committee for Standards of Public Life' in Great Britain, with a view to establishing similar protocols in Australia.**
- 2. That until such an inquiry has been held, no action be taken to remove the position of Staff Elected Director from the ABC Board.**

**JOHN CLEARY**  
**10 April 2006**