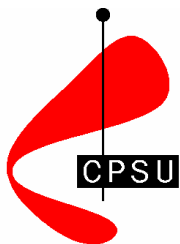


CPSU Submission on the Australian Broadcasting Corporation Amendment Bill 2006

Removal of Staff Elected Director

10 April 2006



The CPSU

1. The Community and Public Sector Union (CPSU) is a trade union registered under the Workplace Relations Act that represents ABC employees other than Senior Executives Bands 2 and above and Journalists. Our membership includes radio and TV presenters and producers, graphic artists, technicians, administrative and operational staff. The ABC Staff Union, the major ABC union, amalgamated with a number of other unions in 1989 to form what is now the CPSU.

Summary

2. The CPSU supports the retention of the position of Staff Elected Director on the ABC Board.
3. The CPSU considers that the reasoning put forward to justify the abolition of the position is flawed.
4. The CPSU considers that the position of Staff Elected Director improves the governance of the ABC.
5. The CPSU recommends that no action be taken to alter the composition of the Board until a fairer system of appointment, consistent with the UK Nolan Rules are adopted and applied to all director appointments to the ABC Board.

Flawed Rationale for Change

6. The Explanatory Memoranda relating to the Bill states:

The position of a staff-elected Director is not consistent with modern principles of corporate governance and a tension relating to the position on the ABC Board has existed for many years.

7. The claim is disingenuous, or at best, misconceived.

8. The Staff Elected Director is not, nor has it ever been a staff representative.

That role is fulfilled by the three trade unions that operate within the ABC; The CPSU, The Media Alliance and APESMA.

9. The Staff Elected Director is distinguished from other members of the Board only by their method of selection and by their direct knowledge of broadcasting, program making and journalism. In all other respects the Staff Elected Director is identical to other Board members. All directors, including the Staff Elected Director, are subject to the provisions of the *Commonwealth Authorities and Companies Act 1997* and are required to act in good faith in the best interests of the ABC.

10. There is no, nor has there been an expectation from staff that the Staff Elected Director should act as their representative at the Board. More importantly, the Staff Elected Directors have, without exception, acted on that basis.

Improved Governance

11. The CPSU considers that the provision of a staff elected director improves the governance of the ABC and improves the performance of its Board.

12. Sub-section 12(5) of the ABC Act 1983 provides that Directors appointed by the Minister (between five and seven) must have experience in broadcasting, communications, management, financial or technical expertise, or cultural or related interests.

ss 12(5) A person shall not be appointed as a Director referred to in paragraph (1)(c) unless he or she appears to the Governor-General to be suitable for appointment because of having had experience in connection with the provision of broadcasting services or in communications or management, because of having expertise in financial or technical matters, or because of having cultural or other interests relevant

to the oversight of a public organization engaged in the provision of broadcasting services.

13. Not one of the directors appointed by the Minister can claim to have experience in broadcasting. The closest that the previous Minister, Senator Alston could come to making the link between Mr. Ron Brunton and his broadcasting experience was to note that Mr. Brunton had written on matters that were extensively covered by the national broadcaster¹. The CPSU acknowledges that sound legal, managerial and financial skills are essential for the effective operation of the ABC Board. The CPSU however makes the not particularly remarkable claim that the Board should also have directors with experience in broadcasting, program making and the practice of journalism. One of the central duties of the ABC Board is to maintain the integrity and independence of the ABC and set editorial standards.
14. The CPSU considers that it should be mandatory for the Board to contain at least two directors with relevant experience in program making, broadcasting or the day-to-day craft of journalism, and that if legislative reform of the Board composition is to be contemplated this change would contribute to the stated aim of the proposed amendment, of improving the functioning of the Board and improving governance of the ABC. The Act should be amended to provide for the mandatory inclusion of a Director with relevant experience in program making, broadcasting or the day-to-day craft of journalism.
15. The CPSU notes that there is only one Board member on the current Board that can claim to have expertise in program making and day-to day production and journalism, and that is the Staff Elected Director, Ramona Koval. Ms Koval, like the Staff Elected Directors that have preceded her, has brought to the board a knowledge and understanding of the day to day workings of the ABC. This knowledge allows the Board to make better informed decisions through having an experienced person in their midst who can provide them

¹ 'A new director for the ABC', Media Release, Minister for Communications, 2 May 2003
http://www.dcita.gov.au/Article/0,,0_4-2_4008-4_114167,00.html

with advice about how their decisions are likely to interact with the day to day practice of program making and broadcasting.

Governance and Selection of Directors to the Board

16. The CPSU submits that no changes should be made to the structure and composition of the ABC Board until a fairer system is implemented for appointment of directors to the ABC Board. The CPSU submission to the 2001 Inquiry into ABC Board Appointments² asserted that the political stacking of the Board has damaged public confidence in the national broadcaster. That submission stated that both sides of politics were guilty of stacking. The CPSU stands by those comments and submits that they are as relevant today as when the submission was prepared in 2001.
17. The CPSU submits that if the Federal Government is determined to improve governance of the ABC, it should adopt the CPSU recommendation that the Nolan Rules be applied to the appointment of directors. These Rules, introduced by a Conservative Government in the UK, provide that all appointments are subject to what Nolan referred to as 'The Seven Principles of Public Life': selflessness, integrity, objectivity, accountability, openness, honesty and leadership. The application of the Nolan Rules ensures that all public offices are filled through an open and transparent process. Under this system all applicants are required to submit details of their background experience and qualifications. After all applications are evaluated by a committee, a decision is taken by the Minister. The Minister may ignore the advice of the committee, but does so in the knowledge that their decision will be subject to public scrutiny.

² CPSU Submission to Senate Inquiry on ABC Board Appointments

http://www.aph.gov.au/Senate/committee/ecita_ctte/completed_inquiries/1999-02/abcboard/submissions/sub363.pdf